# Bioethics

## Kálmán Nyéki Gyula Gaizler

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Kálmán Nyéki Gyula Gaizler

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# Bioethics (Bioetika)

**Gaizler Gyula – Nyéky Kálmán**

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# Chapter 1. Introduction to bioethics (Gyula Gaizler – Kálmán Nyéky)

## 1. The route from medical ethics to bioethics

Both medical ethics and health care ethics in a broader sense belong to the series of professional, or ’vocational’ ethics. The rules of behaviour (commonly known as ’etiquette’) of health care workers towards each other, for example, belong to this category. The guiding principles were laid down by ancient traditions, the validity of which had not been questioned by anybody for centuries. Deviations from these principles could have been dangerous, in certain places nonconformist behaviour was even punished for by the means of law. In recent times, however, these principles have given rise to much controversy. As a repercussion of earlier totalitarian systems, freedom and autonomy have gradually overtaken the role of providing guidelines. There has been a general tendency of desperately trying to convince, almost persuade as many people as possible about former principles being „paternalistic” and “solicitous”, providing opportunities for abusing the situation of people under medical treatment. Movements aimed at fighting for patients’ rights have become widespread around the world. The notion seems to get around, that it may not only be physicians who are paternalistic, but lawyers seem to get ahead of them. They have become “super paternalistic” and want to instruct physicians on how they should behave with their patients.

Actually, we are witnessing the rise of a new, but equally strict totalitarian system, in which the presence or lack of material means is decisive. The money-owners define the possibilities. The new motto has become: “Tanks out, banks in”. Ethics tries to defend itself with its own instruments against money-centeredness and the direct appearances of mammon.

We have data on the state of medical ethics from the time of Hammurabi, and we also have a certain amount of knowledge about the operations of Imhotep in Egypt and the medical treatment in India. In the following, however, I wish to outline the European frameworks of the issue.

## 2. Hippocratic medical ethics

The first traditions of Western medical ethics go back to Hippocrates (460 B.C. – 370 B.C.) and his oath. It has no principal relevance whether Hippocrates formulated the text of the oath himself – according to recent historical research he did not. The text of the oath is ancient, its impact goes beyond the Christian world, and the Islamic codex shows similarities with it.

The “paternalistic” behaviour of Hippocrates is of ancient origin. According to Gracia the oath corresponds to the cultural attitude prevailing at the time of its creation.[1] The physician is viewed as a person who, from a certain perspective, stands above the law, similarly to kings and priests. This is also reflected in the religious sentiment of the oath.

The main principle of the oath is beneficence: “Salus aegroti suprema lex esto” (The well-being of the patient shall be the most important law), and the principle of non-maleficence (nil nocere). “I will apply measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.” “Into whatever houses I enter, I will go into them for the benefit of the sick, and will abstain from every voluntary act of mischief and corruption…” It is beyond doubt that the physician is a relentless guardian of these principles. It is also beyond doubt that he/she strives to realise objective principles. These principles and the deriving consequences are also displayed in medical classrooms in the form of short sentences. “Salus aegroti suprema lex esto”, for example, is to be read everywhere, but in a classroom of the First Clinical Department of Paediatrics of the Semmelweis University of Medicine in Budapest you can also find the principle: “Praesente aegroti taceant colloquia, effugiat risus dum omnia dominat morbus” (In the patient’s presence no one shall speak, and laughter shall be far away until the disease rules everything). The following advice is also well-known: “Divinum est dolorem cessare” (The easing of pain is a divine thing).

[1]Gracia, D.: *Fundamentos de bioética.* Madrid, 1989, Eudema Universidad, 45-84. p.; Cit.: Sgreccia, Elio: *Manuale di Bioetica. I. Fondamenti ed etica biomedica.* Milano, 19993, Vita e Pensiero. 16. p.



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Similar principles are to be found in Syria in the 6th century in the oath of Aseph Ben Berachyahu, in Persia in “The daily prayer of a physician” by Moses Maimonides (1135–1204), and in Mohamed Hasin’s (1770) work entitled “The duties of a physician”. In the *Medical oath* chapter we shall deal with these issues in detail.

# 3. Medical morale on theological grounds

Christianity and in particular the Catholic Church have contributed significantly to the preservation and improvement of morals in various fields of medicine. The concept of a *human person* was attributed a more and more important role in Christian philosophy. In spite of the difficulties emerging at the time of Galilei, the Church does much to establish a dialogue between the scientific reason and religious faith. Not merely the spiritual soul but man as a whole, in the integrity of *body and soul,* shall be considered as a creature of God and as a responsible guardian of Earth and of worldly life answerable to his Creator. “Empowered by the mystery of incarnation – redemption, man, all men, but primarily the most needing are worthy of the Saviour’s love.”[2] ”Whatever you did unto one of these, you did unto me!”[3] – we hear at the time of the last judgement. This also applies for our sick fellow-people. The impact of the merciful Samaritan’s parable[4] is still vivid. Churches have founded a number of public hospitals. Apart from the suffering Jesus, we could also see Christ as a servant. In developing countries Christian hospitals and curing communities bear witness for Christ.

These antecedents led to Christian churches’ formulating the principles underlying the sacredness and inviolability of the lives of all human creatures. These reject abortion, the killing of children, euthanasia and mutilation. Not only Hippocratic principles but also the fundaments of Thomas Aquinas’ book entitled “Truth” justify medical morale.

All that continues in today’s teachings of the Catholic and Christian churches in general. It became especially dominant at the time of Pope Pius XII, who discussed the issue of medical ethics in radio speeches and in front of various communities, among others expert groups of physicians. A significant milestone was becoming aware of the actual weight of Nazi crimes. The age of emphasising human dignity and of accentuating autonomy followed. An important element of the change was the progress of medical technology, which created an opportunity that had never been seen before, made new approaches necessary and raised new questions. This had both positive and negative impacts on the development of human life – depending on the actual application.

Bioethics was born in this period. The word itself has not been invented at that time, but the problems concerned had become more and more familiar and raised public interest. The successors of Pope Pius XII, but even the leaders of other churches contributed to the progress. Religious attitude had become a requirement of both physicians and patients, similarly to the objective founding of principles. From the Catholic side the most significant milestones are the Second Vatican Council (especially the “Gaudium et spes” Pastoral Constitution), the Humanae Vitae encyclical written by Pope Paul VI[5] (July 25, 1968), the declarations of the Congregation for the Doctrine of the Faith on Procured Abortion (November 18, 1974), on Certain Questions Concerning *Sexual* Ethics (December 29, 1975), as well as the address to bishops on sterilisation in Catholic hospitals (March 13, 1975). Pope John Paul II wrote on several occasions about issues related to bioethics. The most important documents are the Apostolic Exhortation “*Familiaris Consortio*”[6] (November 22, 1981), the Declaration of the Congregation for the Doctrine of the Faith on Euthanasia “Iura et bona” (May 5, 1980) and the Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation[7] (“Donum vitae”, February 22, 1987) issued by the Congregation for the Doctrine of the Faith were both published under his tenure as pope, as well as the encyclical “Evangelium vitae”[8] (March 25, 1995), which is a work of utmost importance summarising the main issues of concern. In the same year (1995) the Pontifical Council for Pastoral Assistance to Health Care Workers issued the “Charter of Health Care Workers”. At the time of Pope Benedict XVI the Congregation for

[2] Sgreccia, Elio: *Manuale di Bioetica. I. Fondamenti ed etica biomedica.* Milano, 19993, Vita e Pensiero, 17. p.
[3] Mt 25,31-46
[4] Lk 10,30-37
[5] Pál, VI.: Humanae vitae kezdetű enciklikája. A helyes születésszabályozásról. Róma, 1968. [ *Humanae Vitae* . Encyclical Letter of His Holiness Paul VI on the regulation of birth. Rome, 1968.] In *Amit Isten egybekötött. Pápai megnyilvánulások a katolikus házasságról.* [ *What God has joined. Pontifical manifestations on Catholic marriage* ]. Budapest, 1986, Szent István Társulat, 79-96. p.
[6] János Pál, II.: Familiaris Consortio kezdetű apostoli buzdítása. [ Apostolic Exhortation Familiaris Consortio of Pope John Paul II on the Role of the Christian Family in the Modern World]. Rome, 1981. In *Amit Isten egybekötött. Pápai megnyilvánulások a katolikus házasságról.* [ *What God has joined. Pontifical manifestations on Catholic marriage* ]. Budapest, 1986, Szent István Társulat, 97-170. p.
[7] *Hittani Kongregáció: Instrukció a kezdődő emberi élet tiszteletéről és az utódnemzés méltóságáról. Donum vitae. [ Congregation for the Doctrine of the Faith: Instruction On Respect For Human Life In Its Origin and on the Dignity of Procreation. Donum vitae].* 1987. Ford.[Translated by]: Gresz Miklós. Szeged, 1990, Szent Gellért Egyházi Kiadó - Magzatvédő Társaság. /Családi Iránytű 5./
[8] János Pál, II.: *Evangelium vitae.* Enciklika. [ Encyclical by John Paul II. *Evangelium vitae on the Value and Inviolability of Human Life*]. Budapest, s. a. (1995), Szent István Társulat.



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the Doctrine of the Faith published the revised version of "Donum vitae", the document "Dignitas personae" (December 12, 2008)

# 4. The impact of modern age philosophy and the four main principles of bioethics

Obviously, the modern age philosophies advertising liberal ethics (Hume, Smith etc.) emphasise the principle of individual autonomy as opposed to a behaviour based on the authority of the physician. However, the principle of *beneficence* cannot be neglected, since its omission contradicts the rule of *non-maleficence*. At the same time, *autonomy* may also be regarded, both from the perspective of the patient and that of the physician, as part of beneficence. The principle of *justice* cannot decrease the significance of beneficence either. All four principles – beneficence, non-maleficence, autonomy and justice – have an impressive history, and they all belong to the development of Western thinking.

# 5. Reflexions on human rights in Europe, especially after World War II

After World War II, the inhumanities committed under the rule of national socialism, in the vast majority of which physicians were also involved, resulted in the fact that human rights came to the foreground more and more intensely. The Nuremberg Trials put an end to a concluded era, but they also opened a new era. Does the "law of humanity" supplant the laws of God?

Cardinal Lustiger gives account of the conditions under which the *Universal Declaration of Human Rights* was born.[9] The declaration was signed in Paris on December 10, 1948. Its aim was to guarantee the unconditional respect for human rights. It was indeed a fascinating moment. In the introduction we can read the following:

"…Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged *the conscience of mankind*, and the advent of a world in which human beings shall enjoy *freedom of speech and belief* and freedom from fear and want has been proclaimed as the highest aspiration of the common people (…), Whereas the peoples of the United Nations have in the Charter *reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women* and have determined to promote social progress and better standards of life in larger freedom…"[10]

Interestingly, these lines are formulated with a religious wording: "*Reaffirmed their faith in fundamental human rights"*. These rights became, by Lustiger's words, the "*unfounded* foundations of social and political order".[11] Are these foundations based merely on cultural antecedents? If so, is this foundation sufficient?

A minor debate evolved on the wording of the first article in this regard. According to the first proposal: „All human beings are born free and equal in dignity and rights, and since nature endowed them with reason and conscience, their relation developed to their fellow-beings is based brotherhood."[12] Having regard to the clashing opinions, the delegates of Belgium and the People's Republic of China proposed the omission of the word *nature*. The Brazilian, Argentinean, Columbian and Bolivian delegates submitted a version that they considered as acceptable: "All human beings are born free and equal in dignity and rights. Human beings, who were created by God in his own image, after his likeness, have intelligence and conscience, therefore their relation to fellow-beings is based on brotherhood."[13] This expression: "by God in his own image, after his likeness" is from the first pages of the Bible.[14]

That version, however, was not accepted, primarily due to the opposition of the Soviet Union, France and Ecuador. The final result is a rather neutral, pure legal formulation, which was to be accepted by everybody. So the final version became: "All human beings are born free and equal in dignity and rights. Nature endowed them with reason and conscience and should act towards one another in a spirit of brotherhood."[15]

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[9]Lustiger, Jean-Marie: *Emberhez méltón. [In a condition worthy of human beings].* Budapest, 1997, Vigilia, 19-22. p.

[10]Ibid. 20. p.

[11]Ibid. 20. p.

[12]Ibid. 20. p.

[13]Ibid. 21. p.

[14]Gen 1,27

[15]Ibid. 21. p.



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It may be stated that even this version has deep roots, although many people think that something is missing from this formulation. Today this declaration is accepted in most parts of the world, still, it is rather vulnerable because it is exposed to the majority opinion. And that might be either weaker or more aggressive than the declaration. Nevertheless, the approval of the universality of human rights was certainly a decisive step. This was the beginning of a process that has led to the widespread approval of various fundamental rights of human beings. In the United States the rights of patients are also protected rather vigorously. The legal regulations in England also try to draw the dividing lines – which, in accordance with precedential case law, show itself primarily in the practice of judicial courts. The respect for patients' rights is characteristic in Europe and in Hungary, as well.

# 6. The history of bioethics

The word "bioethics" was first used by the oncologist Van Rensselaer Potter in his publication "The science of survival" which appeared in 1970.[16] His book "*Bioethics: bridge to the future"* was published in the following year.[17] The main point of his recognition was that the progress of technology and ethics had decoupled from each other, which might lead to the extinction of humanity, and all living creatures. If we want to save ourselves and the world, we have to limit and control the technological progress accordingly. He started an immense progress with this statement, a significant milestone of which was reached in 1995, when the Inter-Parliamentary Union (IPU) declared that "bioethics had become the most important area in issues related to human rights".[18]

At this point, however, I have to mention that a few years earlier the Catholic Church had already called attention to the emerging threat of a catastrophe. "Sacred Scripture teaches the human family what the experience of the ages confirms: that while human progress is a great advantage to man, it brings with it a strong temptation. For when the order of values is jumbled and bad is mixed with the good, individuals and groups pay heed solely to their own interests, and not to those of others. Thus it happens that the world ceases to be a place of true brotherhood. In our own day, *the magnified power of humanity threatens to destroy the race itself*." [19]

Naturally, the origins of bioethics lie far beyond these declarations. We could quote several places from the Bible, as well. At the end of the last century and the beginning of this century one could hear much about the necessity of respecting life. It is well-known that Albert Schweitzer calls exactly upon this,[20] just like Maxim Gorky in his drama *The Night Asylum*. Obviously, that is all related to the massacres committed in the world wars. In his book *Ethik des Lebens* Eberhard Schockenhoff gives an excellent comparison of the so-called "life ethics" accentuating Christian values and "bioethics" inspired on secular grounds.[21] Although this distinction is not widespread, and there are indeed a number of Christian institutions having the term "bioethics" in their names, this distinction has great relevance, as we will see later.

Sigmund Freud dwelled at length on the "death instinct". It is hard to deny the impact of this notion if we take into account the various forms of arbitrary destruction and murder, which are to be observed in the world today. The need rightly arises to also deal with the "life instinct" existing deep in our souls at an appropriate scientific level. I posed the question to young medical students, whether it is better to be alive than not to be alive. It was rather apparent that it was the first time that they were confronted with this problem consciously. They knew, they felt that by choosing the profession of physicians, they also decided to protect life and to respect its value. Still, the question arises: if it is good to be alive, when and how long is it good to be alive?[22]

The elimination of the weak was to be observed already on Mount Taygetus and we cannot find any provisions against it in the Hippocratic oath either. In Hungary it was Gyula Petrányi who contemplated on the issue.[23] In 1970 he wrote the following: "Nature tries to protect the given species in its fight against circumstances, it does

[16]Potter, Van Rensselaer : Bioethics. The science of survival. *Perspectives in Biology and Medicine,* vol. 14 (1970) no. 1. 127-153. p. The same article was also the first chapter of his book published in the following year.
[17]Potter, Van Rensselaer : *Bioethics. Bridge to the future*. Englewood Cliffs (New Jersey), 1971, Prentice Hall.
[18]Interparlamentáris Unió: Bioetika és jelentősége világszerte az emberi jogok védelmében. Az Oktatási, Tudományos, Kulturális és Környezetvédelmi Bizottság egyhangúlag elfogadott határozati javaslata. [ Inter-Parliamentary Union: Bioethics and its Implications Worldwide for Human Rights Protection. Draft Resolution of the Committee on Education, Science, Culture and Environemnt adopted by consensus]. Interparlamentáris Unió 93. Kongresszusa. [ 93rd Inter-Parliamentary Conference] *Orvosegyetem,* XXXIX. évf. (1995) Issue 16. 6. p.
[19]Gaudium et Spes 37.
[20]Schweitzer, Albert: *Az élet tisztelete. [Respect for Life].* S. l., 1999, URSUS.
[21]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald.
[22]Gaizler, Gyula: Jó élni? – hogyan? – meddig? [Is it good to be alive? – how? – how long?]. *Teológia,* XVIII. évf. (1984) 3. sz. 55-56. p.
[23]Petrányi, Gyula: Az orvos mint bíró és ítéletvégrehajtó. Meditáció a medicatio és jog határán a suicidiumról, resuscitatióról, műszervekkel és intensiv therapiával fenntartott életről, transplantatióról, emberen végzett kísérletezésről. *Orvosképzés,* XLV. évf. (1970) 163-173. p.


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not have mercy on the weak or the sick. Today's so-called developed societies, opposed to nature's direction, strive to have few successors, but they spare no effort in trying to keep them in good health till the final limits of life, under possibly comfortable circumstances. Hence, the question is whether society is not spending too much money on avoiding the birth of children, who would most probably be healthy, as well as on keeping already born people who are sick, shall become sick or are dying at an old age, artificially alive? – Physicians who measure up to their task can only have one answer for this question: having the society's interest in mind, they must work on achieving a sufficient number of healthy successors, as well as on avoiding that these people get sick, and if this endeavour remains unsuccessful they must do all that they can to cure them and fight for their life even if, according to our earlier concepts, death has already occurred but life can be resurrected with the help of progressing technological means. – The way a society treats the results of medical sciences does not only depend on the judgement of its physicians, but it is the physicians' responsibility to gain understanding and the necessary ethical, legal, personal and material support for their work by informing society on the prerequisites of health and healthy growth."[24]The all-embracing love of Jesus is obviously a call upon us to support and help those who are weak and sick, who do not produce profit for the community. I am convinced that it is quite characteristic for the morality of a society how much money and energy they spend on making the lives of the sick and weak, i.e. people of whom society cannot profit any more, more acceptable. There is a significant difference between helping the situation of somebody who got temporarily in trouble but can soon help us, and dealing with someone, of whom we can certainly not accept to return our services (unless we consider it as a "returned favour" to see the grateful love reflected in the eyes of a person, whom we helped).

The most influential people on creating the revised concept of bioethics were initially Joseph Fletcher[25] and Paul Ramsey.[26] Both of them were protestant theologians, but their ideas were rather distinct from each other. At that time, Catholic theologians were primarily preoccupied with preparing the Second Vatican Council, and later they were engaged in issues related to sexual ethics and artificial contraception. Fletcher, who is viewed by Eberhard Schockenhoff from the group of experts involved in the first phase of bioethics together with Ramsey as one of the most significant thinkers, became well-known in particular for the following sentence: "Death control, like birth control, is a matter of human dignity."[27] He suggested that the most debated issues of medical ethics should not be solved in the framework of the fifth and sixth commandment, but rather on the basis of individual rights of freedom. He associates his chapter headings with human rights that he himself created: 1. Medical diagnosis: the right to know the truth. 2. Contraception: the right to the control of becoming a parent. 3. Artificial insemination: the right to victory over infertility. 4. Sterilisation: the right to preclude the possibility of becoming a parent. 5. Euthanasia: the right to die.

That would mean a radical "paradigm shift". If we accept this notion, the universally valid norms providing obligatory guidelines for people on how they should act, would be replaced by some kind of liberal situational ethics. Moreover, according to this world concept people should be informed on every aspect of their options. From the physician's point of view that would mean that the positive command of maintaining life and the negative command that forbids killing would be replaced by the respect for the patient's freedom of choice as the main principle.

Ramsey's sentiments[28] are rather different from Fletcher's theses. He keeps the distinction between killing and letting somebody die. Therefore in his interpretation "the right to die" principle means that everybody has the right to "his/her own individual death", but dying should not be accelerated or mercilessly prolonged by conscious manipulation. Fletcher rejects euthanasia, and attributes special importance to physicians' and priests' escorting people to their death. He firmly stands for Christ's ethics and defines himself as a representative of these moral values. However, he also considers it to be important that theological life ethics should formulate its principles in today's secular society according to the conceptual categories of the latter, if it aims to have an impact on medical practice and medical institutions. Hence, the main topics of his book do not include the debated issues of contraception and abortion, he focuses his attention rather on informed consent, human experiments, organ transplants and the determination of death. It is exemplary even today how he takes the results of interdisciplinary research into consideration, although in the meantime public attention has turned towards the context of social ethics and its implications on society in the field of health care, altering from the earlier concept of the doctor-patient relationship being based on individualistic ethics. At this time it had

[24]Ibid. 172. p.

[25]Fletcher, Joseph: *Morals and Medicine.* Princeton, 1954, s. n.

[26]Ramsey, Paul: *The Patient as Person: Explorations in Medical Ethics.* New Haven, 1970, s. n.

[27]Fletcher, Joseph : The Patient's Right to Die. In Downing, A. B. (ed.): *Euthanasia and the Right to Death*. London, 1969, s. n., 69. p.: „Death Control, like birth control is a matter of human dignity"; Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 33. p.

[28]Ramsey, Paul: *The Patient as Person: Explorations in Medical Ethics.* New Haven, 1970, s. n. 215. p.; Cit.: Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 34. p.



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become a more and more urgent question whether we should focus on the caring treatment and well-being of sick people, or rather the respect for their autonomy. Nowadays, physicians may still encounter the question whether they should inform patients on their condition because it would make them cooperate more intensely in favour of their own recovery or because they have a basic human right to be informed. Caring for the patient and serving their well-being has come to the forefront again.[29] Theoretically, cooperation and the right to be informed are not contradictory ideas, in practice we can overcome the emerging problems by providing information gradually.

# 7. The philosophical background of present-day bioethics

In German-speaking territories philosophy was dominated by debates concerning the basic principles of normative ethics, while Anglo-Saxon thinkers were opposed to this approach. According to Gertrude Anscombe moral philosophy as a whole is on the wrong track, as it disregards the psychological grounds of the concept on values.[30] In her opinion, we cannot tell, how somebody gets to moral action. We have to know the objectives of the given action, which have their roots in the subjective experience-background. This approach rejects the central idea of moral obligation.[31] Similarly, Philippa Foot rejects Kant's concept of the imperative.[32] She is convinced that our moral judgements do not provide good reasons for a particular action because they *prescribe,* as obligatory commands, the wishes and interests underlying our action, but because they *describe* them. That means that the person who has a particular wish *has to* act in a given way, i.e. the imperatives, in her view, can only be hypothetic.[33] The so-called "virtue interests" belong to these subjective action impulses, among others the wish to help people who are in need and to show compassion, but also the interest in freedom, justice and human dignity.[34]

As a kind of answer to these theories a number of works were written, which took practical morality as a starting point and re-considered the topic from a narrative and dramatic perspective.[35] These are serious critics of modern ethical theories and they call attention to rather important corrections. According to Iris Murdoch in modern rule ethics it is only pure will that plays a role, while wishes, inclinations, impulses are forced to the background.[36] Moral actions, however, do not only derive from the acknowledgement of moral principles, they are also linked to the ripening of a "vision", with the help of which we take cognizance of the other person's reality and the things in our own world, and grasp how much we need these things. This vision grows in us to the extent, to which we are able to organise the chaotic world of our feelings, the disarray of our emotions, and find values in what corresponds to the idea of the good.[37] The concept of virtues is also devoted a significant role in her ethics,[38] just like in the case of Stanley Hauerwas, who rejects the liberals' principles that provide an ethical minimum based on external rules.[39] At the same time he also rejects the ideas of natural law based on universal moral norms, as it was developed by Catholic moral theology. In his opinion, it is not a real moral philosophy, its objective is actually not to enhance a right personal behaviour but to achieve strict command compliance.[40] According to Alasdair MacIntyre, the possibility of peaceful civil co-existence, which is provided by abiding external rules, failed.[41] The realisation of complex objects of life is only possible in minor groups. MacIntyre is convinced that moral action is not given by nature, as Aristotle also believed, but minor social groups discover their goals, in order to oblige the people belonging to these groups to follow.[42]

It is beyond doubt that virtue ethics based on minor social groups might influence people more easily than normative ethics, which is based on principles. However, a serious disadvantage of this approach is that is lacks

[29]Pellegrino, Edmund D. – Thomasma, David C.: *For the Patient's Good. The Restoration of Beneficence in Health Care.* New York, 1989, s. n.
[30]Anscombe, Gertrude E. M.: Modern Moral Philosophy. *Philosophy,* 32 (1958), In *The Collected Philosophical Papers of G.E.M. Anscombe,* vol. III, Oxford, 1981, Basil Blackwell, 26-42. p.
[31]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 36. p.
[32]Foot, Philippa ( ed.): *Theories of Ethics*, Oxford, 1967, Oxford University Press.
[33]Abbà, Guiseppe: *Quale impostazione per la filosofia morale?* Roma, 1996, LAS, 140. p. /Ricerche de filosofia morale-1./
[34]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 36. p.
[35]Abbà, Guiseppe: *Quale impostazione per la filosofia morale?* Roma, 1996, LAS, 17. p. /Ricerche de filosofia morale-1./
[36]Murdoch, Iris: *The Sovereignty of Good* . New York, 1970, Schocken Books.
[37]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 36. p.
[38]Abbà, Guiseppe: *Quale impostazione per la filosofia morale?* Roma, 1996, LAS, 18. p. /Ricerche de filosofia morale-1./
[39]Hauerwas, Stanley: *Vision and Virtue. Essays in Christian Ethical Reflexion.* Notredame (Indiana), 1974, Fides/Claretian.
[40]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 37. p.
[41]MacIntyre, Alasdair: *After Virtue. Study in Moral Theory.* Notre Dame (Indiana), 1981, University of Notre Dame Press; Magyar ford.: *Az erény nyomában. Erkölcselméleti tanulmány,* Budapest, 1999, Osiris.
[42]Detailed information on this issue in the books of *G. Abbà*: Abbà, G.: *Felicità, vita buona e virtu. Saggio di filosofia morale.* Roma, 1989, LAS; Abbà, Guiseppe: *Quale impostazione per la filosofia morale?* Roma, 1996, LAS. /Ricerche di filosofia morale-1./


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the absolute obligatory "must". If we do not respect certain fundamental human rights of all people, the peaceful co-existence of people is unimaginable on the long run. The principle of autonomy is at the centre of the public morals of democratic societies, which has a negative limit prescribing that the freedom rights of others shall not be violated. We should not impose our own moral values on others by force.[43] It still remains a question what we mean by forcing? How do we rate spiritual persuasion? – Hence, everybody tries to convince others about their faith and views! If conflicts can only be solved by rules applying within a particular community, secular ethics cannot decide *in general, on theoretical grounds*, whether it is better to accept a child with disabilities in loving care or to chose abortion if the probability of disability arises. It cannot be assessed whether one should endure severe physical pain or commit suicide. It cannot be adjudged what we should tell to a woman who hasn't got any children: should she entrust a surrogate mother or accept sterility as her fate. The distinction between universally binding ethics and group morals explains the ethical conflicts of our modern age. It still remains a question, however, whether it is really impossible to make a distinction between medical ethics developed in Albert Schweitzer's hospital in Lamberéné, for example, and the man-disdaining medical ethics prevailing in the concentration camps in Hitler's Germany. To quote 's E. Schockenhoff's words: in an open society polytheism may become overwhelming and rejoice.[44] The positive sides of the Christian worldview are acknowledged by the liberal party, as well, but they are not regarded as universally binding rules.

Philosophies emphasising the respect for life had become more and more dominant at the beginning of the century. That was in connection with the terrible manslaughters of the First World War, as well. Albert Schweitzer describes the impact of his journey on an African river (Ogowe) in his book entitled *Kultur und Ethik* published in 1923.[45] This led him to extend the idea of love to all living creatures.[46] "What we call love is actually the respect for life"[47] *(Ehrfurcht vor dem Leben).* This sentence is the key to his worldview, which is put on the banner of environmentalists today. Its impact became stronger and stronger. As opposed to Descartes, who considered self-consciousness and thinking to be the main foundations ("Cogito ergo sum"), the essence of Schweitzer's philosophy is that life is the main principle. ("I am life that wants to live in the midst of Life that wants to live"). Schweitzer interprets the most important moral principle of ancient morality *"bonum faciendum, malum vitandum" (do and pursue good and avoid evil)* as follows: *"Good is what maintains and develops life, evil is what destroys life and hinders life."* Ultimately, that became the basic principle of the Pro-Life movement. It raises a fundamental problem that Schweitzer considers each and every life to be equal, there are no higher- or lower-rank creatures, not even consciousness elevates them to a higher rank. Three main objections arise. Should we always ponder upon our deeds that we intend to commit against life, where are the bounds in the case of animal tests, for example? The other problem comes from the endeavour to live, from the compassionate fight for life, which is represented by Charles Darwin[48] and Nietzsche. Racial hygiene of human beings and the experiment of Social Darwinism evolved, where people are ranked on the basis of their social value. The third problem is that it is rather difficult to educate others if we always have to take into account that we shall have a guilty conscience after our deeds. Sooner or later indifference evolves. This, causes a number of difficulties at the justification of animal tests necessary for medicine trials, for example. Therefore, newer approaches claim it is essential that the point of reference should not be the individual judgement, but laws should regulate our relation to our environment, to animals, plants, even to stones. Some even suggest that these creatures, similarly to people, should also be subjects of law entitled to solicitude, brotherly love and the appreciation of partners. These are the main principles of environmentalists. The theoretical basis is owing to the natural philosopher Klaus Michael Meyer-Abich[49] and theologian Günter Altner.[50] They would say it is important that, for example, rivers and trees should have their own advocates. Hans Jonas emphasises responsibility.[51] That is similar to the responsibility of parents for their children.

# 8. Basic principles of personalist bioethics

[43]Engelhardt, H. Tristram Jr.: *The Foundation of Bioethics.* New York–Oxford, 1986, Oxford University Press.

[44]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 40– 41. p.

[45]Schweitzer, Albert: *Kultur und Ethik.* S. l., 1923, s. n.; Cit.: Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 66–67. p.

[46]Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 67. p.

[47]Schweitzer, Albert: *Gesammelte Werke in fünf Bänden.* R. Grabs (Hrsg.), München, 1974, s. n., II. 659. p.

[48]Darwin, Charles: *Die Abstammung des Menschen.* Stuttgart, 1982, s. n.

[49]Meyer-Abich, Klaus Michael: *Wege zum Frieden mit der Natur. Praktische Naturphilosophie für die Umweltpolitik.* München, 1984, s. n. (In Hungarian: http://bocs.hu/eletharm/idoer/mi-06.htm ).

[50]Altner, Günter: *Naturvergessenheit. Grundlagen einer umfassenden Bioethik.* Darmstadt, 1991, s. n.

[51]Jonas, Hans: *Technik, Medizin und Ethik, Praxis des Prinzips Verantwortung.* Frankfurt am Main, 19872, Insel Verlags - Suhrkamp Taschenbuch Verlag /Suhrkamp Taschenbuch 1514/; Jonas, hans: *Das Prinzip Verantwortung, Versuch einer Ethik für die technologische Zivilisation.* [Frankfurt am Main, 1979, Insel Verlag] Ulm, 19841, Suhrkamp Taschenbuch Verlag /Suhrkamp Taschenbuch 1085/.



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Ethics as a descriptive science (ethos) presents the customs and behavioural forms that evolved on the basis of values. All this respectively, either in a given group of people in general, or in relation to a specific subject matter (e.g. abortion, stealing or murder).

Normative ethics evaluates human behaviour primarily along values, basic principles and norms. What is allowed and what is not? What is good? What is evil? It aims to explore the normative foundations, i.e. the ones determining our actions, and their justification. Within this category we distinguish general or theoretical ethics that deals with basic principles, values and norms, and special or applied ethics that applies these norms. This concept includes, for example, economic ethics, political ethics, professional ethics and the narrower topic of our interest, bioethics and environmental ethics, as well.

The problem of objective and subjective morality explains many emerging questions in ethics. It is very important to make a distinction between the objective action and the subjective moment, in which it is carried out. Internal aspects also have a major impact on ethical evaluation. Moreover, ethics obliges people from within. It is because of this internal obligation that we can talk about the moral qualification of a given action in universal terms. Not everything is subjective, it is not true that we can declare about anything, that it is good for me even if it is not good for others. (For example, if somebody has sadistic inclinations, it is not acceptable that he is kicking others. I cannot let somebody die of starvation if I have plenty to go upon…). Sensible norm is what we are talking about. It is not only acceptable because of the traditions, but much rather because it is to be grasped by our intellect, whether a particular act is objectively good or evil. It is in connection with the eternal law that is to be found in the heart of every human being. It is our conscience that obliges us to do the right thing and avoid evil deeds. The help of religious faith can be of utmost importance in this process: it sheds light on the law and the role of norms in the life of people, who are all creatures of God. Man fortified that by a positive law. This is the external authority that strengthens the norms that were inherently present earlier (as, for example, the "Universal Declaration of Human Rights" points out).

Nevertheless, mistakes occur in the life of human beings and humanity. The reason for that is often ignorance.[52] Ignorance can either be culpable or non-culpable ignorance. It is culpable, if somebody who would have had the opportunity to learn the moral principles, did not want to do so or simply did not devote enough time to master them. It cannot be considered as culpable if the person concerned did not have the opportunity at all to learn the moral principles (e.g. because he/she grew up on an abandoned island). Ignorance can either be overcome or is invincible. It can be overcome if, for example, somebody is able to learn and realise in practice what is morally good. It is invincible if, although one tries to overcome them, he/she is hindered, in accepting the truth and in taking the objective good as his/her personal conviction, for example, because of prejudices originating in their education or environmental impacts.

Following mainly the path of Elio Sgreccia in our studies, we take the main principles of personalist bioethics as a starting point.[53] Here the basic principle of the protection of physical life is a primary aspect. The fundament of a person is, perhaps obviously, that he/she is alive. At the same time, as we have seen, not all lives can be considered equal. The protection of animals may have become an obvious duty for everybody by now. Nobody is allowed to kill another living creature arbitrarily. Even hunters must obey strict rules, the violation of which has serious consequences. Thus, the protection of life defines the main framework of legal regulations. However, only a human being is entitled to be considered as a person in terms of traditions and by means of law. But the concept of a human person can be applied to everybody irrespective of sex, the colour of their skin or race. We shall proceed in our line of thoughts in this direction, by outlining the main principles on the protection of human beings.

The basic principle of the protection of health guarantees for us to stay healthy. Nevertheless, we must clearly see that we are not entitled to health, but to the protection of health. It would be rather difficult, or even impossible to guarantee the right to health in the case of an incurable patient. We can only protect anybody's health in its given condition, i.e. can only direct it into a better direction as long as it is possible. After a while, however, this protection can only provide the possibility of co-existing with difficulties. Just think of elderly or sick people who have to take medicines on a regular basis.

The basic principle of freedom and responsibility points to the fact that the protection of our own lives and the life of others are both our responsibility. Moreover, the main precondition of human freedom is also life. In bioethics this question arises in course of the therapeutic cooperation between physicians and their patients. Which treatment can be rejected and which can not? For example, a parent cannot reject the feeding of his/her

[52]S.a: Péteri, Pál: *Keresztény erkölcsteológia. [Christian Moral Theology].* Veszprém 2000, Veszprémi Érseki Hittudományi Főiskola, 13. p.
[53] S.a.: Sgreccia, Elio : *Manuale di Bioetica, Vol. 1. Fondamenti ed etica biomedica,* Roma 20003, Vita e Pensiero, 159-168. p.


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disabled child, because that would be euthanasia, homicide. The parent would misuse his/her freedom as opposed to the life of the child.

The basic principle of completeness or therapy calls attention to the fact that the body is essential for life, both as a whole and it its details. So the whole body of human beings is necessary for them to be able to exist. Still, it is possible to remove a part of the body in order to save the life of the entire person. The surgeon is obliged to remove the part that would lead to the body's death.

Conditions of the basic principle of completeness or therapy:

1. Surgical intervention is carried out on the sick part or the one causing sickness in order to save the healthy parts.

2. There is no other way or tool to overcome the disease.

3. There is a chance to be successful, which is in proportion to the attained objective.

4. The patient or the person entitled to do so has given his/her consent.

We have to state that at this basic principle it is not really life but rather the protection of physical integrity what is at stake.

The social and subsidiary main principle actually brings not only two, but at least three new aspects into our consideration. According to the social aspect, life is not only important because of the personal protection, but from the point of view of society, as well. This is, of course, again rather obvious, since society can only survive if its members are alive... It derives from this principle that the possibility of protecting life is the shared value of everybody. That is why, for example, direct first aid services are free of charge in most countries. In a broader sense, that is also the reason why we establish e.g. social security systems in the society. Here we must point out that not all countries of the world have reached this level, moreover, there are places where these systems are cut back, with reference to the lack of money.

The aspect or basic principle of subsidiarity might not be known for everybody. This means that we have to help the one who is in greater need, and the higher level should not take over tasks that could also be fulfilled on the lower level. Hence, resources should not be allocated equally, but those who need it more should also be given more. The other aspect refers to the fact that one should not be hospitalised right away in the intensive care unit with a common cold, and general practitioners should only be asked for an appointment in case of diseases that cannot be cured simply by taking an aspirin. We should not go into hospital and lay immediately under the contribution of social security with health problems that could be solved at home. Of course, sometimes it happens just the other way around, many turn to alternative solutions instead of traditional therapies, even if they are less reliable.

The principle of the minor evil might not require a detailed explanation. If we have to choose between two bad things, we tend to choose the one that seems less disadvantageous, i.e. the one that has fewer negative consequences. However, that principle cannot be applied if lives of human beings are opposed to each other. I cannot kill anybody claiming that that would be the minor evil, especially if the person concerned is an innocent human being. This equally applies to unborn children and to adults. In the case of people who attack others with the intention of murdering another human being, many people ask, why we could not apply this principle, since the killing of such an aggressor would obviously bring along fewer negative consequences than allowing him to murder several people. Nevertheless, destroying these aggressors by firing rockets on them does not belong to the above category, especially if civilian victims are to be expected, as well. This example shows that this seemingly obvious basic principle is not always applied in a straightforward way.

The main principle of beneficence simply declares that one has to promote good and subdue evil. That is actually the positive formulation of the Hippocratic principle of non-maleficence, „Do no harm!". It is rather that principle that should be applied if the principle of the minor evil cannot be applied, e.g. at the confrontation of the lives of innocent people. If we cannot save somebody, we do not kill that person, but rather try to do something good for him/her. That shall never mean taking their lives. Hence, that principle refers to the treatment of patients and palliative care, for example, by reducing pain or by showing sympathy and co-suffering.

We may also point out that it is not simply good-will that we are talking about but good deeds, as well. The basic difference between the two is that good-will can exist merely on the level of good intentions. Good deeds,


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however, are always clear actions. Thus, it is much more than simply showing good-will. We obviously expect from our well-wishers to actually do something good, not only speak about doing it some time in the future.

The main principle of autonomy declares that a basic characteristic of man is self-determination. That concept is not at all that new, as it might have seemed so far. We can read already in the Old Testament: “Thou shall not do to others what you would not like to yourself!” Jesus turns this statement into positive: “Do to others what you would have them do to you.” (Matthew 7,12). In the relationship between physician and patient this principle is strictly connected to the necessity of consent. This consent, however, does not really refer to the actual method of treatment but rather to a kind of alliance between physician and patient, which might be able to provide a different image about health care, other than a simple give and take relation of service-provision.

The principle of autonomy should come across in being informed about the diagnosis and in the therapy, as well! We will get to that later. As an introductory remark, let me only point out that the patients should not necessarily get to know all diagnoses, we could even formulate the right to not knowing things. If I do not want to know that I only have one week left and I am otherwise prepared for death, I should be entitled to express this wish, too. The patient has to participate in the choice of therapy, as well, in proportion to his/her abilities. There might be aspects, either for religious or personal reasons, that may not seem obvious for a physician, if he/she has primarily the disease in mind and not the patient he/she is about to cure. Let me mention two examples: one is the well-known case of blood transfusion with patients belonging to Jehova’s witnesses, for whom this treatment is not allowed, although it could save the lives of many of them. The other example is the issue of abortion in the case of Christian patients, who might risk more for keeping their child alive than the given physician. Naturally, there are cases when somebody cannot be saved in the mother’s womb, but such cases, for example hysterectomy of a cancerous womb, is not really considered as an abortion. Though we may add that there were people, who, even under such circumstances, made a decision in favour of the life of their child by sacrificing their own lives (e.g. Saint Gianna Beretta Molla). Can we forbid anyone to do so, if we respect the principle of autonomy? Is such a noble attitude to be detracted?

The principle of autonomy cannot always be applied in the case of psychological patients, or if someone is not able to express consent (e.g. because of coma, or being a minor etc.).

The principle of justice is the last principle that we intend to refer to. It declares that equal treatment should be provided for everybody! This is where the problem of allocating resources equally arises in health care services. We would not go into detail about this issue now, just refer to this utmost topical subject matter. The biggest problem in this area might emerge, if commercialism becomes prevalent in health care and fiscal aspects get into the focus of attention instead of the patient. We have already mentioned in connection with subsidiarity that appropriate allocation does not necessarily mean that everybody should get the same amount of goods. The treatment of a serious disease is much more expensive than vaccination. Still, both of them are necessary. Thus, justice or fairness does not mean an equal level of treatment!

Another aspect, still in connection with justice, is that the value of life and proportionality in treatment should be seen as fundamental values. That means that one has to be treated more intensively in direct proportion to the level of emergency (i.e. how life-threatening the disease is). In the practice of military doctors the opposite situation may arise as a dilemma. If I have to choose, should I save the one in the worst condition or rather the other patient, whose health can be restored to an extent making him fit for fighting again. There can be no reasonable excuse for sending somebody to death intentionally. The principle of justice requires that everybody should get the necessary treatment as far as it is possible.

From the perspective of basic principles we can see that that the goodness of a particular action or treatment is not only to be measured on the basis of external norms but also on the very inclination to do something good. It might also be important to note that the rules of a language implicitly teach us the sentiment: what you do is what you shall become! The English language teaches us that the person who is beneficial to others is called a benefactor, the one who exercises justice is called just and the one acting in a way incompatible with morality is called immoral. Our deeds have repercussions on us, they are certainly not independent from us. The list could go on in a wider sense based on the rules of the English language: who smiles is nice, who says the truth is honest, who saves lives is life-saving, and in the negative, who steals is a theft, who lies is a liar, who kills somebody is a murder, if he is paid for it, he is called an assassin or an executioner. It depends on us, which path we choose.

# 9. The relation of morality and law



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In homogenous societies morality and law are not divided from each other. The real split begins when the level of the „polis" (town) becomes a major unit and accordingly, several moral attitudes and several customs try to come across at the same time.

From a philosophical point of view, two major approaches are to be distinguished: *the natural law approach* and *legal positivism*.

According to the argumentation of natural law, rightness or wrongness of the man-made „positive law" should be determined by comparing it to the eternal moral law of natural or divine origin. If positive law is not in accordance with the eternal moral law, it shall not be abided, because it cannot be seen as a valid legal regulation. "Although 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."[54] This statement of the Pope is of utmost significance and has often been criticised.

In another passage of the Bible we read the following: "Indeed, when Gentiles, who do not have the law (here Apostle Paul refers to the laws provided by God's revelation), do by nature things required by the law, they are a law for themselves, even though they do not have the law, since they show that the requirements of the law are written on their hearts, their consciences also bearing witness, and their thoughts now accusing, now even defending them. This will take place on the day when God will judge men's secrets through Jesus Christ, as my gospel declares."[55]

The knowledge deep within the heart of human beings about the right thing to do is also justified in Sophocles' Antigone, where Antigone makes reference to the laws of gods as opposed to the enacted statute of Creon. Several examples could be brought from earlier and newer pieces of literature, in which the clash is caused by the difference between enacted law and duty engraved in the hero's heart. The existence of the unwritten ethical code of villains also shows the moral consciousness deep within the heart of human beings. When the assassin in Verdi's opera *Rigoletto* is asked whether he would really kill the person for whose assassination he had been paid, he answers with a question: "Who do you think I am, sir?!"

This moral core is called today "*the law of humanity*".

According to the argumentation of legal positivism, although there is a certain amount of overlapping and interrelatedness between morality and law, there is no inevitable connection between the two. So the law is effective and to be abided, whether it is just or unjust. The unjust law is also an effective law… The judge's task does not involve moral discretion, he/she should apply the provisions of legal regulations for the given facts in the most accurate way possible, irrespective of whether those regulations are just or not. [56]

The argumentation of legal positivism is hardly acceptable in the case of slave-holding states ruling in the past centuries, but we should also question the binding force of laws introduced in the Nazi Germany. The Nuremberg Tribunal did not accept the plea "I did it on command!". That is the reason why the World Medical Association (WMA) adopted the Declaration of Geneva, in which the physicians pledge themselves the following: "…, even under threat, I will not use my medical knowledge contrary to the laws of humanity".[57] This is obviously an argumentation based on natural law.[58]

What gives the legal positivist laws their binding force? Is it provided by common agreement? That would be the principle of democracy. But what if inhuman laws are adopted based on "common agreement", with the silent consent or open support of the public? What could then be the standard, to which we can relate things?

[54] Cit.: János Pál, II.: *Evangelium vitae.* Enciklika. [ Encyclical by John Paul II. *Evangelium vitae on the Value and Inviolability of Human Life*]. Budapest, s. a. (1995), Szent István Társulat, 72.

[55] Rom 2,14-16. Békés Gellért és Dalos Patrik: *Újszövetségi Szentírás.* [New Testament]. Rome, 1978, Pannonhalma–Budapest 1990.

[56]

Kovács, József: *A modern orvosi etika alapjai. Bevezetés a bioetikába. [Underlying Principles of Modern Medical Ethics. Introduction to Bioethics].* Budapest, 1997, Medicina, 27. p.

[57] Genfi nyilatkozat 1948, 1968. [Declaration of Geneva 1948, 1968]. World Medical Association. In Gaizler, Gyula: *Felelős döntés vagy ítéletvégrehajtás? Orvosetika változó világunkban. Orvosoknak, betegeknek, mindnyájunknak. Gyepűjárás. [Responsible decision or enforcement of judgement? Medical ethics in our changing world. To physicians, patients, to all of us. Borderland journey].* Budapest, 1992, Szent István Társulat, 145. p.

[58] Kovács, József: *A modern orvosi etika alapjai. Bevezetés a bioetikába. [Underlying Principles of Modern Medical Ethics. Introduction to Bioethics].* Budapest, 1997, Medicina, 27. p.



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In so-called democratic states it is often the control of publicity that is viewed as a force preventing the enactment of false judgements. If we ordain obligatory euthanasia, does it become acceptable? The question is similar to the one concerning abortion: if we permit abortion by law or at least suspend its punishment under certain circumstances, will that make that law right?

Law and morality are closely interrelated. There is a legal theory according to which law codifies the moral minimum, starting out from which anybody could try to accomplish more. Reference to a legal regulation is often not enough to defend ourselves. We can find a number of hints in the words of Jesus on the fact that law-abiding alone is not always enough. He himself did things several times on the Sabbath that he, according to some people, should not have done. When his disciples got hungry and began to pick the heads of grain, and the Pharisees condemned it, Jesus referred to King David who even ate the consecrated bread in the church. “The Sabbath was made for man, not man for the Sabbath”[59] – he added. Today, the term *epikeia* is used for making such an exception. Jesus cured several sick people on the Sabbath. Once he asked the people objecting to it: “Which is lawful on the Sabbath: to do good or to do evil, to save life or to kill?”[60] On another occasion he answered: “You hypocrites! Doesn't each of you on the Sabbath untie his ox or donkey from the stall and lead it out to give it water?”[61] On a third occasion he asked: “If one of you has a son or an ox that falls into a well on the Sabbath day, will you not immediately pull him out?”[62] Another example: “Now if a child can be circumcised on the Sabbath so that the law of Moses may not be broken, why are you angry with me for healing the whole man on the Sabbath?”[63] Nevertheless, it was also him saying that “Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfil them. I tell you the truth, until heaven and earth disappear, not the smallest letter, not the least stroke of a pen, will by any means disappear from the Law until everything is accomplished… For I tell you that unless your righteousness surpasses that of the Pharisees and the teachers of the law, you will certainly not enter the kingdom of heaven.”[64] Thus, the laws are indeed necessary, but under given circumstances the right interpretation of the given law might have great significance!

Moral theologians and canonist also tend to have fruitful discussions. When do we have to decide according to the literal provisions of law, when are we allowed to take interpretations into consideration? We can refer to the unspoken intention of the law-maker that we consider to be obvious. It is often our conscience that helps to make the final decision. I am convinced that we can rather accept what our conscience dictates, if it wishes something difficult from us, than if it suggests that the easier way is acceptable. That is also often called “moral intuition”. That does not mean that we are allowed to kill anybody. It is essential that in cases of moral doubt, we should always follow the safer course if life or salvation is at stake. This is called tutiorism. It is usually quoted as an example that you should not shoot at a moving bush when hunting with a pack until you make sure that it is not moved by a beater. We must use the same argument in defence of the life of the foetus. Even if somebody is not convinced that the foetus has an immortal soul in the given period of growth, they have to choose the safer solution, i.e. they have to decide as if they knew for sure that it was clearly a human being concerned.[65]

Advocates of order and freedom-lovers can hardly understand each other. Searching for compromises is often a difficult task, both in religion and in politics. The impact of public opinion, i.e. of people convinced in large numbers, is always significant. A typical example in bioethics is the following: a physician cannot be forced to carry out abortion if his/her conscience prohibits to do so. So in this case reference to the freedom of conscience is a rather significant argument. However, the physician refusing abortion should see after an appropriate substitute. So even if I am convinced that something is wrong and sinful, I have to get somebody whose conscience is not as choosy as mine?! What kind of freedom of conscience is provided for by this law? Public opinion is currently a major authority in democracies. If, for example, the life of the mother is at risk at the time of the birth, public opinion assumes that physicians cannot refer to their conscience. The relevant law is also formulated in this spirit.

We often come across legal regulations that are intentionally formulated in a broad sense, with so-called flexible paragraphs. In such cases the law-makers do not want to commit themselves to much, so they provide a

[59] Mk 2,23-28.
[60] Mk 3,1-6.
[61] Lk 13, 10-17.
[62] Lk 14, 1-6.
[63] Jn 7,23.
[64] Mt 5, 17-20.
[65] Hittani Kongregáció: *Instrukció a kezdődő emberi élet tiszteletéről és az utódnemzés méltóságáról. Donum vitae 1987. [* Congregation for the Doctrine of the Faith*: Instruction On Respect For Human Life In Its Origin and on the Dignity of Procreation. Donum vitae].* Translated by.: Gresz, Miklós. Magzatvédő Társaság. S. l. 1990, Szent Gellért Egyházi Kiadó. /Családi Iránytű 5./



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loophole of escape. Laws often have an influence on morality, which also changes the behaviour of citizens. Many people believe that if something is permitted by law, it cannot be immoral. But is it really always the case? We could bring a long list of counter-examples from the legislation of various countries beginning with laws permitting racism up until religious persecution.

The deterring force of laws and the fear of inconveniences result in a number of unnecessary examinations and treatments in the medical practice, as well. Seeing the rising number of trials against physicians, one tries to stay on safe grounds if possible. In the United States private practitioners were often defenceless, so after a while they did not urge to help if someone was taken by an indisposition on the street, for example: they were afraid that no matter what they actually did, the insurance company would find a reason to make them pay for the eventual worsening of the patient's condition. More and more physician applicants deterred from the profession. The so-called „good Samaritan" law was aimed to improve this situation.[66] Today, in a significant number of US states one cannot sue the physicians who do their best to help their fellow-people who got injured as long as they do not ask for or accept money for their services. The law should be made in a way that takes both the fears of physicians and the interests of patients into consideration. In the United Kingdom, for example, it is equally accepted that the patient has the right to reject treatment but also that the applicable treatment could be prescribed for physicians.[67]

The Hungarian law also touches upon the necessary actions if someone's life is directly at risk. In a given case (for example, acute disorders of consciousness, if the patient's life is threatened or the suspicion thereof emerges)[68] *everybody* is entitled to initiate saving that person's life.[69] Thus, for now, the duty of saving people who try to commit suicide is not problematic. If we do not consider suicide as the consequence of temporary insanity or irresponsible state, on what grounds can we save the person against his/her will if he/she rejects help? We might end up in a rather difficult situation, since it is already guaranteed in Hungary that nobody shall be treated against his/her will. I am convinced that physicians should always be provided the proper opportunity to fulfil their obligation of help in accordance with their conscience. It would not be right to qualify all life-saving attempts as unlawful paternalism. The word responsibility should regain its ancient weight.

The dilemma between legal regulations and personal freedom used to be decided unanimously in favour of legal regulations in the case of infectious diseases. Nowadays, extraordinary problems arise concerning the issue of HIV/AIDS infection. The main reason for that is the fact that this disease is transmitted primarily by sexual intercourse. According to the libertarian approach, sexual intercourse is everybody's private business, so if they get infected, they have to take the consequences. Hence, nobody has the right to interfere arbitrarily in order to fight the infection. Nevertheless, there are others who keep certain endangered groups, e.g. drug addicts, under strict control. Those, who consciously infect other people with the disease, may also expect strict imprisonment. The provisions of authorities are differing from country to country, which basically reflects the uncertainty concerning the estimation of the issue.

# 10. Sources of the Hungarian legal regulation

The most fundamental problems are dealt with in the *Constitution of the Republic of Hungary*, the *Criminal Code* and the *Civil Code of Hungary*: issues like legal protection of personality rights, medical responsibility etc. What concerns us more directly here is Act *CLIV of 1997 on Public Health*. Although it has been revised recently, specialised lawyers still do not consider it to be adequate. For a long time several ministerial decrees, registered as sources of law, were unconstitutional (for example, the Constitutional Court decided at the request of the Pacem in Utero Society that the that-time effective decree on abortion was unconstitutional). Edit Kőszegfalvi compiled a collection of explanatory statements on legal regulations concerning health care, the *Egészségügyi és betegjogi kézikönyv [Reference Book on Health Care and Patients' Rights]*.[70] Naturally, this could be extended with further aspects. The *Az egészségügyi jog nagy kézikönyve [Great Reference Book on Health Care Law]* deals with the issue on interdisciplinary grounds.[71] Nevertheless, changes in legal regulation should always be carefully followed. A suitable tool to achieve this is the constantly revised Complex Legal Compendium *[CompLex Jogtár]* published in DVD format.

[66] Pozgar, George D.: *Legal and ethical issues for health professionals,* Boston, 20102,Jones and Bartlett Publishers, 206. p.
[67] Mason, J. K. – McCall Smith, R. A.: *Law and Medical Ethics* . London, 1994, Butterworths, 16. p.
[68] *1997. évi CLIV. törvény az Egészségügyről. [* Act *CLIV of* 1997 *on Public Health]. 94. § (2).*
[69] *1997. évi CLIV. törvény az Egészségügyről. [* Act *CLIV of* 1997 *on Public Health]. 94. § (3).*
[70] Kőszegfalvi, Edit: *Egészségügyi és betegjogi kézikönyv. [Reference Book on Health Care and Patients' Rights].* Budapest, 2001, Közgazdasági és Jogi Könyvkiadó.
[71] Bán, Andrea – Dósa, Ágnes – Gábor, Edina et al.: *Az egészségügyi jog nagy kézikönyve.* [ *Great Reference Book on Health Care Law].* Budapest, 2009, Complex Kiadó.


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# 11. Declarations on medical ethics

A frequently occurring argument against dealing with and, in particular, teaching bioethics is that ethics and morality should not be explained, but lived accordingly. The latter statement is certainly true, but in order to develop in ourselves the conscience necessary for right deeds, it is not enough to see the good examples, we also have to know the principles that are to be followed. That applies to bioethical principles, as well. It is in accordance with the Declaration of Hawaii, which is aimed to give guidelines for psychiatrists. "Even though ethical behaviour is based on the individual psychiatrist's conscience and personal judgement, written guidelines are needed to clarify the profession 's ethical implications."[72]

Medical ethics might get in contradiction with the views of individual people worldwide, even with effective legal regulations. In Hungary, nobody talked about the contradictions, moreover, there was a tendency of concealing them, as if the laws and decrees would automatically represent the morally right and acceptable solutions. It remained so even when a high proportion of physicians were deterred from their career as gynaecologists, as a result of the fact that abortion was seen as a duty linked to their profession. (Many people claim, even today, that it is so!) Laws, rights and morality are to be distinguished. The task of legal regulations is to protect the acknowledged truth and to punish the detected crimes. Morality is also obligatory in internal spheres of our conscience, where no judicial judgement can break through. "De internis non iudicat praetor!", judges shall not decide on conscience and intentions. We are grateful to the few excellent medical lawyers who had the courage of their convictions, and tried to achieve that the enacted laws and morality should get closer to each other.

# 12. Hippocrates and declarations

The Hippocratic oath is generally viewed as the most ancient "basic law" of medical ethics. Doubts emerged concerning the author of the text. Allegedly, it is not included in the Corpus Hippocraticum, and there are opinions, according to which several thoughts of the text are rather distant from the writings of Hippocrates. Some consider certain parts of it as products of the Christian era. I assume that all this is rather insignificant from our point of view. The text of the oath is certainly very old, and it had and has a great prestige even today. With various variations and certain alterations in individual countries, physicians swear on this oath worldwide.[73] What is perhaps even more significant is that the society composed of non-physicians call upon them to account for their work, taking reference to this oath. In Germany, at the time of the rule of social nationalists, many physicians who were not willing to participate in euthanasia, which was made obligatory at that time, displayed the text of the oath in their waiting-room. The text of the oath was a battle-flag from the time of its creation. Today, it is about to take this role again.

As opposed to the above, Stoic thinkers were of the following view: "the wise man lives in harmony with nature, with people and himself. If he is unable to endure the burdens of the outside life or is unable to apply the moral values otherwise, he shall, after careful consideration of circumstances, depart this life. Zeno of Citium, Cleanthes and other well-known representatives of the Stoic school ended their lives by starving to death."[74] A similar problem today is the dilemma of the captured intelligence officer: if he does not commit suicide, as long as he is able to do so, his enemies could drag out information of him about his fellows by using various methods of interrogation, and so he becomes a traitor.

What did physicians do in such a situation? At the time of the suicides of Cato and Seneca, their doctors behaved in radically different ways. Cato cut his own stomach for political reasons in order to commit suicide that way. His physician, who came to help him, pushed the protruding intestines back and stitched the gash up. (Cato tore it up again.) Seneca, on the other hand, had he assistance he wished for. His physician made him drink what was left in the poisoned chalice.[75] In their view, both doctors acted in favour of their patients. Does that automatically mean that both of them did the right thing?

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[72]Hawaii nyilatkozat (1977). [Declaration of Hawaii]. World Medical Association. In Gaizler, Gyula: *Felelős döntés vagy ítéletvégrehajtás? Orvosetika változó világunkban. Orvosoknak, betegeknek, mindnyájunknak. Gyepűjárás. [Responsible decision or enforcement of judgement? Medical ethics in our changing world. To physicians, patients, to all of us. Borderland journey].* Budapest, 1992, Szent István Társulat, 156-158. p.; see Appendix.

[73]Roth, Gottfried: Der Hippokratische Eid - Mythos und Wirklichkeit. *Österreichische Aerzte Zeitung,* (25. Dez 1984.) 24. p; Roth, Gottfried: Der Hippokratische Eid - Idee und Wirklichkeit. *Öst. Krankenhaus-Zeitung,* Jg. 31. (1990) Heft 11. 640, 709-710. p.

[74]Nyíri, Tamás: *A filozófiai gondolkodás fejlődése. [The Development of Philosophical Thinking].* Budapest, 1977, Szent István Társulat, 114. p.

[75]Schadewaldt, H. : *Der Arzt vor der Frage von Leben und Tod.* Ref. auf d. 105. Tagung d. Gesellschaft deutscher Naturforscher und Ärzte in Heidelberg 1968. Cit: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 119. p.



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It is apparent from the publication of G. Roth, who studied the various oath texts, that the basic obligation of beneficence, of helping people is a constant core of medical ethics.[76] Various details are accentuated and emphasised in different times. Circumstances may also bring along the requirement of changing things. Today, if a problem emerges, it is generally considered to be obligatory to ask for a medical consultation.

The worldviews behind individual oath texts do not necessarily become obvious from the state order that one has to swear to. It is rather the interpretation of the protection of life that is essential. When should we start protecting life, from the time of conception or only later? How long do we protect life, for example, in the case if incurable patients or after the final loss of consciousness? What is the life like that we intend to protect? Should we also protect the lives of our mentally or physically disabled fellow people? To what extent, under which circumstances can we subordinate the individual's life to the interest of the community? Can experiments on human beings be allowed?

The text of the Hippocratic oath is by all means a point of reference. It shows the direction that our ancestors considered acceptable. Hippocrates chose life and not death, both at the beginning and the end of life! In the general practice of physicians the approach of the Hippocratic school became decisive – certainly under the influence of Christianity, as well.

# 13. Today's modern declarations

The various oath formulas usually do not go into details. The wish to formulate a uniform approach is expressed by common declarations. They intend to create a point of reference in the case of uncertainties. The texts of the most important international declarations are included in the appendix.

Contemporary documents are usually compiled by the World Medical Association (WMA), usually with regard to topical requirements.

The most fundamental document is the Declaration of Geneva (henceforth referred to as "declaration"). It is an oath sample taking modern aspects into consideration (1948, 1968, 1983, 1994, 2006). Let me call attention to the fact that of the recently most debated two issues, the Declaration of Geneva does not even mention euthanasia, and does not deal with procured abortion directly. It declared (before 1983) that utmost respect should be maintained for human life from the time of conception. In 1983 the text was altered, since then the expression "from the beginning of human life" is included, which, of course, allows for a broad interpretation. The text does not declare directly that taking a conceived life, inside or outside the mother's womb, is expressly a murder. It is beyond doubt, however, that the term "utmost respect" cannot be interpreted, as if the foetus or a dying person could be murdered without any problems. They chose life in Geneva, as well!

Let me mention a few other declarations. Here I wish to call attention to the fact that they all bear great significance, as they supported many physicians in making their conscientious decisions. The *Declaration of Helsinki* or the "Resolution" deals with the issue of medical research involving human subjects (1964, 1975, 2000, 2002, 2008). Determining the time of death in case of unconscious patients who are kept alive artificially with the help of machines, loaded physicians with an ever increasing responsibility, and put a heavy moral burden on their shoulders. Recently it is the issue of spreading medicine trials that provides an increasingly serious challenge for ethical committees.

The *Declaration of Sydney* summarises the criteria of determining the time and occurrence of death (1968).

The *Declaration of Oslo* deals with the so-called therapeutic abortions (1970).

The issue of participation in torture and cruelties and the refusal of help is an extremely serious problem. The *Declaration of Tokyo* deals with this subject matter (1975). According to the last point of the declaration the World Medical Association will support, and should encourage the doctors and their family in the face of threats or reprisals resulting from a refusal to condone the use of torture.

The issue of euthanasia got more and more intensely into the focus of public attention, primarily because of the events that took place in the Netherlands and in Australia. Therefore the *Euthanasia Declaration* (Madrid, 1987) is very important, as well as the *Declaration of Venice* dealing with the "terminal phase of an illness", separately from the issue of euthanasia. These declarations provided great significance to the statements of the Ethical

[76]Roth, Gottfried: Cunctis officiis quem probum medicum decent. Promotionsgelöbnis - Aerztegesetz - Strafgesetz. *Österreichische Aerzte Zeitung,* Jg. 34. (1979) Heft 10. 681-682. p.



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College of the Hungarian Medical Chamber, and were later also taken into consideration at the adoption of the *Code of Ethics of the Hungarian Medical Chamber* in 1998. The *Statement on Physician-Assisted Suicide* (PAS) also belongs to this subject matter (Marbella, 1992). The *Declaration of Lisbon* on the rights of the patient (1981), which was largely amended later in *Bali,* is also of utmost importance.

The *Declaration of Hawaii* (1977) provides guidelines for psychiatrists. It is worthy of our attention that it also tries to give assistance in formulating the right conscience of physicians, in avoiding abuses. Treatment should only be provided in the interest of the patients and with their consent if it is possible. The patient is free to withdraw from treatment at any time, the physician should respect this wish, and that cannot have negative consequences or imply punishment for the patient. The treatment should be continued in another way, which is acceptable for the patient. A number of literary works deal with the emerging problems, for example, Ken Kesey's novel *One Flew Over the Cuckoo's Nest* and its adaptation to stage. Physicians should choose life, a better and more attractive life until they have a choice at all!

It is obvious that for practising Christians and Jews the most important code of ethics is the Bible itself, the Sacred Scripture. Non-believers may also find several sentiments in it that are well worth taking into consideration. I sincerely respect other religions and acknowledge certain parts of many Eastern scripts, but the whole culture of Europe is imbued by the spirit of our own Bible.

Hungarian physicians can find guidelines in the suggestions of the Committee on Science and Research Ethics of the Medical Scientific Council, and the statements of the Ethical College of the Hungarian Medical Chamber are binding for them, as well as the Code of Ethics. Such an internal regulation can often be more effective than the legal regulations of a state.


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# Chapter 2. Defining the beginning and the end of a human person's life (Gyula Gaizler – Kálmán Nyéky)

## 1. Elucidating the essence of being human

The question up to now was formed as follows: what constitutes the beginning and end point of a *human being's* life. Ethical speculations have made it clear that we should first define the meaning of the word "human being". From a biological point of view the definition is simple: a human being is someone who belongs to the human race, who, for example, has the appropriate number of chromosomes (46). Many think that the ethical strive of protection related to the divinity and inviolability of life is connected to certain human qualities (such as rationality, self-consciousness, the ability to feel pain and pleasure, etc. Human beings who have these qualities are called „persons". Nevertheless, if we connect the concept of being a „person" to the actual presence of these qualities, we get a radically different result than in the case of contemplating on the possibility, the potentiality of their presence. Peter Singer, the Australian bioethicist, defines the dividing line on the basis of the actual presence of these qualities, thus he believes that the protection or killing of human foetuses – not yet possessing rationality - and healthy animals should be considered on the same level.[1] Thus, the protection of people who are mentally disabled or temporarily „lacking personality" is also questionable. According to personalistic views based on the teachings of Christ, a human being is a person – with all the rights of a person - from the time of conception to natural death. (Personalistic philosophy.)

Bioethics is the science dealing with the ethical questions of life. It is natural that its method of discussion and the represented values depend greatly on the worldview of the given author. That sentiment manifests itself clearly in the way our opinion changes according to our concepts about life about a certain issue, which is at the centre of interest today, i.e. the question concerning the beginning and the end of life. The wording of the question reflects our changing attitude: when do we "consider" the fertilised ovum to be a human being; and the other question at the end of life: when do we "consider" a human being dead? Earlier we were more confident: we "knew" the answers! The emerging problems concerning the genesis of life are not only closely connected to the issue of abortion, but also to artificial fertilisation or experiments conducted on embryos – while our concepts about the end of life influence our convictions about euthanasia and our views in favour or against transplantation.

The main difference lies in the fact whether we lay the stress on the word *human*, *person*, or *life* in defining the beginning and end of a *human person's life*.

When I speak about the beginning of *life*, it is obvious that biologically a new life begins when two reproductive cells unite. Although, as we shall see, it is already questionable whether the final development of individualisation, i.e. the exclusion of the possibility of twinning, should not be taken into consideration. If I emphasise the word *human*, that means primarily that the species homo is concerned. That is still a biological definition which is determined by the number of chromosomes, for example. If I emphasise the word *person* (because I will need that later on), I have to decide whether in my view being a person is an inseparable quality of the human being, or I consider the presence of other attributes as an essential condition, as well. If I choose some special criteria, such as self-consciousness, rationality, than I can link the existence of a person's life to the biological possibility of this quality. For people advocating this line of thought, the appearance of the first brain cells is seen as the minimum condition.

The differentiation of the conceptual question is similar when we are talking about the end of life. Hence, the situation is completely different if we "consider" a human being dead when the last cell in the body dies off, or when some other criterion is met, such as the presence or lack of integrity, consciousness of the human person, or the theoretical possibility thereof. In the latter case, the death of a human person occurs when brain activity ceases for good.

I must add here, that the parallel drawn between defining the beginning and end of life is not perfect. The development of the human body is under central guidance, even before the appearance of the brain cells. Later

[1]Singer, Peter: *Practical Ethics* . Cambridge, 19933, Cambridge University Press, 151. p.


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the brain becomes this guiding factor. Talking about the beginning of life, we may rightfully argue that we know even before the appearance of the first brain cell that, if the development proceeds normally, the brain will develop, i.e. the possibility thereof is obviously there. However, we know for certain that at the end of life the dead brain will not regenerate, it is unable to do so. The brain is responsible for creating the integrity of the adult person, thus its death may rightly be considered the death of the whole person. In the foetus, however, the guidance of an integrated development is present even before the development of the first brain cells, so the appearance of brain cells cannot be considered as a dividing line similar to the one at the end of life. Therefore, in the life of a foetus different methods should be applied for determining the time of death before the appearance of the brain cells.

# 2. Natural development of the human embryo

The development of the embryo will be presented in line with the work of the internationally acknowledged geneticist, Angelo Serra S.J.[2] The first 14 days of the embryo were not really a subject of discussion until the 1970s. The reason for that was rather simple: women usually did not detect their pregnancy until the first day of the next menstruation cycle. When the first day of a regular menstruation cycle was due but nothing happened, the embryo had already been about 14 days old, and completely implanted itself in the endometrium, while the surface was covered by the mucus membrane. Thus, the embryo itself could not be observed.

Nevertheless, that does not mean that there was absolutely no information available about this period. Scientists in the field of embryology, like, for example, the researchers of the Carnegie Institute of *Embryology* in Washington, studied this early period of pregnancy, as well. Professor Streeter and his team in the Carnegie Institute conducted systematic research on this period by autopsies and the examination of removed uteri (hysterectomy). Streeter systematically detected the first two months of the embryo's development, including the initial stage, fertilisation and the implantation phase. Although these pieces of information were well-known to embryologists, average people remained ignorant about them.

The breakthrough took place in 1970 when Robert Edwards was able to carry out in vitro fertilisation on animals, cultivate the cells in vitro for some weeks, observing the development of the culture.[3] The results of these observations were then applied to human embryos.[4] Many experiments were conducted until the systematic development of the human embryo was understood step by step, from the fertilisation up to the birth. The first spectacular result of these observations was the birth of Louise Brown in 1978, the first baby who was born via in vitro fertilisation (IVF).[5] Actually, from this time on, knowledge about the first moments of life was available to everybody.

Researchers reached an unprecedented development in the field in the last decade, with which they had a direct influence on public opinion through the media and, at the same time, sparked off a public debate about ethical questions.

Let us now take a closer look at the process of fertilisation. Here you can see the first week of the embryo. By the end of the sixth day, it has implanted itself in the endometrium. The fertilised ovum (zygote) begins to divide, the first cleavage taking place within 30 hours after fertilisation and resulting in the 2-cell stage. As it travels down the fallopian tube, it continues its mitotic division. (The genetic material within, i.e. the number of chromosomes remains the same in each cell – 46.) Within 40 hours after fertilisation, the zygote will turn to the 4-cell stage, then within 56 hours to the 8-cell stage, still measured from the time of fertilisation. The cells become smaller and smaller until they reach the 8-cell stage and form a loosely connected mass of cells called blastomeres. Until they reach this stage, blastomeres (i.e. undifferentiated embryonic stem cells) have a special feature, namely that they are totipotent. (That means that they have maximum developmental potential.) The word is made up by combining the Latin words *totus* meaning *all* and *potens* meaning *talent, capability*. That means that even if they are separated from the rest, each cell is capable of developing into a complete living creature (human being). The twinning form of cloning – carried out by Jerry Hall – made use of this feature. After this stage, the blastomeres strengthen their connection to each other, forming a compact ball, which is homogeneous due to the strong connections.

[2] Serra, Angelo, "L'Embrione umano «cumulo di cellule» o «individuo umano»", in *La Civiltà Cattolica* 152 (2001) 348 – 362. p.
[3] Edwards, R. G.– Steptoe, P. C., – Purdy, J. M., "Fertilization and cleavage in vitro of preovulation human oocytes", in *Nature* 227 (1970) 307 - 309 p.
[4] Edwards, R. G., – Steptoe, P. C., – Purdy, J. M., "Human Blastocysts grown in culture", in *Nature* 229 (1971) 133 p.
[5] Steptoe, P. C.– Edwards, R. G., "Birth after the reimplantation of a human embryo" in *Lancet* 2 (1978) 366 p.


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Approximately three days after the fertilisation, blastomeres divide again, now forming 16 cells. Now it is called a morula (from the Latin expression *morus* meaning *mulberry*).

After the 16-cell stage, the cells of the morula differentiate, as divisions from here on will create two different groups of cells: the inner cell mass and the outer cell mass surrounding the inner cell mass. The inner cell mass will eventually become the foetus, while the outer cell mass, the so-called trophoblast, will later contribute to the development of the placenta.

Meanwhile the morula continues its travel through the fallopian tube to the uterus. Just about when it enters the uterine cavity, which happens approximately after four days, a fluid appears in the space among the cells in the inner cell mass and forms a single cavity, which is called blastocoel. The inner cell mass is called the embryoblast, as the morula receives a new name: blastocyst. On the fifth day, the blastocyst is made up of three distinct parts: the embryoblast (inner cells), the trophoblast (outer cells) and the blastocoel (the fluid-filled cavity). This is when embryonic stem cells are collected. Embryonic stem cells are only collected from the embryoblast (the inner cells), which would gradually develop into the foetus. Approximately on the sixth day the blastocyst starts to implant itself in the endometrium.

The blastocyst has completely attached itself to the stroma of the uterine lining by the 11-12th day and the area where implantation occurred will gradually receive the original covering. This process is usually completed on the 13th day. At the end of the second week (14th day) the implantation of the blastocyst is complete.

The embryo undergoes an important developmental phase on the 15th day. Differentiation of cells begins, which is indicated by the appearance of the primitive streak on the surface of the embryo. At the beginning, the streak is only vaguely definable, but on the 16th day it is a distinguishable narrow line.

The primitive streak is the area of the embryo where active proliferation occurs and the mesoderm (middle layer) develops from it. This is made up of cells that occupy the space between the ectoderm (outer layer) and the endoderm (inner layer) of the embryo. It will eventually differentiate to give rise to structures like the spinal marrow and the spinal cord. The beginning of cell differentiation means that cells begin to form tissues to form the human body and so it signals the end of their totipotent character.

# 3. Internal co-ordination of the embryo

With the completion of fertilisation (i.e. already before the 2-cell stage), the new genome takes the zygote under control, meaning that on a molecular and cell level all development is controlled and guided by the new genome. Its properly staged growth would not be possible without internal co-ordination.[6] This co-ordination would not work without the integrity of the embryo. Even the famous Mary Warnock Committee confirms this feature in section 11.6 of its report saying: "Once fertilisation has occurred, the subsequent developmental processes follow one another in a systematic and structured order…"[7]

# 4. The autonomy of the embryo

Many people think that the embryo is not autonomous at the early stage of its development. The autonomy of the zygote is in fact clearly revealed in biological facts. The zygote travels within the uterus by using its internal energy sources, which are available from the very beginning. The fact that a zygote is able to develop normally outside the womb, as well, means that the organisation of and control over embryonic development is due to an independent, internal genetic program over which the mother has no control.

# 5. The continuity of the embryo

The above biological facts clearly demonstrate that – biologically speaking – life begins with fertilisation. The zygote is a new being that begins its own life cycle. Although embryologists call the embryo by many names, depending on the stage of its development, (such as zygote, morula, blastocyst, etc.), this does not mean a lack of continuity in the development process. Embryonic development follows the continuous, rigorous

[6]Serra, Angelo, "L'Embrione umano «cumulo di cellule» o «individuo umano»", in *La Civiltà Cattolica* 152 (2001) 359 - 360; Serra, Angelo – Colombo, Roberto, "Identity and status of the Human Embryo: The Contribution of Biology", in Pontificia Academia Pro Vità, Identity and Statute of Human Embryo : Proceedings of the Third Assembly of the Pontifical Academy for Life, Libreria Editrice Vaticana, Città del Vaticano, 1998, p. 163; Serra, Angelo, L'Uomo-embrione: Il Grande Misconosciuto, Cantagalli, Siena, 2003, 42. p.

[7]Warnock, Mary, A Question of Life: The Warnock Report on Human Fertilization & Embryology, Basil Blackwell, Oxford, 1985, 59. p.



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development of cells and their differentiation (specialisation) in order to secure the development of the entire human being, which is the final aim of the whole process.[8]

# 6. Defining the beginning of human life in time and its ethical consequences

I must emphasize in advance that the way one answers that question greatly depends on the desired result. "When does the life of an expected baby begin? And when does it begin if the baby is not wanted?"[9] Determining the beginning of life is easy if the child is expected or at least accepted. In such a case, everybody is satisfied with the obvious, biological definition: life begins when the sperm fuses with the ovum, at the time of fertilisation. There is no reason to search for another point if time.

If, however, for some reason the baby is not wanted, the starting point is completely different. People who are about to do something that they earlier considered to be unacceptable, always strive to reconsider their views. They start to look for other acceptable alternatives. Nobody wants to become the murderer of his/her own child. "Is the embryo really a human being?" "What do experts and scientists say about the question?" If you are searching hard enough, you will eventually find something.

Theology equates the beginning of individual human life with the acquisition of the soul, while death means the "separation" of soul and body. It is well-known that it had been debated for a long time when God created the immortal soul in the body. The underlying question was whether God creates the anima rationis right after the fertilisation or gradually after creating the anima vegetative and the anima sensitive. How long does that process take? There were a number of answers to the question that may seem strange today: "In the case of boys it happens after forty days, while in case of girls it happens only after eighty days." We may ponder upon this differentiation. The most important biological argument against the notion of gradual soul-creation is that the human embryo is a human being right after the fertilisation according to the number of its chromosomes. It is very difficult for a scientifically minded person to imagine a being, in which various souls change one after the other. Gradual soul-creation is favourable, however, for those who wish to set the beginning of embryonic life at a later stage than conception. Nowadays, the question of gradual soul-creation has merely a historical significance, if we look at it from a biological point of view. The essence of the debate from a theological aspect is, as it has been pointed out by Philippe Caspar, that the reason for man's creation is God and man at the same time. Although human beings are dependent on God, God will always remain faithful and cooperates with those parts of man's actions that comply with the good. At the same time, God does not cooperate in those aspects of human actions that are not good. No matter how a man is created, the embryo exists, its existence is good, and in this regard, God desires its existence. It is independent of the fact, whether God creates the human soul directly or gradually.[10] Natural sciences tend to favour single appearance, although there is no scientific way to prove this, neither that the soul departs from the body at the end of life. It is only a logical conclusion.

There is a philosophical view according to which individualisation is the decisive factor, so life begins when the possibility of becoming two persons, i.e. twinning, is no longer available. That period lasts for about two weeks.

According to another philosophical definition, the being cannot be "considered" human if it lacks the capacity of thinking. (The word "considered" will stay with us for a while.) Hence, the biological grounds of the possibility of thinking should be present in order to become a human being and this means the appearance of the first brain cells.

There are people who search for external options. They say we can only be certain after the implantation in the uterus. Or even more certain if it proves to be able to live outside the womb. This latter view was shared by some ancient Greeks who exposed the babies considered incapable of living on Mount Taygetus.

Summarizing briefly, we may list the main views on the beginning of life as follows:

1. At the time of fertilisation.

2. With the completion of individualisation.

[8] Serra, Angelo, "L'Embrione umano «cumulo di cellule» o «individuo umano»", in *La Civiltà Cattolica* 152 (2001) 361 – 362. p.

[9] Gaizler Gyula: Mint orvos és mint teológus... Kalandozások az orvostudomány és a filozófia-teológia határterületein. [As a physician and as a theologian… Roaming in the borderland between medical science and philosophy-theology]. Budapest, 1990, Ecclesia, 68–71. p.

[10] Caspar, Philippe : Animation de L'áme et Unicité de la Forme Chez Saint Thomas D'Aquin. *Anthropotes,* 5 (1989) 116–118. p.



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3. At the beginning of the development of the central nervous system.

4. After implantation.

5. If the baby proves to be capable of living outside the womb.

The fundamental problem in these modern arguments for those who wish to abort the developing life without guilty conscience is that *by the time* a woman becomes aware of her pregnancy (usually at the absence of her due menses), intra-uterus definitions of time have already lost their significance. Of course, they can still offer some consolation. The tormented mother consoles herself by saying that if scientists are so unsure about the first weeks, who knows, how long this uncertainty goes. Is it possible that it is really just an annoying little mass of cells?

Determining the beginning of life is certainly not only important from a natural scientific point of view. With the intensification of ethical considerations, is has become rather problematic, when the fertilised ovum can be "considered" a human being, a person.

An *essential* change takes place only at the time indicated in the first definition; all other opinions confirm a later stage of development. The completion of individualisation is a mere theoretical question, which is practically inaccessible today from a biological perspective. Our empirical knowledge tells us that the possibility of twinning ceases after the first two weeks. The complete development of the personality – which some people hold for a basic requirement of being considered a fully developed human being – cannot be seen as certain even after birth when viability is confirmed. Taking that requirement, the 20th or even the 50th year of a person's life may be considered as the criterion of the full development of a human being. No one can seriously believe, however, that, based upon that notion, a person may be killed freely until they reach that age. The principle underlying the third option is that, when somebody is dying, the irreversible corruption of the brain is considered as the time of the occurrence of death. This leads some to assume that human life begins with the development of the brain. Nevertheless, this argumentation is not substantiated, because in a normal case the brain of the foetus does develop (if it is not hindered or the foetus is not killed), while death, the end of life means the complete lack of brain activity. There are views (Jewish religion, Zen), according to which the soul is "inhaled" with the first breath of the newborn baby, and that constitutes the beginning of its life. Theoretically, that would mean that the baby may be killed even during labour pain, as it is not a human being yet. This conclusion is of course not shared by the Jews.

It is rather typical, as I have referred to it several times, how arbitrarily the dividing lines between individual stages of embryonic life are drawn, depending on the previously defined objectives.

No matter what our starting point is the basis of the issue's moral evaluation by all means the fact that with fertilisation a new human being is created - independent of the mother - whose life should be protected. If we take the argument of potentiality (the possibility of developing into a human being) seriously, then the principle of ensuring maximum security (tutoriorism), which is always obligatory if someone's life is endangered, also applies. The same principle is followed – as we have mentioned earlier – in drawing up hunting regulations, according to which one should not shoot on a moving bush until he is absolutely certain that it is not moved by a beater or any other human being. The same principle is emphasised by John Paul II in his encyclical letter entitled "The Gospel of Life".[11]

# 7. Defining the end of life in time and its ethical consequences

When defining the end of life we have to make similar theoretical differentiations. There is a view, which we may actually consider as *biological*, which says that a man dies when his last cell ceases to exist.[12] Another view is more widespread – which may also be seen as biological in a broader sense –, according to which the death of man as an *integral person* is decisive. The characteristics of this state are the cessation of cardiac function and respiration and also the termination of the brain's capability of operation. If these three things occur simultaneously and if spontaneous respiration and the function of the heart cannot be restored, the person is considered dead.

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[11] János Pál, II.: *Evangelium vitae.* Enciklika. [ Encyclical by John Paul II. *Evangelium vitae on the Value and Inviolability of Human Life*]. Budapest, s. a. (1995), Szent István Társulat.

[12] Ziegler, J. G. (Hrsg.): *Organverpflanzung. Medizinische, rechtliche und ethische Probleme.* Düsseldorf, 1977, Patmos, 84. p.



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Definition of the exact moment of the end of a person's life has been an important issue in inheritance laws. While so far the financial issues related to the distribution of wealth were in the forefront of attention, in the past few decades the emergence of a completely new method, i.e. the transplantation of certain organs from dead bodies into living human beings, has made it essential to be able to define the end of life as precisely as possible. (Another chapter is dealing with the issue of transplantation, here we only wish to mention theoretical issues concerning only theoretical questions raised by the diagnosis of death are dealt upon here.)

# 8. Defining the occurrence of death

Defining the beginning and the end of life is based on the mutual consensus of several professions. People used consider it as obvious that physicians were responsible for determining the beginning and the endpoint of life, since they were the experts who confronted death most often and most directly. Actually, physicians do not determine the time of a person's death; but the time when he/she reaches a condition that we usually acknowledge as death. Not long so ago, the evidences of death were the cessation of heartbeat and respiration, and the physician observed and certified the occurrence of these phenomena. In the majority of cases these are still considered to be the signs of death, even today.

People strived to determine the exact moment of death in earlier times, as well. At that time – as we have already mentioned – the time of death was relevant primarily from a legal perspective: one had to decide in debated cases of inheritance, who was the one who died earlier. Reading the relevant parts of the book entitled *Törvényszéki Orvostan [Forensic Medicine]* written by professor Balázs Kenyeres[13] (published in 1909!) is rather instructive. The three main invigorating forces of life were considered to be the activity of the central nervous system, blood circulation and respiration, already at that time. The book cites the observations of Loye and Regnard, who detected heartbeats in criminals beheaded by guillotine even an hour after their execution. Kenyeres continues by saying: "The gradual cessation of the symptoms of life raises the question, when should life be considered (!) as finished, what is the exact moment from which we can say that the individual is not existing anymore? It is impossible to decipher this issue properly." He also mentions an interesting example: A beheaded man is, of course, considered dead in the moment the blade severs the head off the body, even though the heart may still be beating. If however, a bullet smashes the brain of a person, but his heart continues to beat and he himself keeps on breathing gaspingly, can we say that he is dead? "Neither this nor the contrary supposition can be justified in a strict sense." What he writes afterwards shows the correctness of the contemporary concept, and we may also delude the significance of a new technological advancement of our age, namely the possibility of registering the electric activity of the brain. The method was unknown at that time and only the lack of it is mentioned. "The end of a person's life should actually be reckoned form the final termination of conscious life, meaning the cessation of the activity of the brain. However, the exact moment of that cannot be detected with absolute certainty, thus, both public opinion and medical science emphasise the termination of other better observable activities – such as respiration and the beating of the heart." And finally, another very interesting remark: "When the order of death of several people who apparently died at the same time is of significance, medical science often cannot provide a trustworthy opinion, so is left to the judge to decide, the cessation of which function should be considered the terminating point of a person's life in the actual case."[14]

Determining the exact time of death is certainly important from a legal point of view. Today there are practically unambiguous signs that may be used to corroborate the fact of brain death (EEG, thorough neurological examination, etc.). We may justly say that man as a human being is dead when the activity of the brain ceases permanently. Still, a Slovakian surgeon asked me, whether this meant that he could remove the kidney or the heart of a patient whose heart was still beating. It was indeed an artificially maintained function, but it is still heartbeat and respiration! A person cannot be pronounced dead in order to get one or more of his/her organs transplanted! Prior to transplantation the death of the person whose organs are to be used must be confirmed *with absolute certainty*. Lawyers even pay attention to make sure that the physicians who confirm the death should be unbiased, and have no connections with the ones responsible for the transplantation. The opinion of Gábor Petri, professor of surgery is still topical, even today: "...what we have here is the constant re-evaluation of the concept of death, both in a medical and legal sense, and this contravene our deep-rooted traditions: both scientific and moral ones. Neither physicians, nor lawyers or representatives of the various religious denominations have been able to reach a consensus so far. Under the present circumstances the only possible solution would be a compromise: a corporative level agreement that satisfies public opinion."[15] Medical criteria

[13] Kenyeres Balázs: *Törvényszéki Orvostan. [Forensic Medicine]* S. l., 1909, M. Orvosi Könyvkiadó Társ.

[14] Ibid. 428. p.

[15] Petri Gábor: Előszó. [Foreword] In Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 8-9. p.



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were summarised by the Declaration of Sidney in 1968.[16] In Japan according to the teachings of Shintoism, the confirmation of brain's death is not enough to pronounce the occurrence of death. That is why the number of transplantations is so low there.

The idea of transplanting the organs of dead people was based on the observation that certain organs, tissues of a person still show signs of life when he/she as a human being is already considered dead. It is well known that the nails or beard of corpses often continue to grow for a while. The most sensitive, the fastest corrupting parts are the neurons that coordinate the functioning of the whole body, and the main centre of these neurons is the brain. Tissues of the kidney, for example, remain alive for much longer. Animal experiments proved that certain organs that were taken out of the body shortly after the final cardiac arrest and transplanted into another animal, remained viable. The more time passes after the termination of circulation, the more certain it is that all organs and tissues die away due to oxygen deprivation.

The time of transplanting the organ from a dead donor has to be determined very carefully. It cannot be carried out too early, as the donor may still be alive, but if the organ is removed too late, it will not be viable: and the operation is useless or even harmful. Medical research is conducted in both ways: they try to determine the time of death as precisely and trustworthily as possible and they experiment on new ways of preserving organs that are to be removed or have already been removed.

Endre Somogyi, professor of forensic medicine, says: "One of the best definitions of death was given by Genersich: »...death is the final and complete paralysis of the nervous systems of the brain and the spinal cord, as a result of which the physiological activity of the lungs and heart decreases to the minimum and terminates in a short period of time.« This definition rightly depicts death as a biological process. Clinicians determine the occurrence of death by the time of the cessation of respiration and heartbeat by physical examination. *Clinical death* means the death of the individual; various tissues of the body, nevertheless, survive for a significant time even after the occurrence of clinical death. Only those tissues are suitable for transplantation in which decomposition is not well in progress. The central nervous system survives clinical death only by minutes, while other tissues show various signs of life for a longer period after the occurrence of death."[17] Somogyi determined the time of death by the cessation of respiration and the beating of the heart. Today, however, these two phenomena may be maintained for years by life-support equipment. But is the patient alive as a human being if he does not regain consciousness, or is he merely a kind of lung-heart preparation, as professor Lhermitte suggests, or, in other words, a dead man who maintains a strong pulse, as Wertheimer put it.[18]

On the theological approach to the issue, Pope Pius XII spoke in front of anaesthesiologists on 24 November 1957 as follows: "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«… 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."[19] It seems that physicians are left alone with their responsibility. Nevertheless, their convictions about life and death undoubtedly influence their decisions. We have seen that stoics or the followers of Hippocrates ha different ideas about the obligation to maintain life. According to Chief Rabbi Peter Levinson, Greek dualism – which says that consciousness is the decisive indicator of life when it comes to human beings – is distinct from Semitic thinking. "The body is just as important as the soul. Where the body is alive, there is life, which must not be terminated."[20] If we accept this view, transplantation becomes impossible.

Several jurists and theologian expressed their opinion on this issue. According to the legal standpoint of R. Schöning, the moment when a doctor comes to the conclusion that, despite the artificially maintained circulation, independent life, i.e. a life without life-support equipment, cannot be re-established should be

[16] See Appendix.

[17] Somogyi Endre: *Az igazságügyi orvostan alapjai.* Egyetemi tankönyv. [*Introduction to Forensic Medicine*. University Textbook]. Budapest, 1979, Medicina, 102-103. p

[18] Savatier, J.: Et in hora mortis nostrae: Le probleme des greffes d'organes prélevés sur un cadaver. *Reueil Dalles Sirey,* 18 (Mai 1968.) Cahier 8. 89-94. p.; Cit.: Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 21. p.

[19] Pius, XII.: Az újjáélesztés jogi és erkölcsi kérdései. Beszéd, 1957. XI. 24. [Address by Pope Pius XII. The legal and moral issues of resuscitation]. *Acta Apostolicae Sedis,* XLV. (1957) 1027-1033. p.; Cit.: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 120. p.

[20] Cit.: Ziegler, J. G. (Hrsg.): *Organverpflanzung. Medizinische, rechtliche und ethische Probleme.* Düsseldorf, 1977, Patmos, 84. p



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considered as the time of death.[21] If we add the requirement that the patient should be unconscious, we can state that Schöning's legal definition coincides with the view formulated by Pope Pius XII in the above speech. It is beyond doubt that the confirmation of death is the task of the physician, but these theories take it for granted that the physician knows what he/she should consider death. That is the prerequisite of being able to decide whether death has occurred or not. The importance of the differences in approaches can be seen on the cited opinion of Chief Rabbi Levinson and the Japanese example.

Death is the termination of the integrity of human existence, traditionally speaking it is the "separation of the soul from the body." We do not have to be Christians to realise that all that we have said so far about a human person is gradually disappearing in a dying man. It is also undeniable that the manifestation of a human person is only possible if the brain is intact, at least to a certain extent. G. Geilen, professor of law, writes about that as follows: "The human body is not human anymore with an irreversibly destroyed brain." "Without the existence of intellectual manifestations we cannot speak about a human being any more, only a corpse with artificially more or less maintained partial functions."[22]

The question whether the decay of the brain also means the separation of the immortal soul from the body would lead to useless theoretical debates. Naturally, physicians cannot answer this question. What points of reference are provided by theology and philosophy? Let us see a few details from Tamás Nyíri's above cited work: "According to the Talmud of Jerusalem, the soul does not leave the body for three days and tries to return to it. It only leaves when decomposition begins."[23] According to natural scientists this statement cannot be proved, while for a Christian theologian it is merely a philosophical or theological view that does not oblige anybody to believe.

What does philosophy say about the soul? We would not attempt to provide even a broad outline of the various approaches. Within the given framework, we restrict ourselves to the description of certain concepts. "In classical Greek philosophy the body is the prison of the soul – from which only death can release the soul" (Plato). From a medical point of view, that concept would rather support the reduction of lifetime. "Aristotle teaches, in opposition to Plato's incidental relationship, the existence of an essential relationship: the soul is the substantial form of the body."[24] That view is obvious for the physician: it puts emphasis on the prolongation of life. Nevertheless, in itself it may give rise to materialistic interpretations as well. In fact, it is stressed by early Christians that "the soul – being a creature – is mortal… and its eternal life is a gift of God."[25]

It does not influence the determination of the time of death whether we consider our soul to be immortal or not, so a shared standpoint can be established with materialist physicians. Even natural scientists acknowledge that there is an essential (some tend to say significant) difference between human beings and animals. The basis of this difference is called the intellectual soul. This co-ordinates and controls the parts of the body. Therefore we can say that despite all similarities the body of man is also characteristically human, and has no "pure animal" part in it. It is the shared conviction of natural scientists, theologians and philosophers that the control and organisation of the human body is carried out with the help of the brain, and when that perishes the integrity of the human body ceases to exist. Maintaining the characteristically human relationship with the outside world also becomes impossible. There is no possibility for man as a person to manifest himself anymore. According to our present understanding, this is considered the death of man as a person. The body lying in front of us is not "human" anymore, so the commandment "Thou shall not kill" does not refer to it, only the respect which is due to a dead man.

The perishing of brain cells means the death of man as a person, as a "human being." Christian theologians, physicians and jurists agree on this. G. Perico, moral theologian, stated in 1968: "Ethics should take over the role of defining death from medical studies. Ethics can declare only in principle that if the decomposition of brain cells begins, the physicians are facing their »patients« as »corpses«. Thus, the physician may stop resuscitation attempts irrespective of whether heart transplantation is planned."[26] E. Bucher, jurist and private lecturer, warns us against possible abuses in this respect: "The question whether we can discontinue the once started mechanical ventilation and circulation process, and in case of a positive answer, the dilemma of when

[21]Schöning, R.: Zur Fesstellung des Todeszeitpunktes. *Neue Juristische Wochenschrift,* Jg. 6. (1968) Heft 189; Cit.: Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 209. p.

[22]Geilen, G.: Das Leben des Menschen in den Grenzen des Rechts - zu den Wandlungen des Todesbegriffens und zu neuen Schutzproblemen des werdenden Lebens. *Zschr f.d. gesamte Familienrecht,* Jg. 15. (1968) Heft 3. 125. p.

[23]Nyíri Tamás: *Antropológiai vázlatok.* [Anthropological sketches]. Budapest, 1972, Szent István Társulat, 200. p.

[24]Ibid. 211. p.

[25] Ibid. 202. p.

[26]Szívátültetés orvosi-etikai kérdései. [Medical-ethical questions of heart transplantation]. *Mérleg,* 4. évf. (1968) 3. sz. 257. p.



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that should take place poses serious professional ethical problems for physicians. No matter how he decides, his decision cannot be influenced by the fact of whether the patient's organs would be used for transplantation after the death."[27] Franz Böckle, moral theologian, emphasises that "the body and the soul are not physical parts but metaphysical principles that mutually transfuse each other in the creation of human life."[28] These principles, nevertheless, differ from each other in their essence. The relationship of the two can be explained by the idea of participation. That means that the suitability of the body for the relationship is in direct proportion with the integrity of these two factors.

Karl Rahner dealt with the theological considerations related to the occurrence of death in detail at the Austrian Medical Congress on 11 November 1968. "Dying may be distinguished from sickness, if we know what death is. In the case of organ transplantation something »living« is being transplanted from a dead corpse! Where is the dividing line between life and death? In a particular case, it cannot be determined without the judgement of the biologist and the physician – still, what is human death in general – these sciences do not deal with that… The question: when is man as a human being dead is related to the question: what is man… And that is a question that physicians should partly hand over to philosophical and theological anthropology."[29] "Based on their own starting point, theologians draw the conclusion that human life ceases to be human when brain death occurs, though they have to leave the definition of the criteria thereof to biologists and physicians."[30] The theologian admits that man as a human being is dead even if some of his tissues and organs within or outside the original organism "are alive" or "live on" in a biological sense."[31]

Rudolf Kautzky dealed with the ethical problems of modern medical science in detail in the 1969 volume of the journal *Concilium*.[32] Concerning the time of death, he also writes that physicians, jurists and theologians consider brain death as the death of the human being. The tissues of the brain cannot regenerate; its activity cannot be supplemented by machines. The intellectual dimension which is so characteristic of man, personal individuality and identity are all linked to the brain. He calls attention to an important aspect, namely that it is not obvious that death should be defined in a way that includes all living beings. There are animals at the lower level of development that may loose 99% of their substance without dying: and they are able to regenerate themselves from the rest. The above-cited Peter Levinson Chief Rabbi might be right then when he says: "Until the body lives, there is life and it is not supposed to be terminated!"[33] However, that would mean that a heart donor, who had been buried a long time ago, would only die when the receiver also dies. This view may have been implicitly shared by apartheidists of South Africa who wanted to bury the heart received by the white dr Blaiberg in a cemetery reserved for black people, since the donor was a black man.

Andor Szécsény, professor of surgery, summarised all that is worth knowing presently about clinical and biological death from a medical point of view. "The progress from life to death does not take place from one moment to the other, but gradually. From a *clinical* perspective a person is said to be dead if his/her heartbeat – and thus the circulation – stopped functioning for two minutes. The only precise method of observation is the electrocardiogram (ECG), or – in case the chest is open – the observation of the heart. The cessation of the heartbeat will result in the complete failure of circulation, which means that the tissues and cells of the body do not receive oxygen and other substances indispensable for their survival, and body cells cannot rid of their metabolic waste materials. As a consequence of this process, the operation of the cells, tissues and organs changes, and *biological* or *absolute death* occurs. Different organs and tissues die away or rather perish for good, after different intervals. The most sensitive one is the central nervous system, which is already irreversibly damaged if circulation is suspended for 4-5 minutes… Quite a lot of people have been brought back by physicians from the state of clinical death. – Clinical experience shows that with present equipment and methods, people cannot be resuscitated after the sixth minute of clinical death, because the central nervous system perishes completely during that time. Activity of the central nervous system may be observed by registering the electrical activity named after it (electroencephalograph: EEG): the absence of electrical phenomena in the brain, according to our present knowledge, leads to an irreversible damage of the brain and means that the possibility of resuscitation is no longer available. From a clinical point of view such a patient is considered dead, there is no hope for resuscitation and the organs are theoretically suitable for

[27]Bucher, E.: Rechtliche Probleme in Zusammenhang der Transplantationbeschaffung. In Largiadèr, F. (Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 75-84. p.

[28]Böckle, Franz: *Fundamentalmoral.* München, 1978, Kösel, 43. p.

[29]Rahner, Karl: *Theologische Erwägungen über den Eintritt des Todes.* Schriften zur Theologie. Einsiedeln–Zürich–Köln, 1968, Benziger, 324-326. p.

[30] Ibid. 327-328. p.

[31]Ibid. 328. p.

[32]Kautzky, Rudolf: Technischer Fortschritt und ethische Problematik in der modernen Medizin. *Concilium,* Jg. 5. (1969) 378. p.

[33]Cit.: Ziegler, J. G. (Hrsg.): *Organverpflanzung. Medizinische, rechtliche und ethische Probleme.* Düsseldorf, 1977, Patmos, 84. p



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transplantation."[34]The theoretical foundations are clear. Still, the first heart transplantation was not unanimously greeted by open ovation. The that-time Attorney General of Frankfurt – Bauer – said: "if such a surgical operation occurred in Germany, the prosecuting authority would have had to investigate whether it should lay indictment for murder or homicide."[35] Werner Forssmann, professor of medicine, said that it is horrible even to imagine that while a patient is put on heart-lung machines to keep him/her alive in one hospital room, people are impatiently waiting for the death of a dying person in the neighbouring hall.[36] What was the reason for these irritated reactions, especially considering that the transplantation of other organs had already existed? Heart transplantation must be a completely different experience for the surgeon. If a surgeon removes somebody's kidney, he/she will certainly not kill the patient. However, if someone's heart is removed, the person will definitely be dead after the operation, if it has not been the case before. It is not enough to *know* that he EEG indicates "brain silence"; it must become the surgeon's absolute conviction that the patient is *really* dead. The recommendation of the German Society of Surgeons was that the occurrence of death can be established after twelve hours of brain silence. W. Bushart neurologist and P. Rittmeyer anaesthesiologist were of different opinion: "We have ourselves witnessed a complete recovery in the EEG after two days of brain silence and the reoccurrence of spontaneous respiration after a 24 hour break."[37] In cases of a coma resulting from pharmaceutical poisoning others also described complete recoveries after shorter or longer periods of time. According to Nizsalovszky, that is the reason why the Declaration of Geneva adopted in June 1968 handled the case of poisoning separately.[38] Even the Hungarian ministerial decree on organ transplantation (adopted in 1972) dealt with this issue. According to section 2 of §6 of the 18/1972 decree (4 November) of the Ministry of Health, organs shall not be removed from a body if the patient "died of deep hypothermia (27 oC measured rectally), acute or chronic poisoning."[39]

In theory, physicians viewed the occurrence of brain death as the justification of a person's death. Because of the above cases, however, they did not trust the EEG. They suggested that brain angiography should be carried out in order to observe blood circulation in the brain. Nevertheless, this method could not really become wide-spread. Physicians were reluctant to carry out such an examination on dying patients. And if the patient was dead, the examination was unnecessary. As time went by, more and more people accepted the confirmation of brain death as the criterion of death. This resulted in a temporary increase in the number of heart transplantations.[40]

Today it is generally accepted that the life functions of a permanently unconscious man should not be maintained by all means. If the occurrence of brain death is definitively confirmed, ventilator support may be switched of, or, even while it is still in operation, organs suitable for transplantation may be removed – in accordance with the necessary procedure. By this time the patient who was dying earlier is definitely dead.

Wilfried Ruff, physician and theologian, taking reference to Franz Böckle, raises the possibility of whether it is possible to remove the organs of the patient after detecting the irreversible damage of the brain, i.e. in an absolutely hopeless case, but before the definitive occurrence of death. He supports his opinion by the principle of the order of values. On the one hand, there is a man who will certainly die soon, while on the other there is someone whose life could be saved this way, but whose chances decrease with every wasted moment.[41] O. Briscoe and R. Thompson write about this issue as follows: "In order to enhance the success of transplantation even the – otherwise unacceptable – idea emerged, that the kidney and even the heart of patients who are about to die may be removed for the purpose of transplantation, if these organs are substituted by dialysis or a heart motor, and these devices are absolutely sufficient to maintain life as long as the patient would have lived without the removal of organs. This cannot be considered as acceptable, even with the consent of the patient. Consent in this case would typically mean consent to euthanasia."[42] (By the way, this quotation also

[34]Szécsény Andor: A szervátültetés sebészi problémái. [Surgical problems of organ transplantation] In Csaba Gy. (szerk.): *A szervátültetés jelene és jövője. [Present and Past of Organ Transplantation].* Budapest, 1969, Medicina, 212-213. p.

[35]Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 81. p.

[36]Ibid.

[37]Szívátültetés orvosi-etikai kérdései. [Medical-ethical questions of heart transplantation]. *Mérleg,* 4. évf. (1968) 3. sz. 256. p.

[38]Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 279. p.

[39]The 18/1972 (4 November) decree of the Ministry of Health was repealed by the 18/1998 (27 December) decree of the Ministry of Health. Section 4 of §8 of the latter document declares that the rules of the transplantation of particular organs and tissues are defined by the valid professional guidelines.

[40]English, T. A. H. – Cooper, D. K. C. – Cory-Pearce, R.: Recent experience with heart transplantation. *British Medical Journal,* vol. 281 (1980) no. 6242. 690-702. p.

[41]Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 119. p. et seq.

[42]Briscoe, O. V. – Thomson, H. M.: Some problems of transplantation. *Australian Journal of Forensic Sciences,* vol. 1 (Dec. 1968) no. 2.; vol. 1 (Mar. 1969) no. 3. 19. p.; Cit.: Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 226. p.



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demonstrates that the approval of euthanasia was unimaginable a few decades ago!) In his above cited book Nizsalovszky takes the following standpoint: "Premature organ removal from a living organism, which would in itself eliminate the possibility of survival, cannot be justified by legal arguments."[43] He quotes the French Deltombe, who assumes that: "People are afraid that the great familiarity of physicians and death, the otherwise noble endeavour to save another life may actually inspire a deed which is nothing else but the vivisection of a man condemned to death."[44] "Fear from treating people in suspended animation as if they were dead was the motivation of the transplantation strike of Danish nurses. They believed that transplantation meant the breaking of an old Danish law, according to which a dead corpse was not to be moved from the deathbed for 6 hours after the occurrence of death. The result of the strike was the cancellation of 12 kidney transplantations, the planned recipients of which all died."[45]

It is beyond doubt that there may remain ambiguous factors when establishing the occurrence of death. According to the moral theological view of A. Sustar: "In the case of inevitably dying patients … »ambiguous methods« may also be used if there is no other way out."[46] Rudolf Kautzky also emphasises that: "The decision is human, and not of mathematical precision, it is moral and so it has practical certainty."[47] Physicians strive to get absolute certainty, they are obviously afraid of accidentally killing someone, which is understandable. Even the least bit of uncertainty could seriously influence public opinion: "You should not go to this hospital, because patients are killed here!"[48] To prevent abuses the Organisational Statute in Hungary includes the following guideline: "A potential donor is a seriously ill person, in the case of whom all forms of medical treatment should serve the aim of curing. He/She will only become a donor if death incontestably occurs, which is to be established by a committee specified by law."

To sum up, the criteria of the occurrence of death are the following:

1–2. Cardiac activity stops.

1–2. Respiration stops.

3. The brain dies.

4. Every cell in the body dies off.

[43]Nizsalovszky Endre: *A szerv- és szövetátültetések joga. [The Right of Organ and Tissue Transplantations].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 214. p.

[44]Ibid. 278. p.

[45]Ibid. 215-216. p.

[46]Szívátültetés orvosi-etikai kérdései. [Medical-ethical questions of heart transplantation]. *Mérleg,* 4. évf. (1968) 3. sz. 250-261. p. 250. p.

[47]Kautzky Rudolf: Technischer Fortschritt und ethische Problematik in der modernen Medizin. *Concilium,* Jg. 5. (1969) 378. p.

[48]Magyar Imre orvosprofesszor megjegyzése az eutanáziával kapcsolatban. [The statement of Imre Magyar, professor of medicine concerning euthanasia]



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# Chapter 3. Inviolability and quality of human life (Gyula Gaizler – Kálmán Nyéky)

## 1. Human dignity and human rights

The sacredness and inviolability of life are interrelated concepts. Their main Biblical foundation is the following: "So God created man in his [own] image, in the image of God created he him; male and female created he them."[1] Its most significant secular counterpart is: "All human beings are born free and equal in dignity and rights." This is the first sentence of Article 1 of the UN Universal Declaration of Human Rights (1948). Acknowledging human dignity is the foundation of human rights.

Human life and health are values that should be protected, maintained and prolonged as far as possible: that was the moral foundation of medical activity already in ancient times. Still, there were two different views determining the preliminary decision constituting the final aim of the treatment (Vorentscheidung) in the times of ancient Greece. The approach of the Hippocratic School was that life was the primal good; its maintenance should be endeavoured. The ideal of the Stoics was a man who controlled his passions. If suffering was beyond the strength of the patient, the task of the physician was to help him regain his happiness and balance (eudaimon), if not otherwise, by actively enhancing death. Both approaches were imbued with the care for the fate of the patient, they only interpreted differently what constituted the benefit of the patient.[2]

The approach of the Hippocratic School became authoritative most probably due to the effect of Christianity. Physicians still take the oath according to the Hippocratic formula, though in a modernised way. "I will follow that method of treatment which according to my ability and judgment, I consider for the benefit of my patient and abstain from whatever is harmful or mischievous. I will neither prescribe nor administer a lethal dose of medicine to any patient even if asked nor counsel any such thing."[3] The cited section of the oath is part of the presently used versions of the oath in most European countries, though in Austria the part on euthanasia is missing. (Death enhancement is illegal there too.)

We may also pose the question in the following way: Does anyone have the right to decide about his or her own death?

Human dignity is transcendentally rooted, even if this cannot be declared because of the different views. Acknowledging the value of human dignity has personal and social implications as well. Everybody has the right to improve himself or herself, it is actually one's duty to do so, a way of glorifying God. Dignity lies exactly in this freely realisable self-esteem. Its transcendental foundation is provided by the revelation that man is created in the divine image.

Human dignity may be deduced from theological foundations and reasonable arguments – our unalienable, innate human rights belonging to the essence of human beings originate from them. The most significant of these, which is also essentially related to our topic, is the inviolability of the human body, the right to life and good health. Pope John XXIII declares also this in his encyclical entitled "Pacem in terris".[4]

"Although the life of the body is not of the greatest value to Christians" – writes Mihály Medvigy in an article – "if it is not mere unconscious vegetation that we are talking about, without any hope for improvement, its maintenance and protection are valuable, noble aims, for which a considerate sacrifice should be made."[5]

Can or should the quality of life be set against the sacredness and inviolability of life? Can LIFE – with capital letters – or the value of life in itself be estimated regardless of its quality.

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[1]Gen 1,27

[2]Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 13. p.

[3]Magyar, Imre – Petrányi, Gyula: *A belgyógyászat alapvonalai. [Rudiments of Internal Medicine].* Budapest, 197710, Medicina, 26. p.

[4]Boda, László: *A keresztény nagykorúság erkölcsteológiája. [The Moral Theology of Christian Adulthood].* Budapest, 1981, Ecclesia, 137. p.

[5]Medvigy Mihály: A szervek átültetésének erkölcsi problémái. [Ethical problems of organ transplantation]. *Vigilia,* Volume XXXIII. (1968) Issue 2. 127.p.



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The theologian E. Tesson made a seemingly evident observation in 1968 in his publication on heart transplantation: "Every human life is sacred, until it can be called human."[6] The question is: how long can life be called *human*? What are our concepts of human beings? What is our image of humans like? It seems expedient to call upon philosophical anthropology to clarify our image of human beings.[7]

Tamás Nyíri writes in his book entitled *Antropológiai vázlatok* (*Anthropological Drafts*): "The integrity and identity of human existence is best expressed with the word person."[8] In the following, some basic concepts are going to be clarified. The first definition goes back to Boetius: "A person is a self-contained, autonomous, conscious reality. (…) The term person replies to the question 'who is man', but the answer is decisively influenced by prior concepts about man himself. In Greek metaphysics man is an individual…" According to Christian theology and anthropology, "The voice of God demands an answer from man and participation in his reality."[9] A significant element of personal existence lies in social relationships, in the possibility of communication. "Personal existence is realised in the relationship between you and me."[10]

This is exactly why it is considered to be unacceptable to treat a sane person against his or her will. Of course, the extent of sanity may vary, as it may be influenced by the illness itself. J. Hamburger and J. Crosnier refer to a patient of Schreiner's, who requested the termination of his dialysis treatment.[11] When his physical condition improved due to the continued treatment, he said: "Don't listen to me, it wasn't me who said that but my uremia!" (Uremia is the temporary comatose state caused by kidney failure in its final stage.)

It is a general principle that "The positive aspect of the »Thou shalt not kill!« commandment is that *human life must be protected* and not only ours but that of other people as well." – writes László Boda.[12] We should be aware of the fact that the rule derived from autonomy may contradict the "help" rule. We shall return in another chapter to a specific aspect of this question, that is whether we must or should help people with suicidal tendencies.

Rudolf Kautzky, professor of medicine, who frequently addressed issues of medical ethics, mentions another extreme example. He wrote in 1969 the following: "...due to various treatments it became possible to live with half a brain, paralysed arms, missing lower body parts, and mechanical ventilation. This is not a morbid joke at all, he writes, but an inevitable consequence. The problem must be addressed, because the view that a physician should never dismiss the treatment that would prolong the life of the patient is being professed just as seriously. Otherwise, the physician would commit euthanasia which is legally condemned." He then continues: "The prolongation of life, as a generally applicable aim of medical activity, has obviously become questionable."[13]

Even Christians may reach two extreme conclusions. According to one of them the maintenance of life is the wish of God, while the other conclusion is that it is our duty as Christians to accept illnesses and death humbly and readily. There is no direct reference in the revelations about the assessment of extreme medical activity.

Endre Nizsalovszky approached another related problem, that of human subject research, from a legal point of view: "The 1966 annual General Assembly Meeting of the UN accepted the already generally recognised precept that no one shall be subjected without his or her free consent to medical or scientific experimentation as §7 of the Covenant on Civil and Political Rights." "A decisive document on the former enforcement of the ban is the verdict passed by the 1st American Court in Nuremberg for the prosecution of war crimes on 20 August 1947, which sentenced a surgeon Karl Gebhardt to death by hanging being found guilty of crimes against humanity, because he used the joints and bones of healthy concentration camp inmates for his transplantation experiments without their consent. Werner Forssmann, Nobel Laureate professor of surgery from Dusseldorf, cited this verdict as a deterrent example against heart transplantations carried out by Barnard."[14]

[6]Tesson, E.: Les greffes du coeur. *Études,* Tome 328. (1968) 322-328. p.; Cit.: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 114. p.

[7]Gaizler, Gyula: *A szervátültetés erkölcsteológiai szempontjai.* Teol. doktori disszertáció és bibliográfia. Budapest, 1982, Hittudományi Akadémia, III./6.

[8]Nyíri, Tamás: *Antropológiai vázlatok. [Anthropological Sketches].* Budapest, 1972, Szent István Társulat, 186–192. p.

[9]Ibid. 187. p.

[10]Nyíri, Tamás: *Antropológiai vázlatok. [Anthropological Sketches].* Budapest, 1972, Szent István Társulat, 192. p.

[11]Hamburger, J. – Crosnier, J.: Moral and Ethical Problems in Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York-London, 1968, Grune et Stratton, 37-44. p.

[12]Boda, László: *A keresztény nagykorúság erkölcsteológiája. [The Moral Theology of Christian Adulthood].* Budapest, 1981, Ecclesia, IV. 59. p.

[13]Kautzky, Rudolf: Technischer Fortschritt und ethische Problematik in der modernen Medizin. *Concilium,* Jg. 5. (1969) 371-373. p.

[14]Nizsalovszky, Endre: *A szerv- és szövetátültetések joga. [The right to organ and tissue transplantation].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 79-80. p.



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It is well-known that many people objected to smallpox vaccination as well, since they thought it violated human rights of freedom. Nevertheless, it is indispensable to test certain pharmaceutical products on humans as well. The rules of these experiments should always be strictly regulated and approved by ethical committees. The question is dealt with in detail in the chapter entitled *Medical Experiments.* The Nuremberg Code (1947) and the Helsinki Declaration (2000) dealing with these questions are to be found in the Annex of this book.

We shall deal with the related question of mutilation in the chapter on organ transplantation.

The statement that human life is divine and inviolable is based in a more detailed definition upon the sentiment that humans are persons. This personalist argumentation requires the definition of the concept of being a person, as we have mentioned before. The definition then determines the time when human life begins and is to be protected.

A basic conflict lies in determining whether human life is of unique significance or a member of the animal world. Peter Singer's position is that "speciesism", i.e. determining the essence of being human by discriminating other animals, is similar to considering one human race superior to another. Singer accepts that life should be protected because of certain features, nevertheless, he stresses that several characteristics mentioned in this respect (e.g. the capacity to feel and suffer) is present in animals as well, while ego- and self-consciousness is not there either in embryos or newborn babies. (Let me add here, that those who believe human life starts with the appearance of the first brain cells also say that it is the seed, the potentiality of ego- and self-consciousness that is the beginning of an existence that should be protected.) According to him, the biological fact in itself that somebody belongs to the "species homo", which can unambiguously be proved, does not automatically mean that his or her life should be protected more than the life of any other animal species. Special protection is justified by some superior ability, such as rationality, self-understanding, etc. These are the attributes constituting the concept of the "persona", the "person". Naturally, based on this definition, foetuses, newborn babies, mentally disabled people and those who have lost the above abilities do not belong to the category of protectable creatures. Thus, theoretically, these people could be killed just like animals since according to Singer man, as a biological species cannot have more rights than any other animal.[15]

# 2. The incomparable value of the human person

In the following – and several times later on – I would like to outline the standpoint of the Church based on the encyclical letter "Evangelium Vitae".[16]

In this encyclical John Paul II calls our attention to the purpose of human life: "Man is called to a fullness of life which far exceeds the dimensions of his earthly existence, because it consists in sharing the very life of God."[17] As true Christians, we should not forget about it even if we have not experienced it in its fullness. Our life "will reach its full realization in eternity".[18] Although the expression "Gospel of Life" does not occur in the Scripture, it expresses well the essential content of the scriptural message. It is important to forward this message in a way that "every person sincerely open to truth and goodness can (…)come to recognize in the natural law written in the heart the sacred value of human life from its very beginning until its end (…). Upon the recognition of this right, every human community and the political community itself are founded." [19]

According to Christian teaching, Jesus Christ became flesh to reveal the love of God to every man.[20] This is what makes us especially valuable, and it is this joyful tidings that we want to share with everyone so that it could become the source of hope and true joy to others, too. Acknowledging the value of the person and accepting God's love for man is part of the same gospel. This is what the encyclical calls the Evangelium of Life.[21]

According to the Scripture God says: *"...at the hand of every man's brother will I require the life of man"*,[22] because the life of man is sacred and inviolable. "God alone is the Lord of life from its beginning until its end:

[15]Singer, Peter: *Animal Liberation* . London, 19953 (1976), PIMLICO; Cit.: Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 388. p. et seqq.

[16]János Pál, II.: *Evangelium vitae.* Enciklika. [ Encyclical by John Paul II. *Evangelium vitae on the Value and Inviolability of Human Life*]. Budapest, s. a. (1995), Szent István Társulat.

[17] *Evangelium Vitae* 2.

[18]Ibid.

[19]Ibid.

[20]Jn 3,16;*Gaudium et Spes* 22; *Evangelium Vitae* 2.

[21]Ibid.

[22]Gen 9,5.



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no one can, in any circumstance, claim for himself the right directly to destroy an innocent human being."[23] With these words, the Instruction *Donum Vitae* sets forth the central content of God's revelation on the sacredness and inviolability of human life.[24]

"As explicitly formulated, the precept "You shall not kill" is strongly negative: it indicates the extreme limit which can never be exceeded. Implicitly, however, it encourages a positive attitude of absolute respect for life."[25] The commandment of the love of your fellow-man follows immediately the commandment of the love of God: "On these two commandments hang all the law and the prophets."[26] "… Thou shalt not kill, (…) and if [there be] any other commandment," says Apostle Paul "it is briefly comprehended in this saying, namely, Thou shalt love thy neighbour as thyself."[27]

In certain situations, the values proposed by God's Law seem to involve a genuine paradox. "This happens for example in the case of *legitimate defence*, in which the right to protect one's own life and the duty not to harm someone else's life are difficult to reconcile in practice."[28]

On the other hand, "legitimate defence can be not only a right but a grave duty for one who is responsible for the lives of others and the defence of common good".[29] If it happens that the attack on one's life can only be prevented by taking the aggressor's life, the fatal outcome is attributed to the aggressor whose action brought it about.[30]

"This is the context in which to place the problem of the *death penalty*. On this matter there is a growing tendency, both in the Church and in civil society, to demand that it be applied in a very limited way or even that it be abolished completely."[31] In any event, the principle set forth in the new Catechism of the Catholic Church remains valid: "If bloodless means are sufficient to defend human lives against an aggressor, (…) authority should apply such means…".[32]

"Faced with the progressive weakening in individual consciences and in society of the sense of the absolute and grave moral illicitness of the direct taking of all innocent human life, especially at its beginning and at its end, the Church's Magisterial has spoken out with increasing frequency in defence of the sacredness and inviolability of human life."[33] This doctrine is based upon the unwritten law that man, in the light of reason, finds in his own heart.[34] "Nothing and no one can in any way permit the killing of an innocent human being, whether a foetus 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."[35]Every man's life is endowed by infinite value even if it seems perfectly useless or withered, because it is the life of one of God's children and the Lord turns to it with infinite love.

Respecting the fundamental right to life should lead to enhancing the dignity of a person, whom God created in his own image and likeness. There have been many praiseworthy attempts made in the fields of economy, politics, health care and culture to improve the quality of life. Nevertheless it is also necessary for man to be open to his own transcendent depth. No human development can neglect the fellowship with God since it is the actual reason for every person's dignity.

# 3. The quality of human life

[23] *Hittani Kongregáció: Instrukció a kezdődő emberi élet tiszteletéről és az utódnemzés méltóságáról. Donum vitae 1987. [ Congregation for the Doctrine of the Faith: Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation. Donum vitae].* Translated by: Miklós Gresz. Szeged, 1990, Szent Gellért Egyházi Kiadó-Magzatvédő Társaság. /Családi Iránytű 5./; Katolikus Egyház Katekizmusa 2158.

[24] *Evangelium Vitae* 53.

[25] *Evangelium Vitae* 54.

[26] Mt 22,36-40.

[27] Rom 13,9; Gal 5,14.

[28] *Evangelium Vitae* 55.

[29] Katolikus Egyház Katekizmusa [Catechism of the Catholic Church] 2265.

[30] *Evangelium Vitae* 55.

[31] *Evangelium Vitae* 56.

[32] Katolikus Egyház Katekizmusa [Catechism of the Catholic Church] 2267.; Cit.: *Evangelium Vitae* 56.

[33] *Evangelium Vitae* 57.

[34] Rom 2,14-15.

[35] Hittani Kongregáció: Iura et bona deklaráció az eutanáziáról. [Congregation for the Doctrine of the Faith. Iura et bona Declaration on Euthanasia]. *Acta Apostolicae Sedis,* 72 (1981) 546. p.; Cit.: *Evangelium Vitae* 57.



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Naturally, everybody strives to gain as much happiness and joy from life as possible. One of the preconditions of well-being – but by far not the only –is what we call health. The balance of body and mind is usually coupled with at least some financial balance. It largely depends on the individual when and under which circumstances he/she feels happy. It is primarily up to the given person what kind of "life quality" he/she considers as acceptable or unacceptable, what makes him/her happy. The main task of physicians and other health care workers is to enhance happiness through the prevention of diseases, the maintenance of health or its reestablishment if needed.

The quality of life has been raising grave problems for a long time. Today it is already unimaginable for a community committee to decide whether a newborn baby is healthy enough to live and if their decision is negative to send the child to the Taygetus and throw it into a chasm.

András Pintér refers to the ancient law of Scandinavian fishers: "All newborn babies have to be raised, baptised, and taken to church regularly with the exception of those being born with some deformity. These babies have to be taken to the seashore and buried at a place which is frequented by neither men nor animals."[36] This "law" understandably causes aversion in us all today.

Potter opposes approaches oriented on religious aspects. He does so, because he thinks that they consider the importance of the "sacredness of life" exclusive as opposed to putting emphasis to the "quality of life." The issue should be discussed with utmost care otherwise we could arrive at gravely faulty conclusions.

Age-old problems seem to be re-emerging today with hardly shifted stresses. There are intrauterine tests to reveal developmental disorders which are "inconsistent with life." Diseases and developmental disorders impeding life may also be detected. I must add here, that the results of these tests are rather ambiguous. My godson may thank his life to the fact that after such a foetal test, which showed that he was sick (as his mother had had rubella around the 10th week of her pregnancy), his parents consulted another physician and visited the local priest, as well. Finally, they decided to keep the developing life. Of course there is always a risk, often more grave than we would like. Nevertheless, we should keep in mind that the tests themselves are often not risk-free either. Amniocentesis – which means the extraction and testing of amniotic fluid – carries a 0,5% risk of miscarriage (1 in every 200 foetuses that undergo such a test dies as a result of the procedure) while in chorionic villus sampling – which entails getting a sample of the chorionic villus and testing it – the risk is at least 0,8% (1 in every 125 foetuses dies due to the test even if they had been healthy).[37] Can we call this a low-risk test? Especially if there is no need for it, since the mother would also accept the disabled child as her own.

If someone, a healthy person believes that he/she could not live happily and contentedly with this or that disease, he/she often assumes the same of a tested foetus who was found ill. A friend of mine, a teacher who became blind at an early age due to an inherited disorder asked me once: "Would you have killed me, if you had known about this problem of mine?" He is an even-tempered man who found the meaning of his life and happiness. Do we have the right to decide for someone else without asking them (you obviously cannot ask a foetus)? Can we be so paternalistic in our pluralist world as to decide about the life of another person without asking him/her, who has not been born yet but is already alive and developing?

Let us first take a look at the issue of the decreasing quality of life. Since life can be maintained with the help of a heart-lung machine, the issue of how far life *may* or *should be* maintained has become elusive and relative. Until the last sigh as it was done up to now? Even with half a brain, or a missing lower body, just because it is technically feasible?[38] Overtreatment is spreading. Should we be allowed to prolong dying?

We must not forget either that judging the quality of life is a delicate issue. In Nazi Germany, patients of mental institutes were put to "compassionate death." Thousands of people were killed based on the slogan of "Lebensunwertes Leben", a "life unworthy of living". They claimed that these people were only a burden to society. These arguments were suddenly revived primarily due to the fact that certain developmental disorders (e.g. Down syndrome) became easily detectable with intrauterine tests, providing opportunity to "elimination". Supporters of the notion claim that these children are a burden for society, for their parents and themselves as well. On the other hand, an ever-increasing number of Christian parents report that their child born with some developmental disorder reinforced their faith and their love for other people. Several cases are to be observed

[36] Pintér, András: Hippokratész vagy Tajgetosz - etikai dilemmák az újszülöttsebészetben. [Hippocrates or Taygetus – ethical dilemmas in neonatal surgery]. *Orvosi Hetilap [Medical Journal],* Volume CXXXVII. (1996) Issue 3. 115-116. p.; Rickham, P. P. – Lister, J. – Irwing, I. M.: *Neonatal Surgery Butterworths.* London-Boston, 19782, s. n. 75-80. p.

[37] Sadler, T. W.: *Langman Orvosi embryologia.* Budapest, 1999, Medicina, 110. p.

[38] Kautzky, Rudolf: Der ärztliche Kampf um das Leben des Patienten „bis zum letzten Atemzug". *Hochland,* Jg. 53. (1960-61) 303-317. p.



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that show how happy people with Down syndrome can be. The way society thinks about people with Down syndrome has become a much debated issue recently.

Many people consider the question decided in the case of the so-called “spina bifida” (split spine) developmental birth defect. The vast majority believes that such a foetus should not be allowed to be born in their own, their parents’ and the whole society’s interest. In her book entitled *Mégis élsz, Barackvirág! [You do live after all, Peach blossom!]* Mária Csiszár bears wonderful witness to the series of mental sufferings that led to the great spiritual benefits that she herself, her family and the people around them gained from raising a child born with a split spine. Her presence reinforced peace and induced an understanding behaviour in many people surrounding them.[39]

The fate of infants born with less than 1000 grams and placed in incubators constitutes a special case. Several years ago many babies went blind in incubators due to inadequate treatment. My blind friend told me that he teaches nine such children in his class. They are all nice, good students brought up in loving families. It is beyond doubt that their blindness is a painful defect, but it is compensated by the love surrounding them. People who want to disclaim the right to life of those who – in their opinion – would only suffer and be a burden to their parents and the society, pass their judgement so light heartedly.

There are countless exaggerations of various kind. Endre Czeizel complained once at a party about a woman who demanded the “termination” of her pregnancy because an ultrasound test showed that the foetus was missing a toe.

There are certain qualities of life we are not obliged to accept. A person who denies some special treatment should not be considered suicidal. A patient suffering from progressive diabetes does not have to give his/her consent to the amputation of both legs and arms to prolong his/her life. However, these cases should not be confused with not wanting to make use of “ordinary” life maintenance equipment.

# 4. “Living will” or “Life passport”?

Many people are worried about reaching a condition when they are unable to express their will and thus be treated in a way contradictory to their wishes. Drawing up so-called “Living wills” or “Advance directives” has become popular in many countries which testify in a will format the kind of treatment the person would want in an unconscious state when he/she is unable to express his/her wishes. They describe the kind of decrease in their quality of life that they are still willing to accept, and also declare that if that level cannot be maintained any more they do not wish to be treated and should be let die. This sounds like a very appealing idea. What should, however, a physician do when confronted with a patient who expressly does not want to be put on a heart lung machine, even though the physician knows that the patient could definitely be cured that way? How far should a decision be obligatory for the physician if it was expressed in a healthy condition, maybe years before? Even under the best circumstances one can only partially be informed about an unknown situation well in advance. It may also occur that someone appoints a relative or a friend as a representative if he/she is unable to express his/her will due to unconsciousness. Will the relative prove to be loyal and unselfish? Laws should not be binding in these questions, because that would result in the fact that really conscientious physicians would be forced to search for loopholes in the law in order to be able to cure the patient. If, for example, the treatment did not prove to be successful, the physician could eventually be punished for his endeavours.

A typical example of the problems emerging with “advance directives” besides the above-mentioned deficiency of information is the case of Alzheimer’s disease. People suffering from this disease might reach a condition in which their previous intellectual achievements do not mean anything to them any more. At the same time, they may be very happy among flowers and drinking a fine cup of tea. Many people think that it is right for them to end their lives or at least reject life-prolonging treatments based on their advance directive since they are unable to carry on with their previous life style. On the other hand, we have the example of a “macho-man” (a violent type of man), who would not accept any painkillers and gives an according advance directives for the case of becoming unconscious, but happens to become extremely sensitive to pain. Should he be given painkillers?! Most people would say ‘yes’. This is why Tony Hope believed that the Lord Chancellor’s Office might have been right in saying that the issue needed further public debate in England as the situation is not ripe for a legal decision. Nevertheless, today there is a possibility in Hungary as well to draw up a “living will.”[40] However, we

[39] Csiszár, Mária: *Mégis élsz, Barackvirág! [You do live after all, Peach blossom!].* Budapest, 1994, Márton Áron Kiadó.
[40] 1997. évi CLIV. Törvény az egészségügyről 22. *[* Act *CLIV of* 1997 *on Public Health].* § (1)–23. § (2).



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should be aware of the fact that this could be withdrawn without any formal binding: “The statement (…) may be withdrawn by the patient anytime regardless of his/her disposing capacity or formal requirements.”[41]

It is important that euthanasia cannot be performed based on advance directives. It is of course a just and understandable desire to try to minimise our suffering if possible. There are more and more effective medications to reduce physical suffering. It is of course possible that large amounts of painkillers would speed up the occurrence of a person’s death. However, the underlying difference is what are intentions are. It does matter whether we administer morphine in milligrams or grams! The physician should always be motivated by the intention of curing the patients and not killing them! Today we are still able to draw a clear dividing line in Hungary, presumably there are hardly any physicians who would kill their patients intentionally. Let us not forget, however, how much the general attitude of physicians has change in the case of abortion in the past years! Dutch physicians also rejected to cooperate with the euthanasia programme of the National Socialist Germany, risking their lives and personal freedom.[42] Then and for some time after that, the Hippocratic Oath lived in and had an impact on the conscience of physicians.

Maybe as a strange opposition to this possibility, many Dutch people tend to draw up so-called “Life passports” today. In these “passports” people declare that they should not be treated by physicians who are ready to perform euthanasia on them.[43]

The theoretical and practical assessment of tasks is greatly enhanced by distinguishing medical treatment and medical attendance or care. Everyone is obliged to the latter one. There are cases when treatment is useless, but attendance must always be provided.

[41] 1997. évi CLIV. Törvény az egészségügyről 22. *[ Act CLIV of* 1997 *on Public Health].* § (3).

[42] Gunning, Karl: An International Perspective: Deliberate Death in Holland. In Cameron, Nigel M. de S.: *Death without Dignity. Euthanasia in Perspective.* Edinburgh, 1990, Rutherford House Books, 1-8. p.

[43] Jáki, Szaniszló: Eutanázia, bioetika és társadalom. [Euthanasia, bioethics and society]. *Magyar Bioetikai Szemle,* III. évf. (1997) 4. sz. 13. p.



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# Chapter 4. Abortion and life-ethics (Gyula Gaizler – Kálmán Nyéky)

*We wouldn't like to have a child, but it came.*

## 1. Abortion: Choosing death

*"...I will not give to a woman an abortive remedy. In purity and holiness I will guard my life and my art." (Excerpt from the oath of the Hippocratic medical school)*

*"I will maintain the utmost respect for human life from the time of conception, even under threat, I will not use my medical knowledge contrary to the laws of humanity." (Excerpt from The Declaration of Geneva – the corrected version)*

I would like to start this chapter by saying that I will try to compose my message in a way that does not make you stop reading, saying to yourself: "This is a hard saying; who can listen to it?" You should rather reckon what the listeners did in Jesus' company – may it sound high-minded – I am going to try to put the Words of Life into ordinary words.

I am going to start by writing down the principles against abortion, then continue with human considerations, the difficulties and the suffering. I would like to remark well in advance that the things to be said here are not masculine speeches and exaggerations as such. We could often hear the same kinds of thoughts from Dr Irén Drenyovszky, the chairwoman of the Hungarian Society of Christian Physicians as well.

I find it important that practicing Christians and those having a humanistic way of thinking should be aware of the standpoint of the church in connection with abortion. So I am going to talk about the relevant part of the encyclical letter "Evangelium Vitae" in a separate point. Among the exceptionally high number of people asking for abortion there might presumably be a lot of practicing Christians. We do not know what part ignorance plays in this. Let me cite one thing: a bishop mentioned in the course of a conversation that there were fewer than 10 people in a year who confessed about abortion. Another priest said that for years there has been hardly anybody who considered abortion as a sin. Is it really ignorance? Is it the result of relying on an ignorant conscience?

In medical journals the question of abortion is only discussed on a technical basis, without any emotional vibrations.

Legally abortion should be treated as "a homicide committed with extreme cruelty – a murder", considering that several times the head is severed, other times a salt solution is injected, which kills the foetus after long hours of suffering. If animals were killed that way, environmentalist would already have demonstrated in the streets against the barbaric murders.

For your information I am going to write down that a two-month-old human foetus is 2 x 2 = 4 centimetres long, a month later it is 3 x 3 = 9 centimetres, in the fourth month it is 4 x 4 = 16 centimetres and in the fifth month it is 5 x 5 = 25 centimetres long.

It is rather typical that not even the doctors performing the abortion think it over carefully what they actually do. This is well justified by the case of the gynaecologist who, after performing numerous abortions, when first seeing the ultrasound pictures of the abortion he himself procured, put the curettage spoon down and has never again performed an abortion ever since. (That happened after showing the film entitled *Silent Scream* to the gynaecologist performing abortions.) This psychic factor must also play a relevant part in the fact that pregnant mothers, when they are in a more advanced stage in which the baby is visible, are more likely to retreat back from abortion. And if they have it procured at a later stage, the psychic effect is rather significant (Post Abortion Syndrome).

## 2. General ethical problems in connection with abortion



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As a preliminary remark let me point out that here I only want to deal with general ethical and bioethical questions on a scientific level. I do not wish to dwell in detail on the sociological aspects of the issue, that of preserving Hungarians, etc.. I have already taken a stand on these in pro-life courses and conferences on several occasions, even fought for my views on the level of a movement. Of course I will sometimes give a few hints on the above-mentioned aspects of the question.

To discuss the question of abortion from a clearly scientific point of view is almost impossible. Arguments, emotions, dispositions are opposed to each other. Everybody knows that existential decisions are made here.[1] Gábor Jobbágyi once said as a summarizing evaluation of the ethical questions concerning abortion and euthanasia: “We might have a never-ending argument about these matters, facing arguments against arguments. What is of decisive importance, however, is the following: Do I kill the foetus or not?! Do I kill the elderly person or not?!”

So I am asking my readers, if they happen to sense some emotional tuning behind the strictly scientific arguments, look at it as something inevitable. In these matters it is impossible to have even a scientific debate without a conviction of some kind. It will probably become obvious that people pursuing the clearest kind of science do this only after ensuring the possibility with definitions that they back up their own reasoning in a crystal-clear, scientific way. It is not at all new, it is mentioned in every philosophical book from the middle ages. It might help a lot if we think it over whether the arguments listed serve the culture of life or that of death.

We live in Hungary, so it is impossible not to mention the following: every year the population decreases by 30,000 people. In our country we cannot refer to the fact that there would be overpopulation. It is also generally known that thousands of families wish to adopt children. It is well-known that recently several still unborn babies have been adopted abroad – of course only after their birth – for impressive amounts of money. The recently established Alpha Association[2] has an immense importance in saving unborn lives.

In this chapter we have to cope with several aspects of crucial ethical questions. If for example one takes only his or her own immediate benefit into consideration as a basis of ethics, the result will be different from the one gained after considering further-reaching aspects as well. I have mentioned in several of my presentations that the ethical value of a society can be measured on how much it spends on people who can never pay it back (at least not in material assets). Such people are, for example patients with chronic diseases, the physically disabled and those suffering from renal insufficiency. From a certain point of view we can also rank those people among them who have not yet been born, the forthcoming generation. In the past the next generation took care of the parents, more children did not mean more hungry mouths bur more helping hands. Nowadays people do not seem to think about the fact that even their pension depends on the size of the next generation, and do not question how many of them are willing to make material sacrifices for supporting old people. It is especially problematic if the only value for the present generation is seen in financial assets – what ensures the maintenance of their life if they themselves are unable to do so? If the present generation thinks only of their own short-term material interests, it even brings financial loss for them. In his book entitled *My blood, Hungarian cannibals! Indictment on robbing the future*[3] Gyula Fekete writes in detail about his theory according to which those who are not willing to have descendants, but rather pursue material assets, practically “eat their children up”. They should not be surprised that those few people who are still born and grow up are not eager to help the generation of their parents.

It is difficult to imagine that nowadays there would be too many people who give birth to children out of patriotic compulsion, so that “the Hungarian nation would multiply”. The following short story is still thought-provoking: A Roma mother expecting a child (not the first one) registered at the gynaecological department with some kind of disorder. The gynaecologist suggested abortion immediately, but this Roma mother answered the following: “You, Doctor, should kill your own kind, if you want to, but you cannot do it to mine!”

Even the words used refer to the given author’s philosophy of life. A blessed state, expectancy, pregnant state, pregnancy! That is the order of terms. Behind this we can find deep emotions. An expected child, an accepted child, a child to be aborted. Are we expecting the child? Is childbirth really a blessing?

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[1] Jobbágyi, Gábor: *A méhmagzat életjoga. Az abortuszlegalizáció konfliktusa.* [ *A foetus’s right for life in the mother’s womb. The conflict of the legalisation of abortion].* Budapest, 1994, Pacem in Utero.

[2] Imre, Téglásy: Az eutanázia avagy „jó (a) halál” - de kinek? [Euthanasia or „the good(ness of) death” – but for whom?]. *Magyar Bioetikai Szemle [Hungarian Bioethics Bulletin],* Volume I. (1995) Issue 1-2. 51-54. p.

[3] Fekete, Gyula: *Véreim, magyar kannibálok! Vádirat a jövő megrablásáról. [ My blood, Hungarian cannibals! Indictment on robbing the future].* Budapest, 1992, Magvető.



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I do not want to repeat in detail all the things written down in the chapter entitled *Determining the beginning and the end of human life*, I only intend to give short hints at the findings there.

The essential question is: From when do we consider the conceived foetus as a human being? Is the foetus a "potential human being" or rather an actual human being and for example a potential adult, a managing director or a teacher?! What is its ethical estimation like? Is it a person? Is it a person from the very beginning – from the conception – or does it become one only some time later? And when it is 'just' something, who knows what it is? Does it depend on my own judgement, or is it objective reality?

When does life start and when does it end? This double question has got a new significance in the moral judgement of induced abortions and genetic modifications at the beginning of life and also at the end of life in cases of suicide and euthanasia.

The theological approach has always relied on the natural scientific knowledge, and actually it is still the case. What makes the question problematic is, as I have already mentioned, the fact that there is no real opportunity to discuss the matter objectively, with scientific rigour. Worldwide it is surrounded by so much emotional tuning and so many prejudices that without taking all of them into consideration and answering all the questions, we cannot expect the understanding of those either who actually share the same views.

Let us take another look at the question from which the difficulty of the judgement becomes clear: "When does life start for an expected baby and when does it start in the case of an unexpected one?" If we are expecting the child with joy and love, as God's blessing, then everybody *knows* that the baby's life has started when the two cells, the sperm and the ovum (or egg cell) joined. Even if we did not expect the child it happens quite often that we readily or a little bit harder accept it. We do not have to ponder over our answer given to the beginning of life.

It is a totally different situation if the parents do not want the foetus to be born at all. But it is not only the mother considers her state to be a blessing, who does not want to see herself as a murderer, but also the 'pregnant' woman. What can she do? It comes in very handy that several theologians, philosophers and physicians find it difficult on principle to define the exact beginning of life. There are some who refer to the fact that we can only consider the fertilised cell a person only if it cannot divide into two lives of full value any more, as the immortal soul cannot be divided. There are others who think that the cell-formation should be considered as a person if a few brain-cells have already developed, to which the immortal soul can connect. There is a third theory that links becoming a human being, a person to an external factor, the implantation of the cell in the mother's womb.

Still, all these things happen within the first two weeks after the fertilisation. But, unless the mother takes a laboratory pregnancy test every week, she will only think of pregnancy if her menstruation ceases. This means we are already over the period which philosophers and theologians find problematic. How does a woman think who does not intend to be a murderer and knows about the above arguments? She presumably thinks – at least unconsciously – that if scientists and theologians alike find that issue problematic in the first two weeks and if the question is not settled until then, maybe the beginning of real human life can be disputable later as well. Although in matters related to life and death we must be absolutely positive when making decisions, the struggling mother might not be aware of that.

Let us think this question over the other way around. May it be that philosophers and theologians feel they might help these struggling mothers when they deliver these arguments? We should not forget that values are still values for a suffering mother! They definitely do not intend to become murderers! What can we do, can anything be done at all to save them from this horrifying decision: "I'm going to destroy it. And then what?!" This latter question "And then what?!" can cause long sleepless nights to those meaning to help.

We should mourn for every single life, especially every single human life, irrespective of whether it is Slavish, Jewish, German, Hungarian or Roma.

I am going into greater details concerning János Kis's arguments which he listed with a piercing logic. In the first part of his book on abortion[4] he tries to prove that nobody can be obliged to place his or her organs or body "at anybody's disposal", in this way saving others' lives. He brings an example from abroad. If someone would be able to save another "full value" adult's life with the operation of his or her kidney, even if the treatment has already started, he or she could stop it any time, tear the tubes off without being made responsible for it legally.

[4]Kis, János: *Az abortuszról. Érvek és ellenérvek. [On Abortion. Arguments and Counterarguments].* Cserépfalvi, 1992. s. n., 25. p.



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(Anyway such a treatment does not exist.) On the basis of this, the expectant woman, who puts the foetus up and feeds it, can also say: "I'll kill it, that's it?!" Legally nobody can hold her responsible for it. Although it is also true that no one is willing to take the charge of a murder kindly. (The listener of a lecture on the same topic strongly objected to being called a murderer.) It is also true what János Kis describes in his third example: if there is a father who does not choose his own child if there are two boys in mortal danger, his wife would definitely react like this: "You are a beast and not a father!" The readers certainly also agree with this. But if a mother refuses to provide accommodation for her own child and because of this the aborted foetus dies – what does and what can the father say to this? And what can the society say? Has she set herself right? János Kis does not find this reasoning adequate either, so after this he tries to prove it by the characteristics of the foetus (its ability to feel etc.) that it cannot have its own rights, and even list cases when it can still happen. In his book he endeavours to make the horizontal, worldly arguments coherent. Rifts can only be noticed if we happen to venture from the field of the law to morality or the problems of humanity. He thinks that killing a foetus is "lawful", but on the basis of his example a person enforcing this "right" can easily be considered a beast!

In the meantime newer and newer theories come out. According to the above-mentioned Peter Singer and Norbert Hoerster advocating similar principles, not every individual's life belonging to the human race should be protected as that of a human's, [5]only those who already have a sense of self and rationality. On the basis of this embryos and children until the age of one are not persons, similarly to the mentally handicapped and those mentally retarded in their late years. In this way even a developed mammal has more right to live than a child until the age of one! By the way, if we are only humans when we are in the conscious state, can we be killed when we are asleep, for example?! Not even Singer agrees to this. R. Spaemann[6] remarks that if a couple of years ago the terrifying consequences of the abortion campaign could have been foreseen, the person doing so would have been condemned as an irresponsible fear monger. The defenders of the theory did not dare to advocate their own concepts consistently, they considered them applicable "only" before birth. The womb of a mother has become the most dangerous place in the world.

According to Spaemann the doctors rejecting to carry out abortions, in order to distance themselves from it, should again hang the text of The Hippocratic Oath on the wall of their hall, as they did in the times of Hitler – when then they did that mainly because of euthanasia.

The other objection is: do we have the right to pass a law against others' conviction? Can it be that the law only refers to those who consider the conceived ovum as a human being? It is especially important for lawyers to see this matter clearly. The protectors of animals do not only want to stop those cruelties to animals the executioners of which believe that an animal is able to suffer. If we take a more careful look at this question, it would be impossible to pass a law against thefts and murders either, as thieves and murderers do not consider their deeds as a crime in the same way.

It is also brought up against legal prohibition that it would increase the number of secret abortions and consequently the number of the mothers' deaths as well. In England there were twenty mothers who died every year as a result of criminal abortions before 1967, when it was forbidden to perform an abortion, as opposed to the two hundred thousand killed and unborn foetuses nowadays.[7]A psychiatrist, Mihály Tapolyai made a TAT-test among women waiting for abortion. The method of the TAT-test, which is also called Murray-test after one of its "elaborators", Henry Alexander Murray, is based on the supposition that somebody – while making up a story on the basis of pictures – expresses determinative motifs, needs, forms of behaviour and conflicts from his or her personality. More than 70 % of the people questioned envisioned a scene after manslaughter when seeing the pictures. But when they were asked: "do you think you kill your child?", they protested indignantly.[8]

And what if I convince the mother that this is, in fact, a murder? And what happens if she still decides to have the abortion performed? What should we choose? Our mission is a slow, loving persuasion and also easing the problems leading to the idea of abortion.

Having said all this I have to confess that I find the responsibility of the people forming conscience quite serious. It is easy to say that everybody should act according to their own conscience. But who formed and who "trimmed" that conscience? What kind of moral norms should I follow? Who dares to give a helping hand in forming your conscience as the compilers of the Declaration of Hawaii did?

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[5]Hoerster, Norbert: Ein Lebensrecht für die menschliche Leibesfrucht? *Juristische Schulung,* 29 (1989) 172. p.

[6]Spaemann, Robert: Sind alle Menschen Personen? In Löw: *Bioethik*. S. l., 1990, s. n., 48-58. p.

[7]Short, David: Vizsgálatok embriókon és az abortusz. Érvek, amelyek a Parlament döntését befolyásolták. [Examinations on embryos and abortion. Arguments influencing the opinion of the Parliement]. *Journal of Christian Medical Fellowship,* (July 1991) Ref.: István, Fejéregyházi, *Tál és kendő, [Bowl and Scarf].* Volume II. (1991) Issue 4. 11-12. p.

[8]Personal information from Mihály Tapolyai.



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The difficulties on the level of principles are made even more serious by two factors. One of them is that the kind of principles I follow when I make my decision about the beginning of life also determines what kind of opinion I form about its end. What is a murder at the beginning of life is also a murder near the end of life and vice versa. The other factor is the genetic experiments. If that “something” is just a cell-formation and not a human person, it can be torn, cut and frozen. But what if it is a human being?!

I would like to give one single example how far we can get by judging the question either this way or the other. In Hungary Attila Pajor[9] and his colleagues wrote in a medical article a few years ago that the heartbeat of the foetus of mothers waiting for abortion is listened to before the abortion, and the foetus is taken out in a way that the heartbeat may also be listened afterwards, and the chest and stomach are only open after all in order to take tissue samples from its liver for the purpose of medicine production. It was necessary to listen to the heartbeat to make sure that the foetus is still alive, because in that case the tissue of the liver is more viable. There was only one Hungarian doctor, Tibor Mertz,[10] living abroad, who found something objectionable in the method saying that this procedure is the same as the vivisection done in experiments with animals! The editorial of the *Medical Journal (Orvosi Hetilap) defended* the authors by saying that the mother consented to the abortion and also to the removal of the tissue. And what about the foetus? It cannot be asked.

So what is the truth, what can we say? I am convinced that when the two cells unite, there is a human life formed which is to be protected. As a person dealing with natural sciences I cannot find a second, more applicable moment for this purpose than the moment of conception. If a lot of people became aware of this recognition, several questions could be solved. Can we already talk about little brothers and sisters at that point?!

And what if one’s problem is still not solved? We have to think it over who has the right to kill a human being and for what reasons. In the past we could give obvious answers to this question. Let us see some examples: the soldier who is commanded to shoot at the enemy. The person who is attacked, whose life is in danger – there are several cases of lawful self-defence. The judge who sentences a murderer to death based on legal provisions. (It can only happen where capital punishment is allowed by the laws.) So there are existing rules for direct and indirect forms of homicide.

Naturally, we all know that today these cases are also heavily debated and fought against. They say it is not allowed to pass a verdict of capital punishment, you cannot aim a weapon at another person, etc.. Is it not appalling that a certain group of these life-defenders find it a human right to execute a foetus in the womb without any rhyme or reason claiming that: my flat is not big enough, my husband is a regular soldier, my love has left me and anyway it is for certain that one of its fingers will be missing or it will develop Down-syndrome, when it is born, etc..

The defence of the disadvantaged is kept in another bundle – the mentally retarded are also defended once they are born, but we should prevent the problem, they say, we should not let them be born. Is this homicide? Is the mother’s womb the most dangerous place nowadays? Why did it go there? How did it get there? If it was drowning in water, we would save it out, but it is just a worm! It should be killed in time! (These are opinions that have been heard!)

After all this let us turn to a few less scientific, but existential questions. I do not know what the next decade is going to be like. Will we manage to make ourselves and our fellows at least a little more humane? I have seen a poster warning would-be grandparents to save their grandchildren from the hands of their children. Does the realisation of the questions lead us to this solution or it only makes the oppositions even worse? I reckon we have to try to do what we consider to be right. This is what our ancestors also did. It is true that some of them were crucified, some were sawed into two. None of them were likely to wish for a horrifying death like this, but they accepted it. What shall we do?

“Now choose life!”[11] You should choose a better, a more complete life even if you have to pay dearly, with yours. It is not easy to go on the route of moral reconstruction. A narrow path will never be wide, there are several hard passages as well. “Whoever wants to follow me, should take up his or her cross...” Everybody their

[9]Pajor, A. – Kelemen, E. – Jánosa, M.: Dyserythropoesis magzati májban, mint a vetélés keltette stress intenzitásának jelzője. [Dyserythropoesis in foetal livers as an indication of the intensity of stress induced by abortion]. *Orvosi Hetilap [Medical Journal],* Volume CXXIV (1983) Issue 11. 619-622. p.

[10]Mertz, Tibor: Abortumok terápiás felhasználása - és a modern orvosi beavatkozások etikájának ellentmondásáról. [Therapeutic Usage of Abortums – and on the contradictions of the ethics of modern medical interventions]. *Orvosi Hetilap [Medical Journal],* Volume CXXIV (1983) Issue 39. 2401-2402. p.

[11]Deut 30,19c.



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own. These can be intellectual crosses, crosses of not being understood, for being pushed into the background, for being laughed at.

# 3. The bioethical problems of abortion

Let us take a short look at the question, from a medical-professional point of view.

Abortion from a medical point of view is the (spontaneous or artificial) termination of the pregnancy within the first three months, – in a wider sense within seven months – before the normal foetal maturity. After this we usually talk about premature birth. A moral problem is only brought up by the induced, artificial termination. Selective abortion is a subtype of the latter: when out of several fertilised ova, one or more are eliminated.

The usual indications of artificial abortions are classified as follows:

1. Medical indication

   a. In reality it is very seldom justified. In the vast majority of cases it would be possible with careful protection that after the foetus reaches the age considered viable, a premature birth is started. In most of the remaining cases the abortion happens spontaneously during the mother's treatment. Spontaneous abortion is not a tool for saving the mother, it is not meant to happen, it is just an accepted event. If we wait for it until it happens, we do not commit a murder. Sometimes it also happens that it has to be decided if the mother or the child should stay alive. The possibility of the heroic and voluntary self-sacrifice is only given to the mother, the foetus is not yet able to express its will. John Paul II. cites the behaviour as an example when a mother sacrifices her life for her unborn baby, so that it could live on.[12] It is not as unique as it seems at first sight, if we think over the following: is there a mother who would not protect her child's life, even if she has to pay with her own life for it?

      The greatest ethical problem emerges for those who by no means wish to exterminate an innocent human life intentionally in the case when both the mother and the child are in definite mortal danger. But this can only happen in one single case, when the child's head gets stuck in the birth canal. In the past when such a thing happened, the child's head was crushed, so that it could be pulled out. Naturally it was actually a medical malpractice, as it should have been recognised in time that caesarean section was necessary. In this case the following question comes up from a moral point of view: wouldn't it be a better way to keep the balance of the operation if the physician caused a permanent injury to the mother to save the infant? Today, however, the majority of the physicians value an adult's health more than the life of a child to be born.

      The most important principle is that the doctor should do everything he can to save both the mother's and the child's life. We cannot kill an innocent life on purpose. Permanent health injury with the mother is not proportional with the intentional terminating of an innocent human life.

   b. In case of the foetus's developmental disorder

      It cannot be called a therapeutic indication in defence of the foetus, as the first and most relevant interest of the foetus is to live. There is no way to ask the foetus if it rather wants to die or to live with a Down-syndrome. By the time this question is to be asked, everybody obviously considers the termination of life a murder (see Nazi eugenic laws). Do we practice eugenics within the womb?

2. Criminological indication

   What belongs here is the abortion of pregnancies for various reasons, usually outside marriage. The abortion which is a result of a raping attack also ranks here. But it is a question if the foetus can be held responsible for the circumstances of the conception. It is natural that, if the mother is mentally unable to cope with the circumstances of her child's conception, adoption is the right thing to do.

3. Social indication

   It means the kind of abortion which is the result of economical, financial reasons. It is questionable whether so-called welfare states have the right to permit the termination of a life simply because they cannot ensure a

[12] Cf.: Pelucchi, Giuliana: *Gianna Beretta Molla, Élet az életért. [Life for Life]* Szeged, 1997, Agapé.



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proper standard of living. There was a professor of gynaecology in Sweden, who recommended a mother who came to him for an abortion that they should rather kill her 10-year-old child since he consumes more! "The recognition of social indication means that a society finds itself unable to offer an alternative, secluding murder in an overburdened situation." "If a woman accepts a child without any social support, »it is her fault«... so the weight of the decision is loaded on her", says Robert Spaemann.[13]

It also ranks among social problems that pressure from a masculine society in many cases seriously influences the struggling woman instead of helping her. Let us not forget that most women want to have their own children inherently, by their nature. Suppressing it is a serious slandering into the female conscience.

We make a decision of life and death. A young woman told me her story: when her mother was expecting her, she choose her child – that is why she is here. When her mother was pregnant with her next child, she chose abortion and she did not survive it herself. That is the reason why she has neither a mother nor a brother or a sister.

Social pressure is really changeable and it can be quite serious. We can even follow this in literature when the pregnant girl commits suicide, being afraid of the people surrounding her. In these situations the only way to help mothers is to make them feel that they are lovingly accepted.

# 4. The main principles of the legal regulations of abortion

1. Those who apply the *indicational rule* always refer to one of the above-mentioned indications when reasoning abortion.

2. According to those who prefer a *time limitation* there is no need for an indication before a certain period of time in the life of the foetus, which is usually a few weeks, but it can differ from country to country.

The rigour of the indicational regulation varies significantly from country to country. In certain places only the serious endangering of the mother's life or the criminal origin of the conception can give enough reason for an abortion to be performed. In Hungary, as we all know, it is enough to declare that the mother is in a "crisis situation", which can be really widely interpreted. Medical-legal books deal with these questions in greater detail. From among the latter ones let me mention Gábor Jobbágyi's outstanding summarizing work *A foetus's right for life in the mother's womb. The contradictions and illegality of the legalisation of abortion,* which was published in 1997.[14]

# 5. The physician's problems of conscience

What should happen to the doctors who want to be faithful to the moral principles laid down in the Hippocratic Oath? The present situation has resulted in the fact that these people – with only a few exceptions – have all been excluded from the *obstetrician* and the gynaecological profession. There are only a few of them left. Are we supposed to change the text of the oath? The legal regulation should be the lawful formulation of the moral obligation.

It is a significant and serious problem that according to § 13 (2) of Act LXXIX of 1992 entitled "In Defence of Foetal Life": "In institutions run by the state or local authorities where an obstetrical and gynaecological ward is operated, at least one group of physicians should be employed who perform abortions." That makes it practically impossible that a gynaecologist exercises his legal right and deny performing an abortion referring to his or her conscience according to § 14: "Physicians and health care worker cannot be obliged to perform an abortion or to assist it – except for the case when the pregnant woman is endangered." There are always a number of doctors applying for vacancies in gynaecological units, but only a few places are available. It is natural that the head physician chooses from the candidates who do not cause any problems, i.e. the ones who are willing to perform abortions. In Hungary there is no health care institution which is not run by the state or by local authorities and operates a gynaecological unit. In the few institutions that are run by the Church there are no gynaecological units, at most a gynaecological out-patient unit, like in a monastic hospital in Buda (the Brothers of Mercy Hospital). Practically there is no place where a physician not wishing to perform an abortion

[13] Spaemann, Robert: Sind alle Menschen Personen? In Löw: *Bioethik*. S. l., 1990, s. n., 48-58. p.

[14] Jobbágyi, Gábor: *A méhmagzat életjoga. Az abortuszlegalizáció ellentmondásai és jogellenessége.* [ *A foetus's right for life in the mother's womb. The contradictions and illegality of the legalisation of abortion].* Budapest, 1997, Szent István Társulat.



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could be educated to become gynaecologists. Which means that we are completely secluded from this profession. In theory it might occur that in a few hospitals the colleagues tolerate the education of those who have some kind of moral scruples. In reality, however, there are few people who are ready and willing to perform the task, so it is quite difficult to avoid it continuously. There are some physicians who claim they never perform abortions, but unfortunately it only means they do not do it in each and every case. It is usually the old colleagues who can already act like that.

I find it of crucial importance that the Hungarian Medical Association has declared it again that “all physicians and health workers have the right to reject the performance of abortion or assistance in it based on conscientious objections. He or she shall not be discriminated against for that at his or her workplace”.[15] At the same time everything should be done to unanimously ensure this right legally by an act or decree as soon as possible.

I would also find it essential to alter the above-mentioned § 13 (2) of Act LXXIX of 1992 on the defence of foetal life.

It is also important that physicians and other health care workers should have the right to deny performing abortions and assisting in them, referring not only to a religious conviction but also to humanistic one.

Let me refer to the numerous battles fought in defence of foetuses but not on the basis of religious arguments. I wish to put special emphasis on Gyula Fekete’s arguments: It is cannibalism (we exterminate, “eat up” our own children, so that we ourselves could lead a better life), unlawful exploitation (the foetuses cannot go and demonstrate with boards in the streets, protesting against taking their own life), murder of the nation, etc.

I have to remark here that although the surgical completion of a spontaneous abortion is not judged by the same moral criteria, even in these cases – after thorough consideration – all should be done to save the pregnancy that is considered medically adequate.

It is my personal conviction that the importance of this question cannot be overemphasised: my wife and my younger daughter were born because their mothers – in spite of all dissuasion – accepted and expected them with love in spite of their disease. (Gyula Gaizler)

In my opinion it is indeed of utmost importance that we should not fight for an abortion law, but an adequate Pro-life Law, which should lay down if anybody has the right has the right to murder a conceived human life, and if yes, who and when should be allowed to do so. This might make a lot of people think this question over.

The fundamental principle of the Hungarian Magzatvédő Társaság (Society for the Protection of Unborn Children) in accordance with the “personalist” approach is the following: “A Person is a human being from the moment of his/her conception, this way it has the right to develop within the womb and the right to be born.” The association held a conference on the issue and it ended with a consensual decision. The signing of this consensus was a very significant act indeed, and serves as a reference for many people.

I assume that my readers are already suspecting that even the above consensus is interpreted in several different ways by the signatories, not to mention the fact that the consequences deriving from it are also very different. For physicians, for example, it is indeed significant that there was a professor of gynaecology who declared that those doctors who refuse to perform an induced abortion (i.e. he did not speak about spontaneous abortions, which have already started) should not choose the profession of gynaecologists! The Christian Church, for example, teaches that a physician performing an abortion is automatically excommunicated, thus, and as a result of the above consequence, all Christian physicians are excluded from the profession, together with those colleagues who are unable to square it with their conscience. This is a strange interpretation of respecting the freedom of the conscience. “We do not tell you to do it, but if you don’t, you cannot be a gynaecologist”, and you can hardly become a physician either, since interns are also expected to perform abortions! The same professor said on a different occasion that it would not be right to organise gynaecological units where abortions are prohibited because sooner or later, those willing to do it would get condemned! Altogether is there any moral problem with it?!

Let me also remark here that in the view of the Catholic Church even diagnostic surgical interventions are prohibited before birth, if they are not performed in defence of the foetus or they are not meant to cure it. “...it is unpardonable if a woman asks for a surgical intervention with the purpose of having an abortion if the results

[15] Etikai kódex I/74. [Code of Ethics] In *Orvosetikai statutum. Etikai kódex. Eljárási szabály. [Statute on Medical Ethics. Code of Ethics. Rules of Procedure].* Budapest, 1998, Magyar Orvosi Kamara [Hungarian Medical Chamber], 16. p.



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show a developmental disorder or any hereditary disease."[16] The same refers to the husband, the physician and everybody else assisting. The situation is made even more complicated by the fact that in Switzerland, for example, if no intrauterine examination is carried out, and it turns out later that the foetus has a serious developmental disorder (which could have been diagnosed with such an examination) the insurance company does not take the consequent extra costs. So they try to force the performing of such intrauterine examination by financial means and if the test is positive they even urge the killing of the foetus.

In California it is not obligatory to perform an abortion, if one refers to conscientious objections. Here the question of reasoning comes up. From a Christian point of view it would be theoretically acceptable that one who refers to conscientious objections should also give an explanation. Some people could also say that with these the number of people confessing their conviction would increase. However, in practice it is quite likely that the number of those performing abortions would rise, because a lot of people would not be able to give clear explanation why they do not want to do it, they could only claim that they are disguised from it. In Hungary it also sounds very strange that those who do not wish to perform abortion have to give long explanations why they are against it, while for those who want to have it performed it is enough if they mention a "crisis situation", the content of which does not need to be defined.

Let me give a short summary of the topic: In Hungary the law allows health care workers in theory to refuse to perform an abortion referring to conscientious objections. But practically there is no possibility to do so since the abortion law prescribes that abortions should be performed in health care institutions run by the state or local authorities where an obstetrical and gynaecological ward is operated." So the head physician will only employ doctors who do not cause further difficulties and declare that they are ready to do it already at the interview. For the time being there is no church-run hospital in Hungary with a gynaecological unit, so a physician taking his/her Christian conviction seriously cannot apply for gynaecological training. There are some exceptions, of course. For example, even an association exists under the name "Obstetricians for Life"!

# 6. The consequences of abortion

It is becoming more and more widely known that women who have had an abortion suffer not only from physical injuries but also from several different psychic symptoms. This is what we call Post Abortion Syndrome. The amount of the medical literature on the issue is constantly rising. Professor Philip G. Ney,[17] an outstanding expert in the field had a lecture on the topic at a conference in 1993 in the Christian Bioethical Centre entitled "Bioethical Questions with Christian Eyes."

Women suffering from the symptoms of the syndrome have gathered into separate self-healing groups in many countries. Among the mental disorders we can mention alcoholism, depression, suicide, disorders of self appreciation, nightmares and a feeling of sexual futility.[18]

Let me briefly refer to the fact that abortion very often has a harmful effect on the later expected child as well: premature birth and developmental disorders are more frequent etc.. Thus, when choosing abortion not only the mother, the father and naturally the foetus itself get harmed, but a fourth person as well, the next child to come.

# 7. The encyclical letter "Evangelium Vitae" on abortion

*"Your eyes beheld my unformed substance" (Ps 139:16): the unspeakable crime of abortion*

John Paul II utters fairly stern words on abortion in his encyclical on abortion.[19] "Among all the crimes which can be committed against life, procured abortion has characteristics making it particularly serious and deplorable."[20] The Second Vatican Council already mentions it together with infanticide and calls it an "unspeakable crime."[21] The encyclical states that today "in many people's consciences, the perception of its

[16]Hittani Kongregáció: Instrukció a kezdődő emberi élet tiszteletéről és az utódnemzés méltóságáról. Donum vitae 1987. *[* Congregation for the Doctrine of the Faith*: Instruction On Respect For Human Life In Its Origin and on the Dignity of Procreation. Donum vitae].* Translated by: Dr. Miklós, Gresz. Magzatvédő Társaság. 1990, Szent Gellért Egyházi Kiadó, 14. p. /Családi Iránytű 5./
[17]Ney, Philip G.: Transgenerational Child Abuse. *Child Psychiatry and Human Development,* Volume 18 (1988) Issue 3. 151-168. p.
[18]Téglásy, Imre: Az eutanázia avagy „ jó (a) halál" - de kinek? [Euthanasia or „the good(ness of) death" – but for whom?]. *Magyar Bioetikai Szemle [Hungarian Bioethics Bulletin],* Volume I (1995) Issue 1–2. 51-54. p.
[19] *Evangelium Vitae* 58-62.
[20] *Evangelium Vitae* 58.
[21]GS 51.


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gravity has become progressively obscured".[22] This is manifested in the everyday way of thinking, in people's habits and also in the state legislation itself. All this "is a telling sign of an extremely dangerous crisis of the moral sense, which is becoming more and more incapable of distinguishing between good and evil, even when the fundamental right to life is at stake".[23] This is a serious and really grave situation when "we need now more than ever to have the courage to look the truth in the eye and *to call things by their proper name*, without yielding to convenient compromises or to the temptation of self-deception.... *procured abortion is the deliberate and direct killing, by whatever means it is carried out, of a human being in the initial phase of his or her existence, extending from conception to birth*." [24]

Naturally, John Paul II does not forget about the arguments of those deciding for abortion either. He can see it clearly that "the decision to have an abortion is often tragic and painful for the mother, insofar as the decision to rid herself of the fruit of conception is not made for purely selfish reasons or out of convenience, but out of a desire to protect certain important values such as her own health or a decent standard of living for the other members of the family".[25] Nevertheless, in his words uttered with all his papal authority "these reasons and *others like them, however serious and tragic, can never justify the deliberate killing of an innocent human being*".[26]

There is an important emphasis here on the above-mentioned *intention*. A procured abortion in contrast to the usual descriptive wording arises from intention. It is not merely an event that took place without an actor like a spontaneous abortion.

In most cases abortion is not only the mother's decision. As well as the mother, there are often other people too who decide upon the death of the child in the womb. In the first place, the father of the child may be to blame, not only when he directly pressures the woman to have an abortion, but also when he indirectly encourages such a decision on her part by leaving her alone to face the problems of pregnancy. (...)[27] Nor can one overlook the pressures which sometimes come from the wider family circle and from friends. Sometimes the woman is subjected to such strong pressure that she feels psychologically forced to have an abortion."[28] "Certainly in this case moral responsibility lies particularly with those who have directly or indirectly obliged her to have an abortion. Doctors and nurses are also responsible, when they place at the service of death skills which were acquired for promoting life."[29]However, the responsibility is even more extensive: it "likewise falls on the legislators who have promoted and approved abortion laws, and, to the extent that they have a say in the matter, on the administrators of the health-care centres where abortions are performed."[30] Let me also mention the serious responsibility of those "who have encouraged the spread of an attitude of sexual permissiveness and a lack of esteem for motherhood."[31]

The social aspect of the issue is of even greater importance than we might think. Elaboration of an adequate family and social policy could be a bond connecting today's and the future's generations regardless party affiliation. It is an issue that concerns us all.

It might be a surprise to many, but Evangelium Vitae stands on serious scientific grounds. Its conclusions are based on biological-genetic facts. It starts out from the supposition that "from the time that the ovum is fertilized, a life is begun which is neither that of the father nor the mother; it is rather the life of a new human being with his own growth. It would never be made human if it were not human already. This has always been clear, and... modern genetic science offers clear confirmation. It has demonstrated that from the first instant there is established the programme of what this living being will be: a person, this individual person with his characteristic aspects already well determined....the results themselves of scientific research on the human embryo"[32] "provide a valuable indication for discerning by the use of reason a personal presence at the moment of the first appearance of a human life: how could a human individual not be a human person?"[33]

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[22]János Pál, II.: *Evangelium vitae.* Enciklika. [ Encyclical by John Paul II. *Evangelium vitae on the Value and Inviolability of Human Life*]. Budapest, s. a. (1995), Szent István Társulat, 58. p.
[23]Ibid.
[24]Ibid.
[25]Ibid.
[26]Ibid.
[27]János Pál, II. *Mulieris dignitatem* apostoli levél [ Apostolic Letter *Mulieris Dignitatem* Of John Paul II on the Dignity and Vocation Of Women], 14. p. In *Evangelium Vitae* 59.
[28]Ibid.
[29]Ibid.
[30]Ibid.
[31]Ibid.
[32] *Evangelium Vitae* 60.
[33]Donum vitae, I,1, Cit.: *Evangelium Vitae* 60.


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The encyclical cites the instructions of Donum Vitae, which declared in 1987 that "*the human being is to be respected and treated as a person from the moment of conception*; and therefore from that same moment his rights as a person must be recognized, among which in the first place is the inviolable right of every innocent human being to life."[34] The inviolable right to life is not a new human right at all. There was a reference to it even in the Declaration of Geneva.

The additional element in Christianity is that it declares the following about human life: "Human life is sacred and inviolable at every moment of existence, including the initial phase which precedes birth."[35] "*Christian Tradition*...is clear and unanimous, from the beginning up to our own day, in describing abortion as a particularly grave moral disorder."[36] One of the oldest ancient Christian writings, the Didache clearly refers to the fact that the following was a generally accepted principle among Christians even at that time: "You shall not put a child to death by abortion nor kill it once it is born."[37] It is especially significant because at those times abortion and infanticide was extremely widespread. Tertullian, a Latin author also assumes "It is anticipated murder to prevent someone from being born; it makes little difference whether one kills a soul already born or puts it to death at birth. He who will one day be a man is a man already."[38]

We have already mentioned the scientific and philosophical debates on animation and on the exact time of the appearance of the spiritual soul. Reading them today we can get a very interesting picture of the way of thinking of the people at the time. These discussions, however, "have never given rise to any hesitation about the moral condemnation of abortion."[39]

It is likewise obvious in Christian teachings that "from the moment of its conception life must be guarded with the greatest care."[40] The encyclical refers to the fact at one place that "abortion and infanticide are unspeakable crimes."[41] We can more frequently hear voices demanding infanticide if we talk about seriously disabled infants. The logic here is the same as in the case of abortion. However, the good will of people still protests against it today. But for how long?

The case of families who even adopt disabled children is exemplary. "The Church is close to those married couples who, with great anguish and suffering, willingly accept gravely handicapped children. She is also grateful to all those families which, through adoption, welcome children abandoned by their parents because of disabilities or illnesses."[42]

Finally, the Encyclical refers to the fact that "*the Church's canonical discipline*, from the earliest centuries, has inflicted penal sanctions on those guilty of abortion." The renewed canonical legislation also declares that "a person who actually procures an abortion incurs automatic excommunication",[43] so excommunication takes place automatically. This expression, which might sound strange for many people, means that the Church considers abortion a very dangerous crime "thereby encouraging those who commit it to seek without delay the path of conversion. In the Church the purpose of the penalty of excommunication is to make an individual fully aware of the gravity of a certain sin and then to foster genuine conversion and repentance."[44] So the purpose of the Church is to get the sinners back after proper repentance and show them that God does not want to cast anybody off but wants us to return to him after repentance.[45]

# 8. Conclusions

*Personal and mental problems*: When trying to define the beginning of life I have already mentioned the basic mental problems and the various ways of trying to find a solution for them. It all starts when somebody seeks to find help in case of an unexpected pregnancy that she does not want to accept. The difficulties accumulate if one does not choose life, in these cases the symptoms of Post Abortion Syndrome might appear.

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[34]Donum vitae, 79. p., Cit.: *Evangelium Vitae* 60.
[35] *Evangelium Vitae* 61.
[36]Hittani Kongregáció: Nyilatkozat a művi abortuszról. [ Sacred Congregation for the Doctrine of the Faith. *Declaration on Procured Abortion]. Acta Apostolicae Sedis,* 66 (1974) 740–747. p., Cit.: *Evangelium Vitae* 61.
[37] *Evangelium Vitae* 61. 62.j.
[38]Tertullian: CSEL 69:24. *Apologeticum.* IX. 8.; Cit.: *Evangelium Vitae* 61.
[39] *Evangelium Vitae* 61.
[40] *Evangelium Vitae* 62.
[41]GS 51.; Cit.: *Evangelium Vitae* 62.
[42] *Evangelium Vitae* 63.
[43]Codex Iuris Canonici Canon 1398. S.a. Keleti Kódex [Eastern Codex] Canon 1450,2; Cit.: *Evangelium Vitae* 62.
[44] *Evangelium Vitae* 62.
[45] *Evangelium Vitae* 99.



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*National catastrophe:* It is generally known that as far as the number of abortions is concerned, Hungary is one of the leading countries, just like in many other kinds of fast and slow ways of suicide. Over the last 30 years the number of abortions has been between 74,000 and 90,000 thousand every year. The Hungarian population decreases by a number amounting to the population of a middle-sized town annually. While Gyula Fekete takes a stand for Hungarian children, I speak up for the protection of every child. In Budapest the number of children born alive was 27,300 in 1980, by 1994 it went down by 10,000. All this must definitely be in connection with the "Hungarian state of mind."[46]The so-called pro-life law, which is in fact a law on abortion, does not prescribe compulsory abortion the way it is regulated in China, does not even allow it explicitly – it simply does not punish it under certain circumstances. There are hardly any people, however, who recognise this subtle difference. Most of the people only know that if a "pregnant woman" considers her condition a crisis situation, it provides enough reason for the abortion to be performed.

In Hungary a continuously increasing despair is to be observed. Our nation does not wish to live on. The number of the different forms of suicides (both slow and fast) is growing. Our future prospects are not so positive either if we think about the decreasing number of the population due to abortions.

There have been several associations and societies established for the protection of life. There is even a Pro-Life movement that organises several conferences. There are hardly any demonstrations or marches. In Hungary there are still more than 50,000 abortions performed each year. In our home country the most dangerous place today is a mother's womb!

[46]Kopp, Mária – Skrabski, Árpád: *Magyar lelkiállapot. [Hungarian State of Mind].* Budapest, 1992, Végeken Alapítvány.



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# Chapter 5. Contraception (Kálmán Nyéky)

First of all, I have to point out that contraception is an utmost sensitive issue. It is a difficult, almost impossible venture to leave our emotions out of consideration and measure the ethical consequences of deeds, the usefulness of which many people, maybe even readers of this book, are convinced of. Naturally, the principle of usefulness cannot be relevant if the lives of human beings are concerned. All human lives are valuable, irrespective of whether we can take advantage of them or not. In the case of contraception we have to distinguish between abortive methods, ones hindering conception and fertilisation and most importantly natural methods based on attending infertile periods, although, as we shall see, it is a matter of discussion whether this latter method can really be classified as contraception, since here we cannot talk about an intentional action that is aimed at hindering something.

Contraception in the modern sense of the word has a major impact on the first few weeks of the natural development of the embryo. If we disregard the fact that life begins with conception, both experiments on embryos and contraceptive and abortive solutions against the life of the foetus would be permitted. It is one of the practical effects of contraceptive methods that the natural unity of families is dissolved and the right to life is questioned. The standpoint of the Catholic Church is based on biological grounds, according to which the sperm and the egg cell bear only the possibility of life, but after the merger of the two gametes we should talk about an individual who begins an independent life with an own identity. This biological fact in itself invites us to conversion. We cannot pass by the beginning of life without taking the dignity of the beginning human life into consideration.

The very beginning of life is in fact not to be experienced by families, since they only get to know it after two weeks, if they do not take a pregnancy test more often. Thus, there are basically two options in everyday life: the family either refuse to receive the new life into the family or is open to the arrival of a newcomer. These basic forms of behaviour have a major impact on the life and fate of families. It is, however, important to point out that being open to the acceptance of a child is not easy today, since the necessary (financial and moral) preconditions of the birth and raising of a child should be established on the level of society, as well. Hence, this kind of sacrifice is by no means equal to taking an everyday task, one has to get prepared for it, both on the level of individuals and in the context of society.

Unfortunately, contraception is present in almost all families. Of the various contraceptive methods we should mention the condom, the coil (IUD), various gels and pills containing different sorts of hormonal agents. Most products already prevent embedding, except for the condom and the gel maybe.

The definition of contraception varies in today's medical, biological-philosophical, and moral theological terminology. In a biological and action philosophical sense contraception is the *intentional* hindering of conception. As opposed to this, physicians define contraception in terms of methods that can be applied against pregnancy before or prior to the embedding of the embryo. But sometimes they even include early abortions caused by post-coital pills in the conceptual range of contraception, as a means of emergency contraception (EC). It is important to state that it is not always the same pill meant if people refer to pills in the context of contraception, because the quantity and quality of agents determines what effect the given contraceptive product has. Depending on the type of the pill, this could mean an abortive effect, i.e. hindering the embedding of the embryo or causing early birth (e.g. post-coital pills, abortion pills) or a literally 'contraceptive' effect, that is hindering fertilisation.

If we claim that it is enough to hinder the embedding or the viable birth, we will not be able to cite any logical counterarguments why one should not conduct experiments on embryos, foetuses and use them for "good" purposes or even produce them if the experiments prove to be successful. One could probably find women ready to give their egg cells for fertilisation and utilisation by others for some financial compensation or even without that, out of sheer conviction. Some might even agree to confine the child to a given term, if they could help a close relative or acquaintance with that. Where is the limit that we should adhere to if once we are on the slippery slope? By acting deliberately against embedding we deprive the right to life from the just conceived human being. On what grounds can we then reject experiment on them or a treatment based on using human embryos or even the consequent mass production of embryos?



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We can speak about a moral deed if deliberateness is to be observed. Therefore, as we make a distinction between dying and being killed we should also distinguish intentional and spontaneous abortion. We can often hear the argument that fertilised egg cells would automatically die anyway in a rather high proportion. That, however, can by no means be an argument for their intentional destruction, because if we accept this argumentation we will not be able to contradict this logic elsewhere, in various phases of human life either. It is important that we should preserve the logical continuity in our way of thinking.

Concerning the abortive effects of particular contraceptive methods, it is worth highlighting the coil (IUD), which is often recommended by physicians, because in their view it is considered to be the “safest” method to avoid pregnancy. As far as its mechanism is concerned, the coil prevents the entrance of sperms at the orifice of the uterus, but if fertilisation and embedding do take place in spite of the applied contraceptive method, it is highly probable that intentional abortion has to be carried out to be able to take the device out. In addition, the coil may alter the structure of the inner wall of the uterus. The risks involved in technological progress are well shown by the fact that the working mechanism of the coil is not entirely known, thus we cannot know for sure, how exactly it alters the structure of the inner wall of the uterus. And in that case it is ethically and morally questionable that if the mechanism of certain contraceptive methods is not mapped, how can they be applied in millions of women? In course of providing information in this regard, women should be informed about the fact the human life begins with conception and that these devices or implanted substances have an abortive effect by preventing embedding. Moreover, it should also be mentioned to people, in the case of whom such devices are applied that the confession of the patient might dictate that life is to be protected from the very beginning. According to the today widely accepted view “the end justifies the means”, and if the objective is to avoid the birth of a child as a result of sexual intercourse, the people concerned are unfortunately ready to do almost anything. Ethically, however, that does not mean that the given deed is right.

Describing the mechanism of different contraceptive methods, let us mention as a starting point that it is traditionally assumed that these medications /devices prevent the ovulation of egg cells (i.e. their discharger from the ovary). It is indeed true that the first generation of contraceptives provided this one single effect but today’s pills very often have different effects. Such an effect may be that certain medicines alter the patency of the fallopian tube by, for example, expanding it, thus the fertilised egg cell gets to the inner hollow of the uterus much faster but is unable to attach to the wall of the uterus (due to its early arrival and under-development), and eventually dies off. The other non-abortive effect in this case is to make the orifice of the uterus impermeable for sperms. That is based on the natural observation that pregnant women cannot become pregnant again at the time of pregnancy, which is regulated by hormones. The third effect of medicines is that they alter the structure of the inner wall of the uterus, thus preventing embedding. That latter mechanism is also an abortive effect. Hence, we can make a distinction between the effects of pills based on the fact whether they are against the foetus (extension of the fallopian tube, the structural alteration of the wall of the uterus) or are aimed at contraception (by inducing the impermeability of the orifice for sperms etc.). Side-effects of hormonal contraceptives may cause eventual disturbances in the menstruation cycle, as well as temporary infertility lasting for years, in certain cases even permanent infertility.

With regard to contraceptives we often hear the term “safe”, which does not really make sense if we accept the child as a gift. Naturally, there are cases, when giving birth to a baby could endanger the life of the mother, in such cases the possible ways of solving the problem should very carefully be taken into consideration, but abortion or the use of products causing abortion cannot be the solution. It is also very important to consult a good spiritual leader in all cases.

# 1. The causes of contraception

Among the causes of contraception the first one to be mentioned is the flourishing of the cult of “free love”. In extreme cases it means that everybody can decide for themselves, with whom they wish to have a sexual intercourse. The problem of being able to diagnose hereditary diseases, which makes it more difficult to accept a child, and the anthropological crisis may also be added to the list. One of the essential elements of sexual intercourse is the conclusion of a life-long alliance between a man and a woman, thereby ensuring that their children will have a father and a mother who will raise them and help them integrate into the family, into society, and show them the values that they and their parents considered to be values.

The causes have consequences, as well and these become apparent radically. The number of children is drastically decreasing today in Hungary. The cult of safe sex disregards the fact that in sexuality body and soul are united (as the Bible says: two people become one). In this field contraception may cause serious spiritual wounds. Separation after the sexual intercourse is similar to trying to divide two sheets of paper that stick



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together. As they both bear the marks of the other, it is impossible to divide two sheets of paper without tearing them. We also disregard the fact that the fertilised egg cell is already a human being. A human being who is slowly but surely growing and whose life is continuously developing without interruption from the first moments on.

We do not really tend to speak about the fact that the blessing of fertility is originally present in the relationship of man and woman. Sexuality cannot be separated from the blessing of fertility, we cannot claim that there are relationships between men and women which do not imply the possibility of conceiving a child. At the same time, sexuality is of course also precious in a marriage if no child is eventually born as a result.

Another aspect to be mentioned is that the safety of a sexual intercourse cannot entirely be guaranteed from outside, only the mutual fidelity of the given couple can provide for that. The benefit of children also requires this fidelity exactly in order to avoid that they have to grow up in a one-parent family. At present about one fourth or third of children are born without their parents' being married, so according to recent figures it is not at all obvious that the interests of the children are seen as a priority at their birth. The objective should be to strengthen marriage by passing on traditional values, like, for example, the institutions of life-long fidelity and the sense of belonging together. We have to emphasise that fidelity and the chance to grow up in a whole family do not disappear simply because many people have different ideas about this issue.

The present communication of the media is completely lacking a possible alternative, a solution proposal, which is nothing else but teaching the value of abstention and regular penitence to our children. They pretend that our deeds do not have any consequences. It would be important to inform young people on the working mechanism of contraceptives and their abortive effects, since these are not well-known. One should also talk about the anthropology of men and women, as it is wonderful that humans are divided into two sexes. If we forget how many values are present in women that cannot be found in men, for example, the possibility of becoming mothers, they are practically degraded to the level of mere instruments and many feel themselves forced to behave in a "masculine" way. The beauty of women's vocation – from a theological point of view – is shown by Virgin Mary who is unfortunately not at all seen as an ideal in our modern ages. In spite of the fact that both her immaculacy and her motherhood could serve as excellent examples for humanity.

As far as moral, ethical examinations are concerned, the direction we take is an important aspect. The guidelines of the Church lay down the principle of gradualness even if somebody feels incapable of keeping moral principles. The simple fact that someone is unable to put ethical, moral behaviour 100% into practice, does not automatically mean that he/she should keep on going in the opposite direction and not bother about ethical issues. The principle of gradualness calls attention to the fact that it is best for everybody if they proceed on an ethical, moral path.

# 2. The encyclical Humanae Vitae

On 25th July 1968 the Pope issued his encyclical letter entitled Humanae Vitae, which was given the sub-title "On the regulation of birth". The possible consequences were to be sensed already at that time and we can say that the encyclical letter may be seen as a prophetic writing. The encyclical basically rejects making the marriage intercourse infertile. It also intends to describe the sacrament of marriage. Everybody who is married in church should become a bit of a theologian in order to realise what a wonderful gift is given to mankind by God in marriages. Through the possibility of fertility present in a sexual relationship God involves the married couple in the very process of creation. At the same time the encyclical letter Humanae Vitae allows for family planning based on observing the natural cycles immanent in the woman's reproductive system (Natural Family Planning – NFP), which is a revolutionary advancement. The essence of this method is based on the fact that there are fertile and less fertile periods in the women's cycle. According to the Church's suggestion those who are *temporarily* unable to accept the birth of a child should try to abstain from intercourse during the fertile period. It is a difficult but possible way of family planning.

There is an ethical difference between contraception and natural family planning. In traditional moral theology three basic objectives are distinguished: direct, intermediate and final objectives. These determined the moral evaluation of a given deed. Based on this scheme we may also define the moral differences between natural family planning and contraception.

The direct objective of contraception is to make the intercourse infertile (which is already an evil deed in itself according to the encyclical). In the case of natural family planning this objective is not present, there is no



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obligation to make the intercourse infertile since it is already like that, so the only objective is the expression of love.

The intermediate objective of contraception is that the parents would not like to have children. In natural family planning this intermediate objective is temporary (of course that may also be possible the case in contraception).

The final objective may vary in the case of contraception but these apparently positive objectives cannot justify the choice and use of the wrong instruments. In natural family planning for believers the final objective is to fulfil the will of God, and for non-believers it may serve as a significant argument that that solution is absolutely free of side-effects.


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# Chapter 6. Bioethical problems of assisted human reproduction (artificial fertilisation) (Gyula Gaizler – Kálmán Nyéky)

Assisted human reproduction, widely known as artificial fertilisation is a relatively new method of treating infertility, to enhance offspring generation. Thus, in order to be able to judge it from an ethical point of view, we have to get acquainted with a few basic questions.

To begin with, let me point out that experts do not like the expression ’artificial fertilisation’. They, physicians, biologists and other experts merely help, assist people in terminating infertility. It is also beyond doubt that here we are talking about a positive type of family planning. Spouses or people of different sexes who settled down to live together permanently want to have a child but do not succeed for years although they do not apply any contraceptive methods.

The WHO (Word Health Organisation) declared that infertility, the inability to conceive a child was a disease. The methods of assistance in such cases are the following:

1. detailed counselling,
2. ovulation induction treatment,
3. sperm insemination,
4. extra-corporeal fertilisation, i.e. assisted human reproduction.

The essence of assisted reproduction is to induct multiple follicular development in the woman’s body with hormones stimulating the ovary. These are retrieved by laparoscopy (a device run into the abdominal cavity) and the egg cells (ova) gained this way are fertilised in a sterile petri dish by sperms taken from the man, or by one single previously chosen sperm. In a few days 3-4 of the fertilised 6-8 or even more ova are transferred to the woman’s uterus. Here development already continues under natural circumstances. Multiple fertilisation is carried out because that way insemination may be repeated twice or three times without exposing the woman to inconveniences resulting from hormone treatment and the laparoscopic retrieval of ova. The egg cells may be stored frozen after fertilisation. At present there is no possibility to conserve the unfertilised ova. If it was possible, it would solve one of the several ethical question: there would be no “redundant” fertilised egg cells. The human respect for such a fertilised ovum, being considered as a developing human person, is namely demanded by representatives of personalistic bioethics.

The first “test tube baby”, called Luis Brown was born in 1978. In Hungary, artificial fertilisation is carried out on an international level in various clinical gynaecology departments of medical universities as well as the Kaáli Institute.

## 1. Homologue fertilisation

A number of fundamental ethical problems arise in connection with assisted reproduction. Let us first have a look at the case of male and female gametes gained from the spouses, i.e. *homologue fertilisation* – in other cases further additional complications emerge. The first one: are we allowed to interfere into the process of fertilisation at all? Isn’t it rather the wish to play God that motivates us? The Catholic Church disapproves of dividing the act of making love and conceiving children. Even if somebody does not view this as an ethical problem, the following serious ethical concern appears, still in connection with the method as a whole: only a part of fertilised egg cells are implanted into the uterus at the artificial fertilisation. That has, as I have mentioned earlier, practical reasons: if the expected pregnancy fails for the first time, because, for example, the fertilised zygotes do not attach, the woman who is hoping for a baby does not have to be exposed to the retrieval of ova with a difficult and expensive method, because the egg cells are waiting for this excellent opportunity in the fridge. What happens, though, if it never comes to their turn? What are they or who are they at all? Should



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we pay little attention to the issue or rather try to give an appropriate answer for the emerging dilemmas? Is it merely a cell nodule sitting in the fridge or are they Tommy and Julie „hoping" to get their chance in there? Can we or rather are we allowed to experiment with them? Let me mention here that when the assisted reproduction was first reported on in a scientific lecture, an elderly professor posed the following question: "What happened to the embryos that had not been implanted?" The answer was: "We implanted all of them." It might have been true at that time, but it is certainly not the case today. At present there are places where it is legally prescribed how long the non-implanted embryos should be kept in the freezer. (In Great Britain, for example, this period is five years.)

It has aroused immense public interest when the case of an infertile American couple, who happened to be millionaires, appeared in the news. They travelled to Australia in order to conceive a child with the help of assisted reproduction. Prior to the insemination they had to travel home unexpectedly, and they both deceased in a plane crash on their way home. The heir, getting informed about the fact that fertilised egg cells of the couple are waiting for insemination in Australia, wrote a letter to the hospital, in which he as the closest relative asked for the destruction of the embryos claiming that the parents had died. It aroused a massive debate. Several people asked: Are these people human at all? There were even volunteers for surrogate motherhood, partly probably motivated by the hope of a rich heritage. Finally, the affair that caused a stir and much passion ended by an article written by the journalist who first commented on the case, in which he admitted that the whole story was made up and tried to raise public awareness of the seriousness of the issue. That particular case was dealt with in detail by Jean Bernard, Member of the French Academy of Sciences. It cannot be considered a coincidence that directly before that incident he spoke about the fact that on the islands of Sardinia and Cyprus, foetuses with thalassaemia were killed, because, though there is medicine available for the treatment, people cannot pay for it! [1]

It also raises ethical problems that the sex of the would-be foetus can be stated after insemination, which might lead to selection. It would also be possible to fertilise a woman by the sperms of a deceased man. Naturally, many people also think of experiments on embryos. They try to create the legal preconditions for that and, unfortunately they managed to achieve a certain level of success. The related parts of Hungarian legal regulations[2] are unacceptable for a Catholic theologian from many aspects, among others because according to the present state of affairs, "the embryo used in course of the research process – not taking the time of being stored frozen – can only be kept in a viable condition for maximum 14 days".[3] Even if many people agree with it today, this means that it is determined arbitrarily where the life of a human being ends, which may have unforeseeable consequences.

# 2. Heterologue fertilisation

Further difficulties arise, if one of the spouses is not suitable for fertilisation. In such cases the sperm is gained from an external donor, even from resources gathered in sperm banks. Whose child will the fertilised egg cell be? Could it be considered „adultery"? How much will the father, who was forced to take the role of a foster-father instead of being the real one, love the child? Its mere existence will prove day by day that he was unable to conceive a child, while his wife is indeed a real woman! There were mothers who had searched for the real father until they found him, got divorced from their husbands to be free to marry a "real" man. It is another serious ethical dilemma whether the child has the right to know the identity of his/her own real, genetic father. If not, the child's personality rights are violated. If yes, as it is ordained by law in Sweden, for example, the number of people donating sperms decreases, since various obligations might emerge. It shows that the donor donating sperms is not willing to take responsibility, which is also an ethical question. In Hungary the law regulates this matter, as well, and declares that children born this way have the right to know the circumstances of their birth, but this does not mean that they can get to know the identity of the donor.[4] That might cause a serious inner conflict for a person who was born that way.

Ethical problems have several other variants. Can anybody bear somebody else's "pregnancy" and give the child to the mother? Can anybody pay for such a procedure, or only the amount of money that covers the actual costs? Should the woman who helps be called a surrogate mother or a carrier mother? Can that role be taken by the woman's sister or even her mother? Would that mean that the carrier mother is simultaneously the mother and grandmother of the child? What shall be done if the surrogate mother gets so affectionate toward the child and

[1] Bernard, Jean: *L'Évolution de la Bioéthique. Suisse, s. a. (1988) Édition Universitaires Fribourg, 6-7. p.*
[2] 1997. évi CLIV. Törvény az egészségügyről. *[* Act *CLIV of* 1997 *on Public Health].* 180. § (1)–182. § (4).
[3] 1997. évi CLIV. Törvény az egészségügyről. *[* Act *CLIV of* 1997 *on Public Health].* 181. § (1).
[4] 1997. évi CLIV. Törvény az egészségügyről. *[* Act *CLIV of* 1997 *on Public Health].* 179. § (1)–(4).



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begins to view the baby whom she has brought to life for another woman as her own, that she is not willing to give it to the would-be parents and would rather pay back the costs?! It is a question that can be regulated legally but are these regulations to be enforced? What ethical significance does this issue have?

A few further problems arising: An egg cell gained from an aborted foetus can also be fertilised. Whom should the children born this way call their mother? What feelings they have towards their grandmother who killed their mother? Terrible situations may emerge as a result of irresponsible examinations! Never before imagined possibilities may appear causing serious moral, legal and financial problems. A woman above 59 has already given birth with the help of egg cell donation. What possibilities are there to raise a child who was born that way? A legal regulation is about to be introduced according to which only women in a fertile age should be allowed to bear a baby created by artificial fertilisation.

The temptation may easily arise to carry out experiments with artificially fertilised egg cells that were not used and were declared redundant. An international resolution prohibits the pairing of human gametes with those of animals. We have to assume that this prohibition has a well-founded reason, the only thing we do not know is where the limit will be that is still to be adhered.

The method is rather costly today in Hungary. The problem of allocating material means also arises. Does society undertake this task with the appearance of various insurance funds aimed at supporting sick people? In order to answer these questions we have to decide whether we consider infertility (sterility) a disease. In France the generally accepted view is that sterility is not a disease, but certainly a condition that requires treatment, primarily because of its psychic implications. (We must not forget, that nuns, for example, voluntarily renounce the blessing of giving birth to a child, but are not considered to be “sick people suffering from infertility” for that.) There are people who think that from the resources allocated for health care purposes more money should be spent on e.g. life-saving devices, and people who are unable to conceive a child should be rather assisted by adoption. That is also an ethical dilemma that should be decided upon.

In Hungary, a significant number of human reproductions are carried out yearly. Currently, would-be mothers are paid three treatments by the National Health Insurance Fund [Országos Egészségbiztosítási Pénztár]. If the treatment proves to be unsuccessful, the next occasion should be paid by the couple, which is it itself rather costly, and the price of further medicines comes as an additional cost. At present fertilisation with one sperm is also carried out – if the number of sperms is not sufficient –, but that entails significant additional expenses for the couple.

László Lampé[5] and his colleagues published a series entitled “Ethical statements on new methods of human reproduction” in the Hungarian *Medical Journal [Orvosi Hetilap]* in 1992. “The fertilised ovum is called pre-embryo from the time of fertilisation to the appearance of the »primitive stripe«, for approximately 14 days.” The term that has been used in medical and biological literature since 1986 is supported by a number of arguments and explanations:

a. Unified nomenclature.

b. That period is a special and unique period of biological development, in which the fate of the fertilised ovum is rather questionable, i.e. there are various alternatives of progress (more than 50% dies off, or gets damaged on the level of chromosomes or molecules, at times it becomes a tumour - mola hydatosa, choriocarcinoma – or a monozygotic twin pregnancy, occasionally even the fusion of two pre-embryos may take place etc.). Only after the termination of this period can we expect the development of one single individual.

c. In the vast majority of human reproduction procedures, both basic researches and clinical treatment take place in the days, weeks after the fertilisation, so it *became a moral requirement worldwide* (Gyula Gaizler) to distinguish a well-defined period, in which certain procedures may be performed.

In the United States the official ethical committee (Ethics Advisory Board of the Department of Health, Education and Welfare) defined this period in 14 days after the fertilisation in 1979. The term „pre-embryo” was created only years after that conceptual statement, in 1986, likewise in the United States (by the Ethics Committee of the American Fertility Society) and almost simultaneously in the United Kingdom (by the Volunteer Licensing Authority of Great Britain).

[5] Lampé, László et al.: Etikai állásfoglalások a humán reprodukció új módszereiről. [Ethical statements on new methods of human reproduction] *Orvosi Hetilap [Medical Journal],* Volume CXXXIII. (1992) Issue 10. 613–617. p.; Issue 11. 675-680. p.; Issue 12. 735-740. p.; Issue 13. 795-798. p.



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The explanation of the above definition shows very well that ethical committees determine the period from which we can say that the thing that we are talking about is "getting more and more like" a human being.

It is, however, necessary to go into detail concerning this issue. The detailed ethical analysis written with regard to the international situation is utmost interesting. The authors are the most excellent experts of the topic in Hungary. Although I cannot agree with their views in many aspects, their professional expertise is certainly outstanding. As I have already mentioned several times, the fundamental ethical question is, on what grounds, along which principles we define the beginning of human life. That also points to the question concerning the objective with which I apply this or that definition in order to satisfy the moral requirement that emerged worldwide.

# 3. The fate of frozen embryos

London: British Prime Minister John Major and the Supreme Court did not give extension therefore the destruction of frozen embryos began on a few clinics in London on 1st August 1996. According to the statement of the representative of the Pro-Life movement, Peter Garret, published in the Italian Catholic daily *Avvenire* on 1st August: "In the period between 1991 and 1994 300,000 test tube babies were produced in England, but only 10% of them were later actually born as babies. Thus, 6000 embryos are going to be destroyed now, whose lawful right to existence (for 5 years) has expired by 31st July. Another 100,000 embryos have to face the same destiny in three months." "A society that tolerates such a mass destruction of human lives is dead" – pronounced professor John Scarisbrick, leader of the Pro-Life movement, who has been striving for years without success to achieve that the British Parliament should repeal the law that allows for fertilisation in test tubes and the freezing of embryos. "We should be ashamed as a nation" – he said. According to the British Catholic Cardinal Basil Hume, we got to the point where we have to find an answer to the question: how did we get so far? Do we face this terrible dilemma because the law did not accept the fundamental principle that the embryo is a human life from the very moment of conception, and that human life in inviolable? We are on the horns of a terrible dilemma: what should be the fate of frozen embryos? In the meantime 3 million English lives were extinguished in the past 10 years by artificial abortion, six times more than during the Second World War. Cardinal Hume stated in an interview given to Radio Four: "We have to stop the production of embryos as a means of curing infertility." But that would stop progress as well– cited the reporter as a counterargument. "What is progress? Is it the mass production of embryos and foetuses which leaves no other opportunities but to kill them afterwards? These embryos are human lives and extinguishing human lives is immoral." – was Cardinal Hume's answer. The British Cardinal stated, though with great sorrow that the already existing embryos should be let die in dignity, in a way worthy of a human being. Death worthy of a human being is not identical with a command to destroy the embryos – Cardinal Hume said at the end.

In spite of worldwide protestation the verdict was executed in London on 1st August (1996), hence, the frozen embryos were destroyed. The petri dishes in which the embryos were stored were taken out of the freezers and after the ice had slowly melted, they made these embryos incapable of living by a bit of acetic acid and alcohol. The final stage of the inhuman procedure will be cremation in the hospital crematory. Protests arrived from various religious and civil pro-life communities up until the moment of execution, and the night vigils also proved to be in vain, as well as the threats of several lawyers: in the motherland of democracy, on British land the anti-human parliamentary resolution adopted on 1st August 1991 was enforced. The resolution ordained: if the parents show no willingness to accept the would-be life, or do not happen to be available when they are about to be asked, the embryos should be destroyed after five years. A number of the physicians participating in the procedure declared that although they had to adhere to legal regulations, they acted against their own conscience. (The meanwhile infamous excuse "I did it on command" appeared again! – Gy. G.) One of them said: "We obliged ourselves for the protection of life, and now we were ordered to destroy life." Many hoped until the very last moment that some kind of a miracle would take place. In two cases it actually did happen.

A woman living in the United States – not having the slightest idea of the debates concerning the frozen embryos – happened to watch a CNN programme about the issue on 31st July. She called the London clinic right away to forbid the unfreezing of her own embryo. A woman in Oslo made the same decision and travelled to London to make sure that her embryos survive. As a matter of fact, 650 of the concerned 900 couples disappeared but the law also regulates such cases with unambiguous provisions: the fate of „orphan" embryos should also be destruction.



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Cardinal Fiorenzo Angelini, President of the Pontifical Council for Health Care gave an interview to the Vatican Radio in connection with the issue.[6] He referred to the Pope's statement from 24th May 1996, in which he, in a state of deep spiritual commotion, asked scientists and in particular physicians to listen to the voice of their conscience and protect life. He also addressed lawyers and asked them to support the efforts of states and international organisations exerted in order to achieve that natural rights to the birth of human life are acknowledged. Furthermore he urged them to protect the inalienable right of frozen embryos for life, from the very moment of fertilisation. Cardinal Angelini even used the name "frozen science" for research using embryos for its own selfish purposes, these already existing human lives for the utilisation of economic and commercial interests. The cardinal stated that the Church's standpoint is clear and definite in this issue. The life to-be-born is entitled to human rights, in accordance with the teachings of the encyclical Evangelium Vitae.

[6] *Magyar Kurír [Hungarian Courier],* Volume 86. Issue 165., 6 August 1996. 1. p.



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# Chapter 7. Ethical Questions Related to Medical Experiments (Gyula Gaizler – Kálmán Nyéky)

Ethical aspects of medical experiments are being increasingly dealt with from a scientific point of view worldwide. In fact, the topic of this chapter lies on the borderline of environmental ethics and medical ethics as I intend to deal primarily with the issue of animal experiments. Actually, only scientific tests are allowed in the case of human subjects, but these are usually also called experiments.

## 1. Biomedical researches conducted on humans[1]

The protection of human life and health is a right granted by the constitution. Hence, it is understandable that the conduct of such researches, mainly referring to medicine trials, is regulated by strict requirements. The World Medical Association (WMA) gives a detailed description of binding principles for the world's physicians in the Declaration of Helsinki (1964–2000). The declaration is to be found in full length in the Annex.

In the opinion of the Committee on Science and Research Ethics of the Medical Scientific Council (ETT TUKEB) is decisive. This body should be asked for an ethical-professional opinion prior to all experiments.

The Medical Scientific Council summarized the professional-ethical issues related to biomedical research in its statement made in December 1991. "In case of biomedical interventions legal regulations prescribe that they (1) should always be based on adequate and satisfactory laboratory and animal experiments and a thorough and elaborate knowledge of the scientific literature, and (2) can only be performed by physicians who are professionally prepared and scientifically qualified in medical institutes or by skilled health care workers under the guidance of such a physician. It is an important specification that in course of such interventions the participants should be granted the possibility of earlier, scientifically established diagnostic and therapeutic procedures which are already applied in practice.

With regard to requests defined by legal regulations the opinion and permission of the respective committee of the Medical Scientific Council has to be sought, in case of pharmaceutical products this should happen via the National Institute of Pharmacy (OGYI)." Further on, it describes that the Medical Committee of Research Ethics was already established in 1980, "in which not only medical sciences, but also prominent representatives of fields of science (religious ethics, jurisprudence) are present."

The ethical assessment of certain details has also produced extensive literature. József Kovács[2] in his publication on the ethical questions of clinical experiments on randomised (randomly chosen) control groups expounds the arising ethical problems and dilemmas in detail. First of all, he raises the main questions: Is this type of experiment ethical at all? Is it morally right if the experiment is continued until a statistically significant difference is reached between control groups? Is the random grouping of patients into one of the therapeutic procedures to be investigated ethical? How extensive and what sort of information should be provided by physicians? It is generally accepted that randomly chosen control groups are crucially important to be able to observe the effects of the experimented medication reliably. Naturally, only volunteers should be allowed to participate who were previously adequately informed.

Quality control has a significant role in health care as well. The testing of medicines and supervision of pharmaceutical products are particularly important. Ethical problems appear in this case, too. If standards are set too high, it will obviously raise costs.[3] Companies of large capital often strive to make normative requirements stricter, in order to conquer their competitors who are unable to meet these requirements. Obviously, less and less people can afford to buy the increasingly expensive pharmaceutical products. This applies to medical instruments, medicines and pharmaceutical products likewise. What should a physician do if there are two pace-

[1]This chapter is based on a lecture given by Gyula Gaizler in a bioethics seminar of the Institute of Behavioural Sciences of the Semmelweis University of Medicine (SOTE) (30 October 1995).

[2]Kovács, József: A Randomizált Kontrollcsoportos Klinikai Kísérletek etikai kérdései. [Ethical questions related to clinical trials on randomised control groups]. *Orvosi Hetilap [Medical Journal],Volume* CXXX (1989) Issue 18. 923-927. p.

[3]Medgyesi, György: *A minőségellenőrzés etikai dilemmái. [Ethical dilemmas of quality control].* KBK. lecture. 3 June 1992. Krisztusi Ökumené 1992.



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makers available of different quality? Which to implant in which patient? Ethical questions arise in all states, irrespective of whether they are rich or poor, because there is always a better an even better possibility but there is never enough of them to provide the best for everybody.

# 2. Experiments on human embryos

Experiments on human embryos should be qualified as ones carried out on human beings. In principle, they cannot be approved of ethically even if they are legally allowed in certain cases.[4] Human dignity is endangered if someone makes allowances in this field and starts disproportionately risky experimentation with the life of embryos.[5]

An article by László Lampé and Béla Bodnár[6] detailed the role of various forums and individuals in the formation of ethical statements. The ideas of the authors in this publication reflecting humanist, liberal views are not only related to the problems raised by new methods of human reproduction.

Section 63 of the encyclical Evangelium Vitae – cited below – deals with the same problem:

“This evaluation of the morality of abortion is to be applied also to the recent forms of *intervention on human embryos* which, although carried out for purposes legitimate in themselves, inevitably involve the killing of those embryos. This is the case with *experimentation on embryos*, which is becoming increasingly widespread in the field of biomedical research and is legally permitted in some countries.”[7] This section is only an extension to the content of the Instruction Donum Vitae, which reads as follows: “As with all medical interventions on patients, one must uphold as licit procedures carried out on the human embryo which respect the life and integrity of the embryo and do not involve disproportionate risks for it but are directed towards its healing, the improvement of its condition of health, or its individual survival.”[8] The encyclical makes an additional remark to this: “it must nonetheless be stated that the use of human embryos or foetuses as an object of experimentation constitutes a crime against their dignity as human beings who have a right to the same respect owed to a child once born, just as to every person.

This moral condemnation also regards procedures that exploit living human embryos and foetuses - sometimes specifically “produced” for this purpose by in vitro fertilization - either to be used as “biological material” or as *providers of organs or tissues for transplants* in the treatment of certain diseases. The killing of innocent human creatures, even if carried out to help others, constitutes an absolutely unacceptable act.”[9] In Hungary Act CLIV of 1997 on Public Health forbids the creation of embryos by artificial fertilisation for research purposes.[10]

John Paul II devoted special attention to the moral evaluation of *prenatal diagnostic techniques* mainly because they enable the early detection of possible anomalies in the unborn child. The complexity of these procedures requires a more accurate and detailed moral evaluation, although it is not surprising in view of the above:

“When they do not involve disproportionate risks for the child and the mother, and are meant to make possible early therapy or even to favour a serene and informed acceptance of the child not yet born, these techniques are morally licit. But since the possibilities of prenatal therapy are today still limited, it not infrequently happens that these techniques are used with a eugenic intention which accepts selective abortion in order to prevent the birth of children affected by various types of anomalies. Such an attitude is shameful and utterly reprehensible, since it presumes to measure the value of a human life only within the parameters of “normality” and physical well-being, thus opening the way to legitimizing infanticide and euthanasia as well.”[11]

Personal meetings with disabled people meant a lot to me as well. I shall never forget their joy and childlike love. The following section of the encyclical evoked this feeling in me: “And yet the courage and the serenity with which so many of our brothers and sisters suffering from serious disabilities lead their lives when they are

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[4] 1997. évi CLIV. Törvény az egészségügyről [ *Act* CLIV of *1997* on Public Health]. 180. § (1)–182. § (4).

[5] *Donum Vitae* I,1.

[6] Lampé, László – Bodnár, Béla: Különböző fórumok és egyének szerepe a humán reprodukció új módszereiről alkotott etikai állásfoglalásokban. [The role of various forums and individuals in formulating statements on new methods of human reproduction]. *Orvosi Hetilap [Medical Journal],* Volume CXXXIII (1992) Issue 1. 5-9. p.

[7] *Evangelium Vitae* 63.

[8] *Donum vitae* I,3.

[9] *Evangelium Vitae* 63.

[10] 1997. évi CLIV. Törvény az egészségügyről *[* Act *CLIV of* 1997 *on Public Health].* 180. § (3).

[11] Ibid.



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shown acceptance and love bears eloquent witness to what gives authentic value to life, and makes it, even in difficult conditions, something precious for them and for others."[12]

# 3. Speciesism and animal experiments

The concept – as we have mentioned it earlier – originates from the world famous Australian bioethicist Peter Singer.[13] Its main point is that as certain experiments cannot be carried out on humans, because they should not be exposed to suffering, these experiments should not be allowed to be carried out on sentient animals either. According to his argumentation we cannot say (today) that it is not permissible to do this or that to a white male, but it can be carried out on a black person, an American Indian or a Jew, because it would be racism. Equally, the same experiment cannot be carried out on women, because that would be sexism, and again if it were performed on an animal species and not humans, it would be speciesism. Thus, theoretically, Singer does not intend to diminish the rights of infants, women or children, on the contrary, he wishes to treat animals just like humans. His theory has a utilitarian character to it: he wishes to protect all creatures capable of suffering and feeling pain, because suffering is in no way to the benefit of animals. Thus, he includes animals among the creatures who should not be tortured. However, he does not protect the life of animals to the same extent as he protects that of humans, so considers non-torturous methods of animal husbandry and the painless slaughter of the animals permissible. Several of his followers, however, assume that the logical conclusion of Singer's theory is that the killing of a disabled infant or an elderly person suffering from Alzheimer disease is more permissible than that of a grown "intelligent" animal.

# 4. Do animals have rights?

The answer to this question greatly depends on our prepossessed ideas on how distant or close humans and animals are to each other. Naturally, this view of ours may change during our lifetime. I intend to help you in shaping your ideas concerning the issue. I do not wish to influence your opinion directly in this case either, only deepen your knowledge, so that you would become conscious of the motives of your judgement. We could of course also study why we consider some of our prepossessed ideas decisive. Why do we tend to accept this or that argumentation more easily? What behaviour would we like to prove to be more acceptable and why? If I want to understand the aspects of the animals, I would either approach the issue with a Darwinian argumentation or be guided by the idea of "the preservation of Creation."

There is an approach that considers common evolution to be the decisive factor. According to this, the chimpanzee, for example, is much closer to us than to the earth worm or other creatures called animals, which are in other approaches sharply distinguished from us humans. This distinction is an ancient idea. According to Aristotle, man is the only rational animal on Earth and as such deserves special protection. Much earlier in the Holy Scriptures we can also find statements on this issue: "So God created man in his [own] image, in the image of God created he him."[14] Most people believe that the human soul is immortal. The evolution theory of Charles Darwin[15] on the other hand emphasises that there is no significant difference between humans and animals in terms of their physical or spiritual operation.

It is beyond doubt that the ideas of those who believe in evolution in a materialistic sense and those who consider it compatible with faith in God are not as sharply opposed to each other as we used to believe, but they do have a significant role in shaping our judgements. There are views that – starting out from one or the other side – strive to approach the other. The distinctions we make manifest themselves in our use of words, too. We consider the applicable norm a "humane" behavioural form, while we use the term "brutal" or "bestial" for describing our fellow human beings whose behaviour we denounce. It is easier to find excuses for our cruelty to animals, if we consider their behaviour detestable.

The term "right" must be interpreted in various degrees, in a wider or narrower sense. There were times when only "free" people and among them only Roman citizens had rights, or at least their rights differed significantly with regard to their quality. Defining and establishing "human rights" has been a significant development in our history. We are presently witnessing attempts to establish the next stage, where many people wish to define animals as "legal entities" as well. Irrespective of the result of these endeavours, we obviously have to

[12] *Evangelium Vitae* 63.

[13] Spaemann, Robert: Sind alle Menschen Personen? In Löw, Reinhard : *Bioethik*. S. l., 1990, s. n., 51-52. p.; In Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald. 46-49. p.

[14] Gen 1,27a–b

[15] Darwin, Charles: *Die Abstammung des Menschen.* Stuttgart, 1982, s. n.; Cit.: Schockenhoff, Eberhard: *Ethik des Lebens. Ein theologischer Grundriß.* Mainz, 1993, Grünewald, 15. p.



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reconsider the fate and independent vocation of our environment, in particular that of animals as well as the possibilities of fulfilling their desires to happiness. This is motivated by our increasing appreciation for animals and the environment in general. This is also demanded by the most selfish interest of humanity itself, as it is becoming more and more obvious that the further deterioration of our environment would have detrimental effects on humanity as well. Should “rights” be granted to animals, and if yes, what sort of? Do they have the “right” to their lives, do they have the “right” to live their lives without suffering? When and as opposed to whom do they have these “rights”?

Tom Regan[16] demands rights for animals similarly to humans. He believes that any inherent creature may possess rights. Regan does not consider all living creatures inherent, as he believes bacteria and cancerous cells are justly liquidated. Regan considers those creatures to be subjects of life who have desires, aims, wishes and can think of their lives as good or bad and live it accordingly. Disabled people and some animals can be included in that sphere of interpretation. Drawing the borderline is of course very difficult. According to Regan we may assume that the lives of all normal mammals above the age of 1 are inherent values and deserve respect.

# 5. May animals be used as mere instruments serving human objectives?

This problem may be solved in the light of the previous one. There are people who think it is very important to respect the life of animals for themselves, let me just mention the names of Albert Schweitzer and Gandhi. The following assumption seems to be in opposition to this: “And have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth. And God said, Behold, I have given you every herb yielding seed, which is upon the face of all the earth, and every tree, in which is the fruit of a tree yielding seed; to you it shall be for food”.[17]

# 6. Vegetarianism as a moral problem

The above quotation may be seen as an argumentation for vegetarianism: God expressly allowed the consumption of plants. Beside previous arguments based on the revelation, there are an increasing number of arguments of different origins. Singer, for example, mentions the lack of pain. It is beyond doubt that the horrors of present practices of breeding in “animal factories” may justify Singer’s endeavours, who says that it is our moral duty to be vegetarians. Above all this, there would be larger areas open for plant cultivation, so much more people could be fed by Earth. Still, we cannot say that it is the duty of every human being to become a vegetarian.

# 7. Ethical criteria of animal experiments

„In a year there are about 250 million animals used in scientific experiments in the world, while a much larger number of animals is bred and killed for food.”[18] We know that both animal testing and the increasingly exploiting breeding methods cause immense suffering to animals. In course of animal experiments medications are dropped in the eyes of test animals, thus sentencing them to go blind quickly or slowly. The level of toxicity of cosmetics is being tested this way, for example. Painful experiments are often performed without sedation. New methods applied in animal husbandry also cause immense suffering to the animals – let me just mention some examples: crowding animals in extremely narrow spaces, iron deficient nutrition, so that the meat would have a more appealing colour, etc.. Although Descartes considered the suffering of animals a deceiving illusion, since Jeremy Bentham[19] people began to realise that animals can suffer and feel pain. Hence, the fact that it has a harmful effect on the psyche of the torturer is not the only reason why we should not torture animals, but also because it causes pain to the animal and we should not make it suffer without ethical considerations. Darwin also emphasises that animals can suffer and they are similar to humans in other spiritual aspects as well, for example in their love to their family or their pride. We know by now, that communication without words, i.e. “non-verbal communication” also exists in the animal world.

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[16]Regan, Tom: *The Case for Animal Rights.* California, 1983, University of California Press.

[17]Gen 1, 28c–29b

[18]Kovács, József: *A modern orvosi etika alapjai. Bevezetés a bioetikába. [Fundaments of Modern Medical Ethics. Introduction to Bioethics].* Budapest, 19992, Medicina, 512. p. (A part of the data referred to in the further remark is also from this book.)

[19]Bentham, Jeremy: *Introduction to the principles of Moral and Legislation.* S. l., 1780, s. n.; Cit.: Kecskés Pál: *A bölcselet története. [The History of Wisdom].* Budapest, 1981, Szent István Társulat, 431. p.



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The shops of the chain store Body Shop are to be found in many countries. They market cosmetics that have *not* been previously tested on animals. There are other firms selling such goods, too. At the same time, there are cosmetics as well that are allegedly made of human embryos.[20]

## 7.1. Categories of the suffering of animals

Category „A": Experiments conducted not on living creatures or on plants, bacteria, protozoa, or invertebrate animals.

Categories „B", „C", „D", „E": Experiments on vertebrate animals.

„B": Little or no discomfort (short-duration pain).

„C": Certain amount o discomfort.

„D": Substantial but unavoidable distress or discomfort.

„E": Extraordinary and unendurable pain of sentient animals; severe deprivation, trauma, mutilation.

## 7.2. Criteria of ethical acceptability

1. The aim of the experiment.
2. The scientific value of the experiment.
3. The sensitivity level of the test animal, intensity and duration of the caused suffering.
4. Is the suffering of the animal in proportion to the importance of the experiment?
5. Could animal testing be substituted by other methods (cell and tissue cultures, computerised models, etc.).
6. Is the minimum number of necessary test animals used and the least painful method of testing?
7. Are researchers and testers trained to treat animals adequately and are they aware of the ethical and technical standards involved?
8. What is the public controllability of the experimenting institution like as far as the respect of ethical standards is concerned?

The results of animal testing are often taken into consideration if they seem favourable for the producers, but are not accepted if they point to restriction concerning the given product.

Some say that animal tests are only rituals to sooth people's conscience and public opinion.

In certain cases, epidemiological experiments researching the susceptibility of people to certain diseases are useful.

Today there are still many factors that point to the fact that ethical considerations should not be taken into account at the treatment of animals. Traditions going back to thousands of years, scientific training, the endeavour to be objective and the emotionally distancing ways of expression all strengthen this tendency.

Students are made insensible to the sufferings of animals during their scientific training. The implicit message is that animals can be used or even killed in the interest of science. Those people who do not accept this are sentimental and are not suitable for scientific work. A "conditioned ethical blindness" (Singer) develops this way. In scientific publications we never read about yowling, whining dogs, trying to escape, we only read of pain reaction, vocalisation and aversion efforts. The originally present sensitivity gradually dulls.

The ethical estimation of animal experiments is rendered more difficult by the fact that many people believe it is impossible to assess the suffering of animals, since we are only able to conceive things in anthropomorphic

[20]Ertelt, Steven, Clinics Use Tissue From Babies Killed in Abortions for Cosmetic Injections, http://www.lifenews.com/nat2486.html (08-08-2006).


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terms. Nevertheless, if we have a strong sense of criticism, we can establish the necessary understanding. A similar example is the often criticised religious concept of calling God the Father. One cannot seriously expect us to think differently as humans. However, the possibility of so-called “critical anthropomorphism” is available which allows us to settle our relationship with God as well as to have an acceptable image of animals.


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# Chapter 8. Genetic counselling, genetic research, ethical problems (Gyula Gaizler – Kálmán Nyéky)

It is a natural ambition of every human being that they want their children to be as healthy, clever and happy as possible. This desire is already present before marriage when people choose their partner. The desire to choose a wealthy boy or a girl will soon spread among those who want their descendants to live in good material circumstances and vice versa. (The old Hungarian saying "land marries land" shows the efforts of "wise" parents as opposed to the „unwise" romantic love affections of the "passionate" youth. Having an only child assured that the property remained in one hand, as it had become general in Hungary in the Ormánság, for example.) The parents' state of health and ability to work hard was also an important aspect. It was assumed that a healthy person would have a healthy child.

Knowing Gregor Johann Mendel's laws it has become more and more widespread to deal with the "designing" of descendants on a scientific basis, as well. Family trees were searched and also hereditary diseases were mapped. More and more pieces of information were gathered about the occurrence of normal variations (e.g. hair colour) and the pathological deviations (e.g. hemophilia). Marriage counselling helped the engaged couples in planning their future life.

It was a huge leap when it was discovered that some diseases were caused by the pathological deviation of certain chromosomes. These include, for example, the Down syndrome, the mongoloid disease, which is the result of trisomy. It was the discovery of professor Jerome Lejeune: a disease caused by an extra 21st chromosome (three instead of two).[1] Professor Lejeune fought, by the way, in all possible levels for the recognition of the dignity of people suffering from that disease.

The possibility of isolating individual genes changed our view of hereditary diseases, and made it possible to treat their causes instead of the symptoms. Genetic alterations can be detected in early foetal life, moreover, already in the fertilized ovum. Theoretically it is possible to replace or cure these genes. The significance of the issue is also shown by the fact that some kind of genetic deviation can be detected in about 1 % of the newborns.

Genetic counselling is usually attended by people who are, from a certain aspect endangered. In our country, for example, women giving birth over the age of 40 – particularly if this is their first pregnancy – are usually sent to counselling. The people who come are usually parents who themselves have or had a child with inheritable disorders or if they have one among their close relatives. They would like to know the scale and the seriousness of the risk.

Typical deviations that are tied to one single gene are hereditary according to Mendel's laws. We have more and more evidence that our genetic constitution has an impact on how sensitive we are to certain environmental harms. These are interactions which might have a role in forming heart diseases, apoplexy, major psychiatric illnesses and rheumatic diseases. Their recognition increased the significance of molecular genetics to a great extent. The genetic base of the development of cancer is about to be revealed nowadays.

In 1990 a 15-year programme was elaborated in order to fully map the human genome (Human Genome Project). Human beings have 50-100 000 genes; which are collectively called "genome". It turned out in the first year that the research proceeded better than previously expected. Today we already know the final results of these researches, as well.

The opportunity is available to carry out genetic tests with the help of which pathological genes can be detected even in *symptom-free* cases. We might detect latent carriers but it is also possible to discover people in the case of whom the visible symptoms of the disease are not apparent yet, but it may evolve soon (pre-symptomatic stage). The more genes are involved, the more expensive and time-consuming the test will be, so in most cases a targeted search is carried out.

Today genetic deviations are being researched worldwide. We know that the actual construct of the DNA chain (deoxyribonucleic acid) is individually characteristic, varying from one person to another and can be used for

[1] Lejeune, Jérome: *L'enceinte concentrationnaire d'après les minutes du procès de Maryville.* S. l., 1990, Le Sarment-Fayard.



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identification instead of fingerprint examination. Huntington's disease, for example, can be detected on the basis of specific genes even if the disease has no clinical symptoms yet.

# 1. Ethical problems of genetic counselling

The main ethical feature of genetic counselling is the respect for the patient's autonomy. For example if the patients ask: "What would you do in my place?", it indicates that the patients cannot orient themselves on the basis of the information given, or if they understood relatively well what was at stake, they would not like to take responsibility for their decision. In most cases, however, only the patients can make a real decision, says Seller, because they are the ones who know their own cultural and moral views, religious conviction, economic and social background. In opposition to this, in one of his writings Endre Czeizel states that although he condemns the old dictating method where the physician prescribes the patient what to do, he is not in favours of the "enlightening" counselling either, in which the physician tells the patient everything, without giving any advice.[2] In his opinion this is the „washing my hands" attitude of Pontius Pilate. Czeizel developed the method of counselling directed by information, where the counsellor answers the patient's question on what he would do in his place. The decision is always to be made by the person concerned, i.e. by the mother. If a mother, for example, knows about any serious developmental disorder of her foetus, but she does not want to abort it because of her religious conviction or any other reasons, her decision must be accepted.

Naturally, it is impossible to merely provide information. The influence I have points to a different direction if I say „There is a 1 in10 chance for you to bear a child with disorders" than in the case of saying „You have good chances, in such cases 9 out of 10 babies are born healthy."

Seller, however, also admits that the conflict is often inevitable between the four most often quoted basic principles of bioethics (autonomy, beneficence, non-maleficence, allocation). The patients' autonomy can only be realised entirely if they get sincere information about every important detail. However, we always have to take into consideration whether we would not do too much harm with our sincerity. As an example he mentions the rarely occurring androgen insensitivity syndrome. In such cases although the person is genetically male, his appearance shows female characteristics. However, their menstruation cycles never start (primary amenorrhea), nevertheless, they keep themselves female. Sometimes they come to genetic counselling after getting married, because they cannot get pregnant. Revealing the entire truth may cause psychic breakdown in such cases. It is more expedient to say that we have found the medical cause of infertility, but unfortunately it cannot be treated. It might cause a serious problem if the person concerned asks for artificial insemination. Of course, there may also be cases when revealing the entire truth – of course only gradually – is the major good.

It may occur that a genetic counsellor finds out with almost maximum certainty that the foetus is not from the father. Telling the truth to the parent might have serious psychological consequences, it might even make the marriage break up. By revealing the facts we also break the obligation of confidentiality towards the woman. The right solution is to discuss it in private with the patient the next time we meet.

Naturally, it also happens sometimes that the patient does not want to be informed. That wish has to be respected. It does not really a cause a problem if the disease concerned is incurable. However, it may pose serious difficulties, if it is a curable illness. In this case we have to devote time to convince the patient: if he/she was given information the treatment would become possible.

It also occurs that someone would like to keep the disease secret from their relatives. That becomes problematic if the early recognition of the disease could make the treatment possible. Such a disease is polyposis coli, a hereditary degeneration of the colon which is benign at an early stage. In this case it is the patient's obligation to inform their relatives so that they can have themselves examined, as well.

# 2. General Genetic Issues

Several ethical problems arise which can be of various types. Theoretically, it is very rare to come across a brand new question. For some of the dilemmas it is hard to find an ethically definite solution and accepting any kind of interpretation should be legally regulated.

[2] Czeizel, Endre – Dudás, István – Elek, Csaba – Lendvay, Ágnes: A művi "abortusz" pszichológiai következményei. [Psychological consequences of induced "abortion"]. *Orvosi Hetilap [Medical Journal],* Volume CXXXII (1991). Issue 13. 727-728. p.



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There are genes – and that always involves gene groups as well – that increase the risk of certain environmental harms. If such a risk factor is plausible in a factory, the gene carrier should rather not choose that occupation. However, if these people still want to work in jobs which are highly dangerous for them, it is questionable, whether they are obliged to inform the employer about their illness which has not developed yet.

Can gene screenings be prescribed and for which genes? Right now there is general agreement concerning the issue that such an examination should not be carried out without asking the patient, without his/her consent. (In the case of children, parents can ask for it.) The problem emerges, as mentioned before, if the physician knows a way to cure the disease but the patient does not give his/her consent to the examination. Completely different problems may also arise. A series of screening was conducted where sickle-cell anaemia was searched. This disease is only prevailing in specific human races therefore screening was only done in these groups. Serious difficulties came up, when the people responsible for screening were accused of being racists.

Workplaces often link the employment of applicants to a position to certain tests. (For example, a person with haemophilia will not be employed at a slaughterhouse.)

Insurance companies also ask for more and more examinations before they conclude life or health insurances. If, however, a patient knows about his/her illness and does not sign an insurance contract, he/she is practically doomed to die, since medical treatments are usually highly expensive. It is natural that in the knowledge of the patients' diagnose both life and health insurances tend to be more expensive. There are struggles all around the world to find an adequate solution to these problems. In general, the final solution lies in legal regulations in this case, as well.

There are diseases which are characteristic for certain human races. Such a disease is, for example, the Tay-Sachs, Alzheimer's disease and certain female breast cancers which are more likely to occur in Ashkenazi Jews. In the latter case, although the disease manifests itself only at the age of 50 if a positive gene is present, there were women who had both their breasts removed even though they were (most probably still?) healthy at that time.

Should we be allowed to test for features which do not cause diseases? Such a test is, for example, the identification of the sex (male or a female) of the foetus which may lead to discriminatory interventions. It even contradicts the equality principle of genders! Should it be permitted to search for genes or gene groups which supposedly point to (increase the risk of?) homosexuality, gambling or risk taking behaviour? Will it not lead to the decrease of tolerance? In the opinion of most physicians screening should not be allowed if it is not directly linked to the detection of a certain disease. Adult, autonomous persons can ask for such tests, but if testing is allowed in the case of embryos, for example, it may lead to the selection of those who are considered to be inappropriate. Those for whom abortion is unacceptable think that such an amniotic fluid test is unnecessary, costly and even if it carries a minimal risk it should not be taken. Of course we assess a genetic test in a totally different way if it would create better treatment conditions for the baby to be born.

With the progress of genetic technology we are more and more tempted to conduct experiments on human embryos even for curing other people. Can it be permitted? The very fact that the question was raised shows that the one who poses the question does not consider the embryonic foetus as an equivalent human being. This is a sorely discriminative, exclusionary point of view which is unacceptable for those who consider life as sacrosanct. Making animals ill with cancer is also often disapproved, with special regard to the fact that there is still no reasonable proof of possible human implementation. Do we protect animals more than humans?

Should it be allowed to alter human genome by intervention in the germ lines (cloning)? Several official declarations took a clear stand against that. The Biomedical Convention of the Council of Europe also forbids it.[3] A possible solution now could be to intervene in a fertilized ovum which is gained through assisted reproduction. The people for whom the "liquidation" of a fertilized ovum carrying an abnormal gene does not cause any ethical problems opt for an easier solution: these ova are not going to be implanted into the womb. The majority of embryologists still have reservations about intervention in the germ lines because, although successful experiments were conducted on animals, it is ambiguous what harmful consequences it could have on later descendants who can certainly not be assumed to have agreed to the alteration of their characteristics.

[3]Council of Europe *Draft convention,* Article 13.



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# Chapter 9. Human cloning and bioethics (Kálmán Nyéky)

## 1. The origins and objective of cloning

On 27th February 1997 *Nature* magazine published the news[1] about a successful series of experiments in the course of which a female sheep, which later became known as Dolly, was managed to be cloned. Cloning is not a strange, unfamiliar expression any more. We hear and read a lot about it on the radio, TV, in newspapers and in informal conversations, too. The main ethical question in this field is whether to clone human beings or not. Of course, genetic intervention in the case of animals is not unproblematic either. By cloning people usually mean the artificial reproduction of a genetically identical copy of a biological organism. In the case of Dolly we can only talk about that by omitting certain circumstances, one of the facts often withheld in the literature, for example, is the role of the mitochondrial DNA in the early embryonic stage of ontogeny, which is not yet clarified. Thus, in cloning experiments these rather minute mitochondrial DNA chains in the cytoplasm – at least in comparison to other genetic materials – have an impact on the new fused nucleus even after removing the nucleus. In this sense we cannot talk about perfect genetic identity, merely the radical reduction of natural diversification in generation. Apart from this it can be stated that it was indeed a significant revelation, primarily because they managed to clone a viable mammal without the help of gametes, basically in an asexual way, with the fusion of the nucleus of a somatic cell and an ovum deprived of its cell. This often quoted assumption is only partly true, on the one hand because there is no direct sexual contact in artificial insemination either, on the other hand because a generic cell, the ovum is still needed here to be able to reactivate the genome after the fusion. The scientific sphere does not know any fully asexual method of reproduction (i.e. one independent of sexes) in the case of advanced mammals.

Theoretically, there is a chance for cloning humans as well. We will approach the question primarily from the aspect of bioethics. Can we, should we clone humans? The problem is very complex. The alteration of hereditary genetic information, intervention into the germ line may have unforeseeable consequences at late descendants even with animals. In case of human beings the question should be approached with even more sense of responsibility.

Most people have aversions to the thought of being cloned themselves, while others are attracted exactly by the peculiarity of the matter. Those who tend to be shallow as far as ethics are concerned rarely see further than the emotional aspects. Few people would reject cloning if the lives of others could be saved with it. This is called therapeutic cloning. This latter concept was introduced by researchers who realised that they had to face insurmountable resistance if they want to continue the cloning experiments. The difference lies not so much in the technology rather in the final goal. In this case the aim is not to bring a human being to in course of the launched process but to be able to use the embryo for other purposes, for example for producing medicines or organ transplants. Can the end justify the means? Can we use human beings to make medicines out of them? Is man nothing more but a biological substance?

## 2. International estimation of cloning

In August 2000 Great-Britain gave the green light to such experiments with therapeutic aims. The goal of those experiments was to produce tissues from very young embryonic cells which are expected to serve as effective ways of treatment for now incurable diseases. While the British laws allow the cloning of embryos with therapeutic purposes (therapeutic cloning), they strictly forbid reproductive human cloning where the objective is to produce viable descendants. Latter is also called cloning for birth. In addition, the British government gave the freedom to the MPs to vote according to their own conscience in this delicate ethical question.[2]

Freedom of conscience, however, is not merely the right to free choice, but the preceding information should be comprehensive as well, i.e. objective. If after all laws against humanity are enacted, which confront mankind, citizens cannot be obliged to accept them and eventually the respect for lawfulness will be endangered. It is not

[1]Wilmut, Ian – Schnieke, A. E. – Mcwhir, J. et al.: Viable Offspring Derived from Foetal and Adult Mammalian Cells. *Nature,* Volume 385 (27. 02. 1997) 810-813. p.
[2]Boutin, Christine: *L'embryon citoyen.* S. l., 2001, Éditions du Sarment, 228. p.


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an extenuating but rather an aggravating circumstance in judicial verdicts if the crime against humanity was committed premeditatedly, intentionally and based on conviction.

At the same time researchers in the United States of America also got permission to conduct research on embryonic tissues. The usage of these embryos is only possible under several conditions, which are kept under strict control of the National Institute of Health (NIH). Cells can only come from frozen embryos which were left in course of the treatment of sterility, the donors cannot accept anything in return and they have to renounce their right of control concerning the future of the embryos. Every research process has to be submitted to the decision of an ethical committee. State-financed American researchers face further restrictions, as well. They can work with cells gained from embryos, but they cannot participate in the production or destruction thereof. So officially researchers conduct research on cells and not on embryos. This minor distinction makes it possible to get around the law passed in 1996 by the Congress which forbids the central funding of researches using embryos.[3] It is easy to see the caution with which the problem is being handled. We also have to be aware of the fact that ethical committees have a broad scope of competence in the USA. Still, with this decision the gap on the – otherwise rather imperfect – legal protection network of human embryos has definitely widened. Does the purpose of using humans change the condition of being human, too? Can we talk about solely human substance if human embryos are concerned? Although some people would like to make a distinction between pre-embryos and embryos, using the previous term for the first 14 days or respectively till the end of the possibility of twinning, this distinction seems a bit artificial and is not standardized in scientific literature either. It is rather aimed at getting round ethical bounds in order to achieve that so far forbidden experiments on embryos should become possible.

The European Parliament reacted on the events surprisingly fast. It answered with a clear and determined 'no' to the issue of human cloning, whatever the objective thereof may be. The document accepted in Strasbourg declares that therapeutic cloning is inconsistent with human dignity. The Parliament also stated that there were other methods for treating serious diseases and urged the United Nations to declare a universal and explicit prohibition on the cloning of human beings in any phase of their development or growth.[4]

As opposed to all this, there are people who go even further and – though a bit unscientifically – see a chance for eternal life in the success of the cloning of mammals. According to a possible line of thought, if we manage to copy and store the information stored by the brain on an external data media, and 'replay' it in an individual with identical appearance, we would practically save all the experiences of a long life and so the person him/herself would become identical with the person who served as the source of information. Doctor Frankenstein in the famous tale revived men after constructing them from various body parts of deceased persons. The question of course is not that simple. The misconception that the progress of science cannot be stopped may make many people go off the track of humanity, at least theoretically. Are we really identical with to the sum of our genome and our experiences? Or is there something more in human beings which makes them capable of love, adoration and hatred towards others? Many would like to simplify humans to the level of mathematical formulae. We tend to think today that it is better if everything is calculable and predictable. This virtual, always precisely predictable world is almost getting conceivable in its appearance. At the same time, which one of us would not have aversions to the thought of describing a relationship based on love with a formula? Isn't there a difference between altruistic love and an action motivated by calculation? The computer will praise me if I manage to solve a problem, but do I appreciate that in the same way as if it came from one of my friends? It seems that we have got far away from our topic, though actually we have only scratched the surface. Thus, the basic question of cloning is deeply human: Who am I? Who do I want to clone and why? We cannot go through all the disciplines that deal with the issue, neither would this book be enough for it, but we try to give a chance to everyone to think about it and get to their own individual conclusion.

# 3. Cloning in the light of procreation

Originally cloning did not only mean the production of a genetic copy of multi-cellular beings but also a copy of a part of the DNA, which was successfully applied by medical biology for example in the artificial production of insulin, when the insulin producing parts of the DNA were successfully copied in bacteria with pharmaceutical aims. The name had already been used in plant breeding for the procedure in the course of which genetically identical offspring were created. Naturally, this latter process cannot be considered as ethically comparable with the copying of a human being's whole for any reason.

[3] Ibid. 229. p.
[4] Ibid. 229. p.


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Let's get back for a second to the series of experiments made in 1997 by Ian Wilmut and his colleagues. Then DNA taken from the nucleus of a somatic cell from the udder of a female lamb – containing the vast majority of genetic information on the individual – was isolated by a special technology and was inserted into a ripe ovum which was deprived of its nucleus. When they managed to achieve that the new cell behaved like a fertilised ovum, it was inseminated into another ewe. The first viable lamb that was born this way, Dolly was certainly the scientific result of a long series of trials.[5] Today this experiment is also conducted on humans. At the moment of writing these lines we do not know about any human beings born that way, but many people believe that it is only a question of time. The legislation of most countries prohibits these kinds of experiments, the Oviedo Convention, signed in 1998 was also formulated in this spirit. Nevertheless, as we have mentioned, there are efforts for the liberalisation of legislation in this field. With the recent permission of experiments on human embryos in Britain and later in the USA the theoretical possibility of cloning emerged, as well – even though it is regulated by strict rules in those countries. At present it is punished all over the world if the objective of cloning is the birth of a child. The case of an Italian physician, Severino Antinori is well-known who was expelled from the Italian Medical Chamber because he made preparations for trying to perform human cloning for birth on a ship sailing on international waters, just to avoid the legal consequences of his deed. The question arises whether there is a limit up to which the laws on the protection of humanity apply. Can we do whatever we want on international waters? Many people think today that it is actually the case. It is even called by the name: "an illusory sense of omnipotence" to be observed at certain scientists.[6] The inadequacy of the expression 'therapeutic cloning' can be seen here too. The Italian physician calls cloning for reproduction therapeutic,[7] as well, because his aim with it was to help infertile people, who were unable to produce gametes in the natural way, to have children. In fact, the distinction is only aimed at deceiving public opinion. Unfortunately, cloning can by no means cure infertile people, in comparison to the objectives of some non *in vitro* forms of assisted reproduction it only tries to help forget the related psychic suffering. This, however, cannot be a sufficient justification for experimenting with other human beings without their consent.

The question of control also arises. Who should exercise control over scientists? That task usually belongs to the competence of Ethical Committees. At the same time, however, it is obviously law-makers, who set the possible external frameworks for it. If the law-maker is permissive, it is rather difficult for an ethical committee to be strict. This is well shown by the short sentence with which the completed Code of Ethics was handed over to János Makó, former leader of the Ethical Board of the Hungarian Medical Chamber: "I cannot be more ethical (?)."[8] Ethics always points forward and urges people to perform beyond the legal regulations, not only to adhere to them literally.

It may seem surprising, but it is often emotions that decide at the forming of opinions, even among scientists. Some scientists consider cloning to be permissible, if, for example, we want to help sterile couples, because they feel sympathy for them, but the same scientists reject it in cases where people would like to have a deceased relative back that way. In the second case it is listed among the reasons that we do not know the mechanism of cloning well enough and it may occur that the cells are not absolutely new as far as their past, for example their age is concerned.[9] Hence, the child will be older at the time of birth and he/she will presumably not have the chance to live a life of normal length. That argument applies for the first case, as well, since there the nucleus used is approximately of the same age as the member of the couples from whom it was gained. It would be important to think reasonably even if our emotions would dictate something else.

Roberto Andorno rightly defines the right to genetic identity as a fundamental human right.[10] The objective of cloning is to create a human embryo with the same identity. The fact that genetic identity occurs in nature, though very rarely (0,4-1%), in the case of monozygotic twins does not justify that we could induce this effect *deliberately*. The aim is to achieve that apart from the result the purpose should also be worthy of a human being, and we should not become like the ones who, with Andorno's words, "create people as a *demiurge* halfgod".[11] The fundamental problem with cloning is that it reduces human beings to the level of objects. Humans become something that can be manufactured, bought and sold and used, which is by no means

[5]Wilmut, IAN – Schnieke, A. E. – Mcwhir, J et al.: Viable Offspring Derived from Foetal and Adult Mammalian Cells. *Nature,* Volume 385 (27. 02. 1997) 810. p.
[6]Di Pietro, Maria Luisa – Sgreccia, Elio: *Procreazione assistita e fecondazione artificiale. Tra scienza, bioetica e diritto*. Brescia, 1999, La Scuola, 109. p.
[7]Bensimon, Corinne : Le gynécologue italien Severino Antinori revendique la grossesse: «Le fœtus est dans sa quinzième semaine». *Liberation,* (12 juillet 2002); http://www.liberation.fr/.
[8]Private information from János Makó.
[9]Venetianer, Pál: *A DNS szép új világa. [The Brave New World of DNA]* Budapest, 1998, Kulturtrade Kiadó, 145. p.
[10]Andorno, Roberto : *La bioéthique et la dignité de la personne.* Paris, 1997, Presses Universitaires de France, 91-92. p.
[11]Ibid. 91. p.


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acceptable and does not serve human development and freedom. Procedures violating fundamental rights, whatever their purpose may be, cannot be considered ethical.

If we think of human beings as mere mammals, it is rather difficult to answer the question concerning the difference between zoology and anthropology. There are various arguments that support the emergence of human beings from the animal world.

There are people today who tend to neglect these arguments, they (like the Australian Singer) even refer to the people proclaiming these ideas, as representatives of “speciesism”,[12] which – as mentioned earlier – would by definition be at the same level with racism or sexism. Contrary to this, Martin Rhonheimer points out that members of the latter group are to be disapproved of exactly because of the fact that they discriminate within one race and do not acknowledge belonging to a race, which is fundamental for all beings and paves the way for equality between humans.[13] Nevertheless, in Singer’s opinion, animals have the same fundamental rights as humans. Surprisingly, however, his conclusions do not indicate that the life of the animals should also be protected under all circumstances; on the contrary, he assumes that human life should not be protected in all cases either. Of course this final conclusion is covered in the proper guise so one tends to believe what he/she reads while studying his works. It is sometimes indeed hard to differentiate between sophisticated pseudo-argumentations and the logical reasonable thinking that wishes to take every detail into consideration. But can we gather grapes of thorns? A tree shall be known by its fruits.[14] It is not true that the tree is good, if its fruit is bad or poisonous. Human life must be protected under all circumstances, this should be the subject of our efforts even in critical cases. Nobody can be rejected just because we assume that their life is not worthy of living (yet or any more) and therefore we deny that it is a human being concerned. The grievous events of the past century showed what happens if the protection of human lives is not a priority, only the full exploitation of the physical resources of their body. The unacceptability of the events that took place then has become obvious for everyone by now. The same may be the assumed in later centuries of the notion that embryos should not be considered human? It is easier to understand that we have to be careful with formulating judgements on humans if we try to look at our own era from a historical point of view.

The most often cited argument of people in favour of cloning is that science cannot be stopped, progress cannot be hindered. We may agree with them that science is basically something good and its progress is advantageous for humanity. It is true as long as we can really talk about progress. The aim of development is to achieve profit for humanity and not for science. So the question is not whether we should hinder science or not. It is not even about differences in our worldview. The subject of the debate is whether science advances in the direction of becoming an ethical science that serves humanity or not. Science is always ethical as well otherwise it would eventually destroy that momentary advantage which it is supposed to have revealed. Science is not for its own sake but for humans. No research can be based on the destruction of human beings. Science has to serve life and never its destruction. The path towards the progress of science cannot lead through inhuman solutions.

# 4. Adult stem cell research as an alternative to cloning

The issue of cloning came up recently in connection with the question concerning the production of stem cells. Stem cells are cells that are characterised mainly by two features:[15] 1. undefined or extended ability of renewing themselves, which means that they are able to divide without differentiation; 2. the ability to create temporary primordial cells out of which highly differentiated cells (nerve-cells, muscle-cells, haematogenous cells, etc.) might evolve. Stem cells are also called staminal cells (ES, Esc, Embryonic Stem Cells). Basically, we distinguish two types of stem cells. One is the so-called adult stem cell, which is to be found in adult organisms, the other one is the so called embryonic stem cells in the early stage of embryo development. The two types of cells are not fully identical. The main difference is that under natural circumstances embryonic stem cells in the possibility of developing a whole being in the is present, while it is not possible to develop an adult being from an adult stem cell.

Just like in the case of abortion and artificial insemination, the disputes flared up since human embryos were also involved in stem cell researches. At present researchers use either embryos left over from *in vitro*

[12] Singer, Peter : *Animal Liberation.* London, 19953 (1976), PIMLICO.
[13] Rhonheimer, Martin : *Etica della procreazione. Contraccezione Fecondazione artificiale Aborto.* Roma, 2000, Pontificia Università Lateranense – MURSIA, 158–159. p.
[14] Mt 7,16.
[15] Pontificia Academia Pro Vita: *Déclaration sur la production et l'utilisation scientifique et thérapeutique des cellules souches embryonnaires humaines*. Cittá del Vaticano, 2000, Libreria Editrice Vaticana, 4. p.



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fertilisation or embryos produced exclusively for this purpose. In the early blastula stage the embryoblast (ICM) is removed which necessarily entails the destruction of the embryo. These cells are cultivated on an appropriate substrate and then through various procedures cell lines are gained which are able to maintain the characteristics of the stem cell for months or even years.[16] The main aspect in the ethical estimation of the researches is whether embryos are human or not. Embryonic stem cells can most easily be retrieved from embryos by destroying them. Those who are convinced that the life of humans has already started at that time will of course proclaim that early stage embryonic cells cannot be used if it poses a disproportionate risk on the embryo, not to mention the case if the embryo deceases. Naturally, the embryo cannot be asked for consent to participate in the experiments in this case either.

That is exactly why the opinion of the supporters of adult stem cell research as an ethical acceptable solution becomes more and more dominant. Adult stem cells are naturally prevalent in all adult organisms. They make the regeneration of certain cells possible. The problem is that they are very rare (the ratio is 1:10 000 to 1:15 000 in the bone-marrow, for example) therefore they are difficult to isolate. It can be owed to them, for example, that the liver can regenerate after a partial hepatitis, or muscle fibres can revive in certain stages of life in patients suffering from neuromuscular diseases, but they also play a significant role in the healing of lesions.

Stem cells in the bone-marrow make the reproduction of certain blood cells possible. That is the basis of bone-marrow transplantation, which is carried in course of chemotherapeutic treatments as a result of which haematopoietic cells might have been destroyed. In this case bone-marrow can come from an adequate donor or the patients themselves. In the latter case the bone-marrow which was taken and conserved prior to the treatment is transplanted back. Afterwards, these cells are able to reunite the bone-marrow and reproduce the missing blood cells.

Stem cells in the skin are able to cure certain skin diseases, for example extended burn injuries. In this case a piece of the healthy skin of either the patient or a donor is grown *in vitro* then, after the evolvement of a thin epithelium which is transplanted on the injured surface.

Most recent research shows that these adult stem cells are – although only under adequate circumstances – able to adopt the characteristics of other organs too. Thus, these cells show great flexibility. All these results open new opportunities of treatment.

Returning to our original question we may conclude that what really serves human beings can often be found by following the narrower path. The seemingly easier and more promising way through the destruction of human embryos attracts many people but in this case the narrow path, the adult stem cell research might lead to life, for which many take a clear stand today.

[16]Ibid. 5. p. See also Thomson, J. A. – Itskovitz-Eldor, J. – Shapiro, S. S. et al.: Embryonic stem cell lines derived from human blastocysts. *Science,* (1999) no. 282. 1145-1147. p.; Vogel, G.: Harnessing the power of stem cells. *Science,* (1999) no. 283, 1432-1434. p.



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# Chapter 10. Providing information – informed consent (Gyula Gaizler – Kálmán Nyéky)

Providing information and informed consent together with confidentiality are basic issues related to bioethics. This was the field where the discrepancy between physicians and patients first became obvious.

The so-called "Salgó case" was a significant event in the development of bioethics. The case of a patient called Salgó was tried in 1957. The patient had problems walking. His physician ordered translumbal aortography to be performed. The patient gave his consent to that. Following the intervention both legs of the patient became paralysed. For this reason, Salgó sued the physician. In the course of the court procedure, it turned out that no professional negligence was committed and the intervention was performed in the medically prescribed manner. Paralysis was a rare complication of the diagnostic procedure and may be seen as a potential risk of the procedure. Nevertheless, the court condemned the physician, because he did not inform the patient about this possible complication. In the lack of this information, the patient was unable to make a well-founded decision. The principle of "informed consent" was born with this verdict.[1]

Let us take a look at the main theoretical problems related to the issue. The right of self-determination is a human right. Self-determination is only possible if the person concerned is aware of the facts. That requires information.

One way of acquiring information is formal learning. We may gain information about the ways of life in theory and in practice. The more information we have accumulated, the more informed we are. Theoretical information is often rather abstract, general and detached from the experiences of everyday life. However, empirical experience also has its limitations. No one can taste cyanide just to gain certainty about its effects.

The method and scope of acquiring information depend on the ingrained habits of our immediate and extended environment. It also depends on the level of taking each other seriously, the rate of mutual respect in the given society, and the imprinting, the "paradigm" of our ideas concerning this issue – to what extend we are ready for a "paradigm shift"? It also depends on that how seriously we take human rights and how far we got in the process of democratisation.

In bioethics, examples related to humans are usually taken from the field of medical ethics. This book is primarily targeted at students in higher education and on a broader spectrum at the educated public in general. Therefore, we shall obviously begin with some general assumptions.

Acquiring adequate information is often difficult, especially if we want *reliable* information. Trust is essential in such cases. I trust my teachers that they strive to inform me according to the best of their knowledge. If I have a choice, I will try to study from someone who will not only teach me adequately, but has a thorough knowledge of the facts. Knowledge and benevolence may not always be equally present in everybody.

The situation escalates when someone gets ill and wants to be cured. Intellectual capacity decreases in these cases. Who should we turn to? A physician of great expertise or a reliable one? How do we judge the expert knowledge of a physician and the extent to which he can be trusted?

Making information available or blocking it causes a constant problem to everyone in various fields of life. It is of course based on the assumption that I *know* something that the other person, the others in general do not. When, how and what can I or should I tell to another person, a patient, a colleague, various party members or religious believers? It is everybody's personal right to have information about the issues that are related to them, the questions that they must decide upon. It is of course remains a dilemma: who is the one who should decide in the given question. What should be told to whom and what should be kept back from a patient? I share my secrets with people I love and debar them from people I do not like, my "enemies." Acquiring adequate information, the fight to achieve this is never easy. Here we do not only wish to discuss the problem in a limited sphere, but evaluate the problems arising in a physician-patient relationship in a wider context.

[1]Kovács József: *A modern orvosi etika alapjai. Bevezetés a bioetikába. [Fundaments of Modern Medical Ethics. Introduction to Bioethics]* . Budapest, 19992, Medicina, 585-590. p.



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It may be seen as a special case if for some reason I have no choice but to tell the “bad news”. There is a Biblical example for that as well: “In those days was Hezekiah sick unto death. And Isaiah the prophet, the son of Amoz came unto him, and said unto him, Thus saith the Lord, Set thine house in order: for thou shalt die, and not live. Then Hezekiah turned his face toward the wall, and prayed unto the Lord, and said: “Remember now, o Lord, I beseech thee, how I have walked before thee in truth and with a perfect heart, and have done that which is good in thy sight.”[2] Later on, we learn that the Lord took pity on Hezekiah and allowed him to live another fifteen years. What is important from our point here is that Isaiah *had to tell* Hezekiah the bad news, although Isaiah did not know at that time that the Lord would be graceful with Hezekiah.

The basic opposition in the physician-patient relationship lies in the patients’ autonomy as human beings, their right to make decisions, on the one hand and the extent of the patients’ enfeeblement emerging as a result of their sick condition on the other hand. A human being, even if he/she is ill, has in principle the right to know about his condition irrespective of his state of health and as far as he can, decide about his own fate. It is the duty of the physician to cure the patient physically and mentally – including the improvement of decision-making ability – so that the patient may exercise his/her autonomy. That depends greatly on the actual condition of the patient. One has to distinguish between merely providing information on someone’s condition and informing the patient with the aim of gaining his/her consent to the proposed method of treatment. In the first case, the root of the problem is: how well the patient can take the “*bad news*”. Thus, one of the objectives is to boost decision-making capacity. Autonomy and beneficence: two basic principles, which may contradict each other. I intend to shed light on the problem by providing assistance based on general principles in solving difficulties related to that particular problem. The direct task of solving the problem belongs to the physician, while judging the correctness of the solution may be the task of many people among whom the role of jurists is increasing.

The first question is: Who is entitled to inform the patient? The of the Hungarian Medical Chamber[3] declares that it is the duty of the physician, more precisely the attending physician, to provide information since he/she is the one who is most familiar with the patient’s condition. The role of the attending physician is also of primary importance from a professional point of view, as he/she is the one who receives all the information. Consultants (radiologists, ECG and EEG specialists etc.) who have only partial information may also be tempted to inform the patient about the findings in their own field of expertise. The effective Act CLIV of 1997 on health care, however, prescribes that it is the role of the attending physician to inform the patient, primarily because both physicians and patients may get to false conclusions based on the available partial information. Nowadays the informative role of pharmacists is also often mentioned in advertisements of medicines. In reality, people also get information from relatives, friends, nurses, even cleaners and fellow patients. Expert nurses increasingly demand to be able to participate in the responsible process of providing information. However, they can only provide as much information as is allowed by the attending physician. Some physicians even say that nurses should rather be allowed to administer intravenous injections than provide information since the previous one is less dangerous. That shows how important the provision of information is and it also hints to the fact that information is power.

Naturally, here we are talking about providing information *formally,* on a scientific level, directly, i.e. concentrating on the problems of the patient.

Today, it seems more and more widespread that physicians have to justify why they did not inform their patients for some reason. If this is the expressed wish of the patient, obviously there is no need to inform him/her. If the case is serious, physicians should ask their patients again and only then document it.

There are some supplementary questions and answers arising. When should we inform the patient? Information should be given from the time of establishing the diagnosis. How should we inform the patient? Information should be provided continuously; and not in a paternalistic style, but in a way that shows that we treat the patient as an equal partner.

One of the most decisive questions is: What should we tell? There are various standards: professional, objective (?) and subjective.

*Ways of informing:* simple, detailed oral, written, other methods (tape, videotape, body language, etc.)

[2] Isa 38,1-3.

[3] Magyar Orvosi Kamara Etikai Kollégiumának IV. sz. állásfoglalása. A betegek tájékoztatásáról. [Statement IV of the Ethical College of the Hungarian Medical Chamber. On informing patients.] In *Magyar Orvosi Kamara évkönyve.* [Yearbook of the Hungarian Medical Chamber]. Budapest, 1991, s. n., 38-40. p.



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Patients should primarily be informed about things that are of direct concern for them: finding their way in the healthcare system and within the hospital. They should also be given information on the rights that they have (e.g. the right to ask questions). Many types of cancer can be cured today – physicians should not only outline death chronicles!

I have already mentioned as a fundamental dilemma: whether we are allowed to/should inform the patient about bad news. Is the patient fit enough mentally to take it? Doesn't it contradict the rule of "non-maleficence"? Who is to judge the given situation? A patient should never be lied to, but this does not mean that they should be told the truth right away. Both the law and the Code of Ethics allows for providing information gradually.

Nowadays we tend to want to see clearly in various fields of life not only in the spheres of politics and finance. There is an increasing demand to see final existential problems as clearly as possible, to receive all possible information to be able to form an opinion and act accordingly. We want to look behind the various myths. At the age of Reformation immense battles were fought to achieve that people should be able to read the Bible themselves. We know that it was not only the scriptures of Christ that were surrounded by such secrecy. Girls were not allowed to read the Hebrew Bible, the Old Testament, and it was equally forbidden for a long time for women to read the Quran, similarly to Hindu holy scripts.

The French revolution was one of the establishers of human rights, but it was also unable to bring about equal treatment in the fields of theology and medical science. Paternalism, the internal, secret world of the initiates remained the norm. Since we became aware of the fact that knowledge, information is power, we have been witnessing a growing demand for information. This is especially important when we ourselves want to make the right decisions concerning our physical and mental well-being, our health. More and more people realised that in order to achieve this it is essential to estimate the facts the present situation and the expected course of events correctly. I can only decide if I am well-informed. All these make it understandable how important the Second Vatican Council for Catholics is – how important human rights, autonomy, and the obligation to inform the patients are for sick people. The first blow at feudal powers was struck by the French revolution, while our century saw the increasing accomplishment of human rights. This is the framework, in which we have to examine the development of bioethics.

Being informed does not only depend on the amount of information one receives. No matter how much information I gather about the programmes of political parties from newspapers, I can never really peek in the "devil's kitchen": I do not, I cannot have any personal experiences if I do not deal with politics, law or theology myself. No matter how hard experts try to convey their knowledge in plain language, one who listens to them will not become proficient in the field. Their self-confidence boosts, but it is questionable whether it increases to the right level. Everybody thinks they can play football, everybody believes they understand politics, the law and medicine. Everybody endeavours to find their as well as they can and if some ethical question arises, they want to act according to their own conscience. How up-to-date their knowledge and how "well maintained" their conscience is will always remain questionable.

If we suppose that all that have taken place: I have gathered information from a knowledgeable, reliable expert and I also have an idea of the moral aspects of the question, what else do I need? Have I seen it working in practice? Have I been to a judicial trial, have I seen patients suffering, being cured or dying? A more and more widespread idea in legal spheres is that jurists working in the jurisdiction should spend some time in prison to see the consequences of their verdicts. For jurists dealing with medical issues some hospital work would be advantageous. Many people believe that health care workers are only able to turn to the patient with due compassion if they themselves have been ill at least once in their lives.

It is still questionable after all this how far we are able to decide *objectively* in our own case. How can I assess my own illness, my own faults, and sins? Do I need a counsellor and if yes, who should it be?

Naturally, various extremes emerged in the spirit of providing information to patients freely. Physicians have to know or at least feel when and how much should be told to the patient without causing a physical and mental breakdown. After the Second Vatican Council the slogan "the maturity of seculars" has become an almost compulsory slogan among educated Catholics. The people we used to call spiritual fathers have become mere advisers upon request. Similarly, in the secular world, physicians who as "good fathers" used to try to help their patients are today called "paternalist." Some have advanced very far on the road to the complete lack of mutual trust. Some wish to solve the unsolvable problem by overregulation. Basic ethical principles, as the golden rule


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set down in the Bible: „And as ye would that men should do to you, do ye also to them likewise."[4] –or the same sentiment put it in the negative: „Do that to no man which thou hatest",[5] cannot be evaded.

If physicians can spend enough time with informing their patients, it may help a lot for the patients to make the decision. However, physician may only shift responsibility to the patient in legal terms, and not morally. The respect for the patient's autonomy should be in accordance with the physician's conscience. That is sometimes a very difficult task.

# 1. The rights and duties of physicians and healing communities

There are objective, practical limitations to providing information. Those wishing to use a computer do not want any information on the deep mechanism of the computer; drivers do not have to be familiar with the exact structure of the car. They feel it is enough for them to have the information to be able to use the machinery. On the other hand, quite often it would be nice to know more. Do experts want to inform us, or do they think it is better for us to be ignorant because that way it is easier for them to enforce their intellectual and financial power. Do the people concerned want to have more detailed information at all? The term "user friendly" is used in information technology for methods aimed at reducing the users' struggles with the computer. They only have to know the order in which buttons should be pushed to reach the required result. More and more processes are automated in vehicle technology as well. It is not only the driver who has problems understanding how e.g. power-assisted steering works, but mechanics also who usually only know what spare part is to be changed if a given problem emerges. We assume, though, that these analogies cannot really be applied in the field of bioethics. As we have said, earlier the physician "as a good father" told the patient what to do to become healthy again. He did not consider it necessary to explain what exactly the problem was, what the possible methods of treatment are, which one of them offers better prospects and what risks and side effects are involved. This is somewhat similar to the relationship between lawyer and client. At the beginning of the trial, it is up to the lawyer to decide how much he would tell to the client about the possible outcomes and 'side effects' of the trial. (Of course, it is easier to correct mistakes there.) Usually, both patients and clients wish to know what is going on around them. In the decisive moments of our life we want to take our fate in our own hands. But are we capable of doing so?

Limitations and overregulation do not serve the interest of patients either because it would not lead anywhere if physicians and patients treated each other as future enemies. It has occurred that a patient, after being properly informed, asked the physician whether "he could take the case to court if the operation does not prove to be successful". Nevertheless, legal regulations should create a situation as unambiguous as possible.

It is a delicate issue that we should find a happy medium between the respect for the patient's autonomy and the possibilities of physicians to improve their skills. If everyone was to be treated by the best physician, how could the knowledge and technical skills of a new generation of physicians improve?

# 2. Patients' rights, informing patients

Informed consent when being ill, in public life and in the kingdom of God.

Bioethics is the science dealing with the ethical questions in life. It is obvious that the method of discussion and the values represented depend greatly on the worldview and perspective of the given author.

I intend to approach the question from an unusual angle.

Recently we have heard a lot about the problem area of informed consent in Hungary, too. The concept is related worldwide to one of the most topical issues concerning the relationship between physician and patient: has the physician adequately informed the patient of the expected consequences of the illness, has the possibility of free choice really been created? The patient should know about the risks of the intervention, but also about the consequences of desisting the treatment. Below I wish to expound this limited interpretation and relate it to the basic questions of bioethics.

[4]Cf. Mt 7,12; Lk 6,31.
[5] Cf. Tob 4,15.



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*Informed (or advised) consent* means consent and agreement to a treatment after receiving adequate information. The two Hungarian equivalents of the term ”informed consent” show two possible interpretation with a slightly shifted emphasis. People talking about informed (*tájékozott*) consent emphasize the subjective situation of the patient. The term advised (*tájékoztatott*) consent refers rather to the responsibility of the physician. *Agreement* stresses the fact that it is not a consent extorted from the patient by the physician, but the outcome of a relationship between equal partners. The provision of *adequate* information – i.e. information adequate for the patient – must also encompass possible side effects and complications and not only the expected advantages of the operation. This paves the way for the patient to form an opinion and reach a responsible decision. The Statement IV of the Ethical College of the Hungarian Medical Chamber deals with the issue of providing information to the patients in detail. Although this Statement is the normative document for all physicians in ethical questions, regrettably very few of them are familiar with it. The present practice is criticised primarily by jurists, saying that physicians, counting upon the trust of their patients, provide only sporadic information about the possible consequences, and exclusively on their own opinion. As we have referred to it earlier, this kind of behaviour is often called *paternalistic*, since the physician tries to work for the benefit of the patient while treating him/her as a little child. An increasing number of patients object to this attitude – in accordance with the spreading democratic approach – and wish to be treated as equal partners.

Statement IV of the Ethical College of the Hungarian Medical Chamber “On informing patients” issued in 1994 made it the moral duty of every physician to provide adequate information to the patients and in Statement VII of 1995 entitled “On informed consent before medical interventions” the same obligation was imposed on this particular form of providing information. The moral regulation preceded the legal one in this case too, as the Members of the Hungarian Parliament passed the law regulating the question only in 1997.

Before dealing with the issue of informed consent in detail, I would like to treat the problems emerging in other fields in order to put it in a wider context.

Informed consent based on receiving adequate information has its public aspects – including political, economic and even theological ones. Everybody feels indignant if they notice that they have not been informed about certain public and political events, about the deeper interrelatedness of things and the expected outcomes. That is why parties draw up programmes, hold press conferences so that well-informed voters would cast their ballot at the elections. Who is informed and how extensively? How informed is a humble voter, a shareholder, or an “ordinary believer” and how informed is the “elite”? What channels are used for the spreading of information? Our final, existential decisions depend on how far we understood and internalised the message and revelations of God. Have we made our decision based on adequate and appropriate information?

Some *physicians* do not even want to inform their patients adequately either because they fear the negative consequences of telling the “bad news” – in case of diagnosed cancer, for example – which may include depression and suicide, or because the patient may misinterpret the provided information, so they draw the conclusion in advance that “the patient does not understand it anyway.” It is rare that a physician considers informing the patient simply useless. It might also happen that in spite of good intentions and no matter how hard the physician tries, the patient cannot fully comprehend the message. *God* usually does not inform us directly but through his prophets in a given situation. Naturally, in a way that may be advantageous for us later on as well, but it is not always easy to interpret and decipher his messages later, centuries after the event itself is not an easy task. God also knows that we may make a bad decision, still he gave us free will as opposed to our own real interests.

People who feel they have not been informed adequately either because the truth was concealed from them, or because the message was not communicated in a way understandable for them, will try to gain information from other sources available. If the *patient* does not find the information provided by the physician satisfactory or cannot understand it, he/she will turn to all kinds of people. They will ask fellow patients, nurses, their friends and acquaintances. They will try to interpret the unuttered or partly expressed words of the physician as best as they can.

As *members of the society* they try to read between the lines in public life, they turn to friends, and look for the friendship of initiates to gain information on the expected future. As *believers*, they read the Scriptures again and again, turn to commentators, try to find ways of actualisation or secret, Gnostic meanings, which unambiguously tell them what to do. I shed light on these parallel phenomena, because it may often be useful in many cases if views and solutions that proved to be correct in certain fields are used in an analogue way, mutatis mutandis elsewhere. Lajos Für said the following in an interview: “A politician has to pay attention to three things at a time. Firstly, to the *country* where he works as a politician, with special regard to the phenomena of the economy, society and culture, to people’s way of thinking, their opinion from the youngest to the oldest. The



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second major direction he must turn his attention to is the chosen *elite power* established in a democracy (…). Thirdly, the attention is directed towards external relations, *external expectations*, i.e. the requirements of the world imposed on us."[6] Experts dealing with bioethics must also take these into consideration. For them, however, the "elite" is primarily made up of other experts active in this field, i.e. theologians, jurists, physicians, etc depending on the given case. Let us now examine some of the main issues of bioethics one by one.

First, I shall deal with the above-discussed issue of informed consent serving as the starting point of the present analysis.

Informed consent is a rather new concept in Hungary. It shows the endeavour to realise general, mutual human respect, primarily dealing with the relationship between physician and patient. At first, it was mainly referred to informing the patients in a detailed way about the risky interventions or surgical operations they were about to undergo, but the information provided to patients suffering from lethal diseases was also an important issue. In the previous practice physicians *knew* what to do in the interest of their patients. The patient trusted the physician in as much as he would treat him to the best of his knowledge and abilities. Recently people's trust in each other has diminished. The situation of the physician has always been privileged and practically it still is. Like it or not, when we are ill, we are at the mercy of physicians. We, physicians ourselves feel the same way when we get ill and have to face our colleagues as patients. It is beyond doubt that this helplessness is more existential than phenomena like, for example, "the insolence of the office". The need for protection is also more elemental. Anyone can bring up loads of examples from their own or their friends' experience. "You should not fall into the hands of physicians!" – is what even physicians say. (Of course we can observe similar coyness among priests with regard to other priests, not to mention politicians! Everybody likes to spare a gracious smile on another group.) It is an essential endeavour to create partnership between physicians and their patients. The usually cited examples are countries that have been practicing democracy for a longer period of time. It is a grave mistake if we only inform someone reluctantly because it is prescribed by law and regulations and not because we respect the personality of the other person. We should respect it even if the other person is a child or slow at comprehension. I have already mentioned that everyone has to be informed on their own level in a way understandable for them. (Any worthwhile stump orator knows this. Why are they the only ones who know it?)

What do *Hungarians* think about that? Patriarchal behaviour patterns are deeply rooted in our traditions. It is well-known that the words "cseléd" (servant) and "család" (family) go back to the same root etymologically. The feudal landlord was on familiar terms with his serfs just as the medical professor with his students. Most people considered it at that time as a sign of belonging together. Many of us were proud that our senior professor behaved with us like a father. The system worked well in an atmosphere of mutual trust. However, that has changed recently or rather it is about to change. Even before the war people looked at the system of "democratic" relationships existing in Western countries with respect. (Let me add here that physicians objecting to extremities referred exactly to the fact that it would be dangerous if they started treating *citizens* instead of sick *people*!)

Let us now have a look at arguments in favour and against informed consent in somewhat more detail. Pro arguments tend to rely on principles: the fundamental equality of all people and the respect for human dignity. We may hear it more and more often that physicians work *upon commission* and they have to do what they are authorised for by the client. Consequently, physicians are often faced with a dilemma. What to do with Jehovah's Witnesses who do not accept blood transfusion. They even published a little booklet in which they even used medical arguments to support their belief. The physician's dilemma in this case is whether he is allowed to assist suicide? The question is even more acute if the patient is the child of people belonging to Jehovah's Witnesses, whose life could be saved by blood transfusion. How decisive is the belief of the parents in such cases? (Luckily, an increasing number of medically approved procedures have been developed to support blood transfusion.)

Of course, it is not only such grieve religious dilemmas that belong to the subject matter. One of today's fundamental principles is that a patient should not be treated against his/her own will. In principle, this is quite right, since the patient's dignity is respected that way.

Reference to the practice of Western countries is not entirely convincing to a Hungarian physician. The medical elite and the elite of jurists are just beginning to try to comprehend each other's arguments. Several conferences have been held on the topic, and one thing became apparent in these discussions: rigid ideas will not get us closer to the solution.

[6]Für, Lajos: Interjú. [Interview]. *Magyar Nemzet,* (3 July 1993) 7. p.



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Seeing the results that have been achieved so far or the lack of results, discussion is widening in countries with long traditions of democracy as well. It is worth noting that while in Hungary there is hardly anyone who dares to bring up scientific arguments in favour of earlier approaches, the Italian professor, Paolo Cattorini[7] talks about various types of behavioural patterns and expounds their advantages and disadvantages. Besides *paternalism*, he collected the following models from various publications: *contract, the blessings of trust, alliance, solicitude*, and finally the connection of *science* and *humanity*. I do not wish to give a detailed analysis of these, I only mention them to demonstrate the complexity and real plurality of the issue. Let me add that believers call God the Father, so for them paternalism is not something unanimously evil. Nevertheless, it is beyond doubt that if someone wants to step in the place of God, they should not be surprised if they are thrown off their tyrannical pedestal. The paternalist connection of faith and medical treatment may lead to believers being accused of treading human dignity underfoot, saying that they intend to deduce the justification of their superiority from their faith in the Holy Father.

Let us now have a look at some well-known bioethical problems in the light of the above.

Problems arising at the beginning and end of life are usually mentioned as first. (There are of course problems in between also, but these are not so dominantly in the limelight now.) How extensively informed are the ones who are supposed to make a decision? What should we all be informed about?

As I have already expounded in detail there are various definitions concerning the beginning and end of life. The opinions widespread in the wider *public* are well-known: “The foetus is part of the woman’s body.” or “My belly is mine.” Naturally, these cannot be supported by any natural scientific arguments. What arguments does the *“elite”* raise? They do not dispute the time of the beginning of life, as it is clear to anyone who respects natural sciences – i.e. it begins when the two gametes unite. So the question is today: When is the life of the fertilised egg cell to be “considered” a *human* life? What if even science is undecided about the question? If it is allowed even by legal regulations? Can it be incorrect then? Thus, we can see, how uncertain the informed consent is if the counsellors themselves are so uncertain. People usually refer to conscience in these cases. But it is not irrelevant who forms this conscience! Priests? Journalists? Legislators? Parents? Friends?

Who is responsible for every interested party to receive proper information? The churches published their statements, but these reached only a relatively small segment of the society. Pro-Life movements, the Christian Ecumenical Society, the Hungarian Society of Christian Physicians, the Alliance of Christian Intellectuals, the Society for the Protection of Unborn Children, Pacem in Utero, Obstetricians for Life, etc. try to reach more and more people with their Christian answers to these issues. Reading the relevant articles of newspapers and the opinions reflected in them, we shall see how inadequate the provision of information is. Who realises that we are talking about “our youngest brothers and sisters”? There are Christians who refer to the Gospel saying that “the babe leaped in Elizabeth’s womb when Mary arrived.”[8] On the other hand, hardly anyone has heard of the Post Abortion Syndrome, for example, the sum of pathological phenomena appearing in women after having an abortion. Similarly less known are the researches of Ney G. Philip on the phenomena experienced on children who have survived abortion.[9]

What do we know about the basic questions concerning the end of life? Who are the ones that inform us and how? The only wish of people belonging to the wider *public* is to avoid suffering when the end is near. How does the *elite* formulate this? Death is unavoidable, but we should “die with dignity”. As long as we are still able to behave as human beings and do not need to be at the mercy of others. It is beyond doubt that since life is to be sustained by a heart-lung motor, it has become uncertain and relative how long we should or how long are we allowed to prolong life. Till the last sigh as it was done so far? What physicians are obliged to do in accordance with the Hippocratic Oath? Should dying be prolonged? Are we allowed to prolong dying? This question is dealt with in detail in the chapter entitled *Euthanasia and Hospice*. Here I only intend to mention the responsibility of the people who provide information. There is a Christian statement on this issue as well (a speech that I have already referred to, delivered by Pope Pius XII on 24 November 1957 to anaesthesiologists also in charge of intensive therapy).

There is an increasing tendency in TV programmes to persuade the audience that euthanasia is a right thing. Some years ago despite the endeavours of several of us the interviewer of the TV programme Hőmérő (Thermometer) managed to guide the discussion in a way that the majority of the audience in the studio voted in

[7] Cattorini, Paolo – Massimo Reichlin: Euthanasie in Italien. Einführende Beobachtungen. Zeitschrift für medicinischer Ethik, Jg. 39. (1993) Heft 1. 55-62. p.

[8] Lk 1, 41

[9] Ney, Philip G. – Tak Fung: Relationship between Induced Abortion and Child Abuse and Neglect: Four Studies. *Pre- and Perinatal Psychology Journal,* vol. 8 no. 1.



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favour of Hungary becoming the second country after the Netherlands where euthanasia should be legalised. (At that time, it was not legalised in the Netherlands either.)

These are enormous tasks for responsible leaders of both public life and the church. No one should speak ambiguously either in the name of the people or God or on behalf of God, but we should not accept the fact reluctantly that our words do not reach far enough. We have to influence people who form public opinion and if necessary even over leaders of the church. I must admit that in the question of abortion the statements of every Christian church were circumspect, careful and brave. Let us hope that they will act the same way in the question of euthanasia which is to become a central issue in the near future. The Ethical College of the Hungarian Medical Chamber[10] has already taken a stand in the question. Studying this statement and discussing it with experts of the field could be useful for every religious and political leader before forming and expressing their opinion. The primary importance of the protection of life should not be influenced by membership in a political party or religious community. The main point of the statement is that it forbids all forms of active and passive euthanasia. The latter means that although the death of the patient is not assisted by active intervention, the necessary steps to sustain the condition of the patient are not taken deliberately so that he/she would eventually die. Nevertheless, it may be allowed that the palliative drugs applied make the patient's life shorter *as a side effect*. In these cases namely the patient's death is not the intended aim. On e should always endeavour to ease pain. Naturally, dying should not be prolonged, but that is a different matter. As I formulated it: there is a difference between escorting someone to Charon's ferry, holding his/her hand and tossing him/her in. Hospice movements are meant to help people in the last moments, and they are spreading and developing in Hungary as well.

Let me also mention that providing medical information includes giving information on the data and laboratory findings concerning the patient and their medical records as well.

There are several special difficulties that may emerge: For example, how should I tell to the patient which surgeon I can recommend? And why not the other one?!

Finally, it is of fundamental importance to state in which situations there is no need to ask for the patient's consent: 1. in case of emergency, 2. in case of an ongoing surgical intervention when the medical findings require a further extension of the procedure.

# 3. An attempt to solve the problem

1. Physicians and human rights activists must strive for mutual *personal human respect* for each other. This is the only way to achieve that we do not only hear each other's arguments but also comprehend them.

Mutual personal human respect for each other is the foundation of the possibility of any real persuasion. This is particularly important in solving problems burdened by old habits, especially personal prejudices. We can respect other people's principles only if we respect the people adhering to those principles. I am aware of the importance of the clarity of principles, but I also know that the personal persuasion power has a special impact.

2. Physicians should respect all their patients as *suffering persons*

Beyond the mutual personal respect of debating parties, it is of crucial importance how much physicians respect their patients. In fact, that is the main task of teaching medical ethics. Naturally, here I do not only refer to official courses and education in the framework of traditional subjects, but experiences gained at patients' beds and conclusions derived from the behaviour of elderly colleagues. The family and the whole environment have an affect on that and the worldview of physicians is also an important influential factor.

3. We should try to find a common mediating language between jurists, philosophers, theologians, i.e. those who are *laymen* in medical issues, and physicians, who are *laymen* in legal, philosophical and theological matters.

An important factor of mutual personal respect between debating parties is to know each other's terminologies which may often be rather different. It is important to understand why certain words sound pejorative in one profession while they are fully acceptable and self-evidently used in another profession. The patient's autonomy, for example, is one of these phrases.

[10]Magyar Orvosi Kamara Etikai Kollégiuma: Az eutanáziáról. [Ethical College of the Hungarian Medical Chamber. On Euthanasia]. In Gaizler, Gyula: *A bioetika alapkérdései. [Fundamental Questions of Bioethics]*. Budapest, 1997, Magyar Bioetikai Alapítvány, 352-353. p.



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4. We should strive to explain things by citing examples. It is especially important to pay careful attention to the examples of both parties and try to give satisfactory answers to them.

5. A common principle for physicians and jurists alike is the following: “Salus aegroti – salus personae humanae – suprema lex est!”, but at least “esto”. The physical and mental well-being of the patient is the most important law!

The medical elite and elite of the jurists, philosophers and theologians are only trying to comprehend each other’s arguments now. We have to elaborate (or rather, with present-day terminology, reformulate) the norms, regulatory functions which ensure a legally co-ordinate relation in spite of the psychologically asymmetric, subordinate physician-patient relationship.

When we are ill, the restoration of our health or, in extreme cases, our life is at stake. Thus, there is an elemental demand to create a partnership between physicians and patients. Limitations and overregulation do not serve the interest of the patient either, because it offers no positive perspective if both sides see each other as future enemies.

Summarizing: I would like to ask everybody to do everything on their part to ensure that informed consent should not become a matter of debate or a cause of hatred between physicians and patients but should rather help to enhance acquiring information necessary for actions worthy of human beings in existential situations. One has to shed light on the issue, even spread the news from rooftops! In my view, it is an urgent task to establish independent bioethical institutes at least in university towns.



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# Chapter 11. Bioethics of Organ Transplantation[1]

*We would like to live longer, but it is only possible with some extra help.*

## 1. A short history of tissue and organ transplantation

The substitution of lost limbs or the replacement of some organs is an ancient wish of humanity. All the colourful creatures imagined by ancient Greeks, all the fantasies about centaurs and mermaids imply that they considered it a real possibility to merge organs coming from different species. A special respect for blood gave birth to the thought of blood pacts, when the blood of the contracting parties was mixed. Blood transfusion is another ancient idea, and it was attempted many times. In Greek mythology it is described how Medea transfused Jason's blood into his father. Indeed, in this story the idea is still covered by a mist of magic. The replacement of missing body parts or organs became a practice a very long time ago. There is a long history of preparing false teeth, limbs, noses, ears or eyes. The latter ones merely serve cosmetic purposes, but false teeth are relatively good for chewing and artificial limbs work much better nowadays than they did earlier.

In recent years more and more organs could successfully be replaced: if the excretion function of kidneys decreases or stops patients can be kept alive with an artificial kidney, and damaged or malfunctioning heart valves can be replaced by artificial plastic valves. A great expansion of these possibilities can be expected in the near future.

## 2. Egypt, China, India

According to our present knowledge the first real human organ transplantations were performed in ancient Egypt and China, where human teeth were transplanted from very early times. (Although it happened much later, George Washington and Marie Antoinette got teeth with this method as well. However, transplanted teeth are usually rejected by the organism in four years says Wilfried Ruff, physician and priest in his very important monograph entitled *Organverpflanzung* [Organ Transplantation][2].)

It was already mentioned by the famous Roman physician Galen that cosmetic surgery had been conducted by priests in Egypt and India from the beginning of times. The methods were kept secret and were transferred from generation to generation. Two papyrus rolls were discovered in Egypt from the period between 2500 BC and 600 BC, mentioning a nose replacement. Two outstanding physicians, Charaka and Sushruta are known to have lived in India about 2000 years ago. The latter described the substitution of a cut-off nose in his book Ayurveda written in Sanskrit.[3] This was much needed in India, because it quite often happened that someone's nose or ear was cut off as punishment. The surgeon prepared an ear or a nose for these people using skin samples from the neck, forehead, arm or buttock. If the patient's own skin was used for the operation, in today's terminology a so-called heterotropic autotransplantation was performed (the skin was transplanted to a different place in the same body). These procedures were called "reconstructive surgery" in the recent past (see the works of U. Szumowski and Á. Herczeg.[4] as well as the publication of János Zoltán.[5])

## 3. Christianity, Legenda Aurea, Middle Ages

[1]The basis of this chapter is provided by my doctoral dissertation "A szervátültetés erkölcsteológiai szempontjai" [Moral Theological Aspects of Organ Transplantation]. Gaizler, Gyula: *A szervátültetés erkölcsteológiai szempontjai. [Moral Theological Aspects of Organ Transplantation].* Doctoral dissertation in theology and bibliography. Budapest, 1982, Hittudományi Akadémia.

[2]Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 29 p.

[3]Hessler, F.: *Susrutas Ayurvedas: Id est Medicinae systema a venerabili d'Hanvantare demonstratum a Susruta discipulo compositum. Nune primum a Sánskrita in Latinum Sermonem vertit, introductionem, annotationes et rerum indicem adjicit Franciscus Hessler.* Erlangen, 1844, s. n.; Cit.: Pichlmayr, R. – Berner, W.: Transplantation von Geweben und Organen. *Münchener medizinische Wochenschrift,* Jg. 123. (1981) 644-648. p.; Cit.: Zoltán János : A bőrátültetési eljárások fejlődése. [The progress of skin transplantation methods]. *Orvosi Hetilap [Medical Journal],Volume* CXXIII. (1982) Issue 11. 643–654. p.

[4]Szumowski U. – Herczeg Á.: *Az orvostudomány története. [The History of Medicine].* Budapest, 1939, Magyar Orvosi Könyvkiadó Társaság, 30-33. p.

[5]Zoltán, János: A bőrátültetési eljárások fejlődése. [The progress of skin transplantation methods]. *Orvosi Hetilap [Medical Journal],* Volume CXXIII. (1982) Issue 11. 643–654. p.



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One of Jesus Christ's miracles is curing the cut-off ear of Malchus, the high priest's servant.[6] If we assume that he not only "touched" the ear during this deed, but attached the cut-off part back, it may be seen as an orthotropic autotransplantation (transplantation to the same place).[7]

A limb transplantation similar to those conducted in our modern age is attributed in Jacobus de Voragine's "Legenda aurea" to doctor-saints Cosmas and Damian in the 13th century. The story is instructive from a medical and moral-theological point of view even today.[8] According to the description a man serving the memory of the saint martyrs in the church consecrated to Cosmas and Damian had cancer affecting his leg. Once Saint Cosmas and Damian appeared in his dream. They brought with them ointments and medical equipment. One of them said: "Where can we have fresh meat from to fill the hole after we cut out the rotting part?" The other replied: "A moor was buried today in Saint Peter's cemetery, it is still fresh, bring what we need from there." One of them ran to the graveyard, and brought the moor's leg. They cut the patient's thigh off, and replaced it with that of the moor then they put ointment on the wound. The leg of the patient was taken to the cemetery to the moor's body. When the patient woke up he had no pain. He touched his hip and found everything in order. He told the people what had happened to him, and how he got cured. They ran to the moor's grave and saw his leg cut off and the ill person's leg next to him. (This legendary story would have been an orthotropic homotransplantation, because the limb was taken from another member of the same species, another human being, and was put to its original place.)

The story of Saint Cosmas and Damian has a number of medical and moral-theological-historical lessons. The saint doctors transplanted the leg of another human being and not that of an animal (which would have been a xenotransplantation). This does not necessarily show a correct medical thinking – we cannot expect anything like that in those times. Instead, our choice is rather meant to show that due to the influence of Christianity the person destined for eternal life was more and more separated from the other members of the living world. (It has to be noted here that nowadays there are attempts to implant animal organs into humans. The medical and ethical problems related to this will be discussed later.) The miraculous saints thought also of having a fresh organ as a replacement: this is a sign of medical thinking. In the light of today's moral theological disputes it might seem surprising that they did not worry about committing a desecration of the dead, and they did not make any enquiries if the moor consented to his leg being implanted in another person's body after his death. At that time this was no concern in the eye of the public. It is also characteristic that the donor was a moor and not a rich salesman or a nobleman. The saint doctors did not worry about the moor being *really* dead either. Today the confirmation of death with absolute certainty is a very important ethical and medical question. If we want to transplant an organ successfully, we cannot wait long after the donor's death – the organs cannot be removed after burial, as Saint Cosmas and Damian did according to the legend. They cannot start the operation too early either, because they cannot mutilate a living person – without his full consent. Today we have to add that killing people is still impermissible even if they consent to it.

Thus, the miracle described in this legend from the Middle Ages has become a real possibility, but it brings up a number of ethical problems that were not known earlier. Before discussing the leap in the development of tissue and organ transplantation in our century, it is worth taking a look at the European development and moral lessons of nose replacement with skin transplantation.

According to professor János Zoltán the knowledge of nose replacement came from Egypt through Persia and Arabia and arrived in Greece only in the 15th century, and from there it went on to Italy.[9] This happened during the time of the poet Elisio Calenzio, who wrote about Sicilian Branca who was able to prepare noses. The necessary skin sample was taken from the patient's own arm or from a slave. In the latter case the nose allegedly died off when the slave himself deceased. (This belief was mentioned in the introduction of András Németh's dissertation in 1966.[10]) According to our present knowledge of course there cannot be a causal relationship between the death of the slave and the demise of the nose. However, it may be assumed that the nose prepared from another person's skin was "rejected" by the organism, while a transplant prepared from the patient's own skin was more likely to integrate. Later the ethical question arose more and more sharply if it is acceptable to "force »convince« a slave to give a part of his skin?" Today this question seems to be out-of-date, as a more basic problem was solved: "Is it acceptable that people are kept as slaves?" The main idea however is still topical. There are still people who are disadvantaged (e.g. prisoners in concentration camps), who cannot even give a valid declaration of consent, as it turned out from the Nuremberg Trials as well.

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[6]Lk 22,51

[7]In Prof Béla Tarjányi's opinion that concept is highly probable. (Personal comments in course of a conversation)

[8]Voragine, de Jacobus: *Legenda aurea.* S. l., 1990, Helikon, 229-230. p.

[9]Zoltán, János: A bőrátültetési eljárások fejlődése. [The progress of skin transplantation methods]. *Orvosi Hetilap [Medical Journal],Volume* CXXIII. (l982) Issue 11. 643-654. p.

[10]Németh, András: *A veseátültetés. [Kidney Transplantation].* PhD dissertation, Szeged, 1966, s. n.



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Gaspare Tagliacozzi, teacher of autopsy at the University of Bologna was the first to write with scientific soundness about nose replacement operations. In his book[11] published in Venice in 1595 he emphasises that skin cannot be transplanted successfully to another person. Tagliacozzi performed the reconstructive surgery with a lobe prepared from the skin of the patient's own upper arm. This is called Tagliacozzi lobe or Italian method even today. According to János Zoltán: "Tagliacozzi was ruthlessly persecuted by the Church claiming that all distortions come about from God's will and the operation is contrary to this. He was excommunicated after his death, his body was exhumed and buried next to the cemetery."[12]

# 4. Modern Ages (19th-20th century)

Since the beginning of the last century more and more articles report on successful skin transplantations. A natural scientist from Milan, G. Baronio[13] writes down in 1804, that in the market place of the city of Rovato in Brescia a bogus doctor presented his ointment for wound healing that he called "military balm" by making wounds on his arm, putting ointment on them and showing to the public how quickly they heal. Baronio convinced him to cut a piece of skin from his arm, put it back, and put some balm on it. The man followed his instructions and to Baronio's surprise the piece of skin cut from inner surface of the man's left arm, which was then 'implanted' back to the same place, healed perfectly after eight days.

After seeing this Baronio made experiments on sheep and noticed a perfect healing of the autotransplanted skin in all cases.[14] The method of the first skin transplantation of practical value is attributable to J. L. Reverdin, who successfully covered a big skinless surface with small pieces of skin of about 3-4 mm in diameter in Paris in 1869.[15] Thiersch described a quicker skin replacement method in 1886: he covered the unhealed areas with bigger slices of skin.[16] In 1898 A. Purchas already discussed a case that caused legal problems.[17] Extensive burns were healed with skin slices obtained from a living donor, who later sued the physician, as he did not inform him about the consequences experienced later, i.e. scaring. (As if we were talking about today's "informed consent" problems!) Winston Churchill, former British Prime Minister had a different view on the question. He wrote about the story of one of his friends who had been injured in the war of Sudan in 1898, and whose lost skin was healed with skin taken from Churchill's arm. Despite the fact that he himself was constantly reminded of the operation in the form of a scar, he did not mention any moral or other difficulties. Obviously he found it natural to help a friend.

If the skin is taken from another person, the question might arise if it is acceptable to harm somebody's health in order to heal another person. The problem is not particularly pointed yet, as Churchill's behaviour showed. A different problem emerged in connection with the case that S. Ivanova described in 1890.[18] She reports on successfully using the skin of a child who was born dead to cover the areas of lost skin in a 75-year-old patient suffering from severe burns. Are we allowed to take tissues from a dead body and implant it into a living person? Does anyone need to approve this?

The history of cornea transplantations also goes back to the 19th century. F. Reisinger talks about successful transplantations conducted on rabbits' eyes in 1818. He named the method keratoplasty.[19] The transplants got bound, but they blurred very shortly. Successful keratoplasty in humans is attributable primarily to Vladimir

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[11]Tagliacozzi Gaspare: *De curtorum Chirurgia per Insitionem Venia.* S. l., 1595, s. n.; Cit.: Szumowski U. – Herczeg, Á.: *Az orvostudomány története. [The History of Medicine].* Budapest, 1939, Magyar Orvosi Könyvkiadó Társaság, 618. p.

[12]Zoltán, János: A bőrátültetési eljárások fejlődése. [The progress of skin transplantation methods]. *Orvosi Hetilap [Medical Journal],Volume* CXXIII. (l982) Issue 11. 643–654. p.

[13]Baronio, G.: *Degli innesti animali.* Milano, 1804, s. n.; Cit.: Largiadèr, F. (Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 3. p.; Cit.: Zoltán János: A bőrátültetési eljárások fejlődése. [The progress of skin transplantation methods]. *Orvosi Hetilap [Medical Journal],Volume* CXXIII. (1982) Issue 11. 643–654. p.

[14]Zoltán, János : A bőrátültetési eljárások fejlődése. [The progress of skin transplantation methods]. *Orvosi Hetilap [Medical Journal],Volume* CXXIII. (l982) Issue 11. 643–654. p.

[15]Reverdin, J. L.: De la greffe épidermique. *Archives of Gen. Medicine,* vol. 19. (1872) 555. p.; Cit.: Converse, J. M. – Casson, Ph. R.: The Historical Background of Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York-London, 1968, Grune et Stratton, 4. p.

[16]Cit.: Converse, J. M. – Casson, Ph. R.: The Historical Background of Transplantation. In: Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York–London, 1968, Grune et Stratton, 4. p.

[17]Purchas, A. C.: A case report. *Lancet,* vol. 1. (1898) 1153. p.; Cit.: Converse, J. M. – Casson, Ph. R.: The Historical Background of Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York-London, 1968, Grune et Stratton, 5. p.

[18]Ivanova, S. S.: The transplantation of skin from the dead body to granulation surface. *Annals of Surgery,* (1890) no. 12. 354. p.; Cit.: Converse, J. M. – Casson, Ph. R.: The Historical Background of Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York–London, 1968, Grune et Stratton, 5. p.

[19]Reisinger, F.: Die Keratoplastik. *Baiersche Annalen für Abhandlungen, Zufindungen und Beobachtungen an den Gebiete der Chirurgie Augenheilkund und Geburthilfe,* Jg. 1. (1824) 207. p.; Cit.: D'Amico, R. A.: Ophthalmologic Aspects of Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York-London, 1968, Grune et Stratton, 332. p.



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Filatov, university professor in Odessa. He used the cornea of dead people for the operation. His works were published at the beginning of the 20th century (1924, 1934, 1940).[20]

The enormous development of transplantation is the result of the efforts in the 20th century. In order to give a more comprehensive overview, it could be also mentioned that propagation of plants is also a form of transplantation.

Hankó in his work published in 1927[21] writes about Burbank Luther, a horticulturist from Californa, who managed to grow 40 different kinds of plums on one single plum tree. It became obvious during plant propagation as well, that the closer the two plants are to each other in the plant family the easier it is for the propagation to be successful. Transplantations were conducted in the 19th century on different animals, mainly in embryonic stage. These transplantations contributed a lot to the achievements of experimental embryology, one of the greatest figures of which was Wilhelm Roux. Certain animals were cut into two and the parts were exchanged, or the different organs were moved within the same animal.

Real transplantations were recorded already in 1902. Emerich Ullmann[22] private teacher of surgery transplanted dogs' kidneys into their abdomen, and later to prevent the wounds from getting infected by the dogs licking it he transplanted the kidneys into their necks. The transplanted kidneys worked! Indeed, not for a very long time, for five days at most. Ullmann mentioned in his work that experiments had already been conducted with other organs (thyroids, testicles, ovaries) but not with kidneys. He made projections for the future as well. According to his view further experiments will be necessary to see if it is possible to transplant a kidney from one dog into another, or from one species into another. Will the transplanted kidneys be able to fully detoxicate the organism? Are the animals going to stay alive if their own kidneys are removed and replaced with one from another animal?

Alexis Carrel also transplanted a kidney into a dog's neck in 1902,[23] then in 1905 he did the same with a heart. These organs continued to work without their neural connections. The primary objective of his experiments was to prove the effectiveness of his own technique for sewing blood vessels. Nowadays animal right activists would fight fiercely against such experiments. Carrel realised the significance of transplantation as well. He received the Nobel Prize in 1912 for his technique of sewing blood vessels and for transplanting organs.

Researchers have been interested in the question since the beginning of the 20th century if transplantation can only be successful if the tissue or organ is transplanted into the same subject (autotransplantation)? Can transplantations be successful if it is performed between different animals belonging to the same species or even if it is done into an animal from a different species or into a human being (homo- and xenotransplantation)? Experiments conducted with different aims, tumour and skin transplantations have helped the elaboration of common theoretical grounds. This can be discussed here only in a nutshell.

In 1901 K. Landsteiner realised that human blood can be categorised into several groups. The success of blood transfusions can be owed to this. Landsteiner admitted in 1931, in his lecture held when receiving his Nobel Prize that no direct relationship can be shown between the success of transplantations and identical blood groups. He assumed, however, that serum reactions will help the success of transplantations. On the other hand, according to Felix Largiadèr's book, who was a teacher of surgery, Landsteiner's discoveries have been more destructive than advantageous to the research in transplantation immunology.[24] Landsteiner led researchers to think that substances that endanger the success of transplantations circulate in the blood, in other words, they are humoral. It was only discovered later that these substances are linked to the cells or tissues. This discovery was made by P. Medawar in 1944, who received a Nobel Prize for it together with Burnett in 1960.

Scientists working on the genetic aspects also played a considerable role in the research of organ transplantation. The most important of them were G. Schöne, C. Little and L. Strong, as well as J. Bittner. They pointed out that the decisive factor is not propinquity but the genetic material. They also proved that there is more than one gene in this material.[25]

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[20] Filatov, V. P. – Bajenova, M.: Experimental transolantation of dried and frozen cornea. *Vestern Journal Ophthalmology,* vol. 17. (1940) 536. p.; Cit.: D'Amico, R. A.: Ophthalmologic Aspects of Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York–London, 1968, Grune et Stratton, 333. p.

[21] Hankó, B.: A megújhodás. *Elvesztett testrészek visszaszerzése. Idegen testrészek átültetése.* [The Revival. *Regaining lost organs. Transplantation of other people's organs*] Budapest, 1927, Athenaeum.

[22] Ullmann E.: Experimentelle Nierentransplantation.Vorlaufige Mitteilung. Wien. *Klinische Wochenschrift,* (1902) Heft 15. 281-282. p.

[23] Carrel, Alexis: La technique operatoire des anastomoses vasculaires et la transplantion des visceres. *Lyon Med.,* 98. (1902) 859. p.; Cit.: Largiadèr, F. (Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 2-3. p.

[24] Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 5. p.

[25] Ibid. 3-4. p.



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Animal experiments were soon followed by research on humans. In 1906 M. Jaboulay tried to implant a pig kidney then a goat kidney into the elbow blood vessels of a woman suffering from final stage kidney malfunction, but without success.[26] Ernst Unger's 1910 article is still interesting for us today. He raises some moral issues as well. "Taking a healthy kidney from a healthy human to cure an ill person is a possibility we did not intend to take into consideration for the time being." He pointed out that a kidney from a dead person could also be used but only directly after his death, because otherwise irreversible changes take place in the tissues. He assumed based on his earlier experiments that implanting a monkey kidney does not induce blood clotting. Although he asked the moral question "Are we entitled to use monkeys' organs for healing humans?", but he answered it with "yes". He implanted a monkey's kidney among the blood vessels in a young girl's thighs, who was suffering from kidney malfunction, but the patient died in 32 hours.[27]

The first attempt of homotransplantation with a kidney was done from a human corpse. In 1936 Voronoy tried to help this way a woman with mercury poisoning who had no urine excretion. The patient died in two days because of a transfusion error. After this no experiments were made with kidneys taken from cadavers for years.[28]

Artificial kidneys with real practical use in the 1950s gave a new impetus to kidney transplantation. It was already possible to prepare the patients for the operation in a less hectic way and if the transplantation was not successful, the patient could be put back on the artificial kidney machine. This was the time also when the first kidney taken from a living person was transplanted. A brave mother offered one of her kidneys to be transplanted into her son. The son had only one kidney originally but later that kidney failed as well. The operation was performed by L. Michon and his colleagues in Paris in 1953.[29] The other author of the publication, J. Hamburger is famous for his articles on medical ethics as well. The transplantation itself was successful, but the kidney stopped working 21 days later. This case became known worldwide. It caught the attention of Catholic moral theologians as well. In 1954 L. Bender gave a detailed reasoning in Rome why it was objectively wrong what the mother did when she consented to the mutilation of her body.[30] This and opposite views will be discussed later.

In the beginning, similarly to the above case, transplantations of so-called "free" kidneys taken from cadavers or living humans due to different other illnesses were unsuccessful. These failures, however, did not discourage scientists. Continuing the experiments looked promising in two directions. One was to do the transplantation between people who are presumably not different in immunity. Based on earlier examinations and skin transplantations identical twins seemed to belong to this category. A 24-year-old man in Boston got an unusual Christmas present from his twin brother on 23rd December 1954: J. Merrill, J. Murray and their colleagues transplanted one of his brother's healthy kidneys to replace his malfunctioning kidneys.[31] (They were of course carefully examined in advance, even a skin transplantation was carried out on them.) The young man lived for another 8 years, then he died of heart attack which was the consequence of his original kidney disease (glomerulonephritis). The longer survival and the favourable result encouraged scientists to follow suit. According to F. Largiadèr 36 kidney transplantations have been conducted in identical twins in the whole world until 15th March 1965 and 27 from those kidneys were functioning. At that time the longest survival was 9 years. In five cases the patient died because their original disease developed again in the transplanted kidney.[32] According to some scientists better results could be achieved if the immune system of the recipient could be suppressed somehow (immune suppression), but this leads us already to the second clinical possibility that has to be discussed here.

A number of researchers attempted to enable the transplanted organ (graft) to survive on the long run and function well by suppressing the immune system of the recipient. However, this is a dangerous method, as the organism is protected from diseases by a well-functioning immune system, and if it is suppressed artificially, the recipient is more liable to infections. In 1959 J. Mannick and his colleagues blocked the immune system of dogs

[26] Jaboulay, M.: Greffe de reins au pli du coude par soudures arterielles. *Lyon méd.,* 107 (1906) 575. p.; Cit.: Unger, E.: Nierentransplantationen. *Berl. klin. Wschr.,* Jg. 47 (1910) Heft. 13. 575. p.

[27] Unger, E. : Nierentransplantationen. *Berliner. klinische Wochenschrift,* Jg. 47 (1910) Heft. 13. 573-578. p.

[28] Voronoy, V.: Sobre el bloqueo del apparato reticuloendotelial del hombre en algunas formas de intoxicación por el sublimado y sobre la transplantación del rinón cadavérico como método de tratamiento de la anuria consecutive a aquella intoxicación. *Siglo Méd.,* 97 (1936) 296. p.; Cit.: Largiadèr, F. (Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 188. p.

[29] Michon, L. – Hamburger, J. – Oeconomos, N. et al.: Une tentative de transplantation rénale chez l'homme. Aspects médicaux et biologiques. *Presse Medicale, la,* 61 (1953) 1419. p.; Cit.: Shackman, R. – Dempster, W. J. – Wrong, O. M.: Kidney Homotransplantation in the Human. *British Journal of Urology,* vol. 35 (1963) no. 3. 222-255. p.

[30] Bender, L.: Organorum humanorum transplantatio. *Angelicum,* 31 (1954) 139-160. p.

[31] Merrill, J. P. – Murray, J. E. – Harrison, J. H. et al.: Successful Homotransplantation of the Human Kidney between Identical Twins. *Journal of American Medical Association,* vol. 160 (1956) no. 4. 277-282. p.

[32] Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 187. p.



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with a large amount of X-ray radiation, and to protect their organism they received bone marrow.[33] One of the dogs survived the kidney transplantation conducted after this with 46 days. The first successful homotransplantation with kidney on humans was performed by J. Hamburger, J. Vaysse and their colleagues with previous X-ray radiation, also in 1959.[34] However, dosing was not calculable because of big individual differences. Thus, the method was not working. Despite substantial efforts by a number of institutions only three further patients could be treated with positive results.

There were attempts to influence the immune system with pharmaceutical chemical substances as well. R. Schwartz and his colleagues discovered in 1958 that rabbits' immune system can be suppressed with 6-merkaptopurine.[35] After a number of further experiments T. Starzl, T. Marchioro and W. Wadell made a successful series of kidney transplantations on humans in 1963, which was a real breakthrough: 8 out of 10 patients survived.[36]

The progress sped up after this. Different groups of scientists worked together worldwide.[37] Transplantation centres involving several countries were founded and the methods got better and better. This was already the way that led to our present day, which will be discussed later. The first kidney transplantation in Hungary was performed by András Németh and his colleagues in Szeged in 1963 between two siblings who were not twins.[38] Immune suppression before and after the operation was done with X-ray radiation. Despite all their efforts the patient died on the 79th day. According to their estimation there were at that time altogether 8-10 patients in the world having lived for 1-1.5 years with a homotransplanted kidney from a donor who was not their identical twin.

In the publication of Németh and his colleagues we can find some important ethical references as well. The donor has to understand the main features of kidney transplantation, has to be aware of its possible consequences and should give his/her consent to the operation only after comprehending all these. "Naturally, using a kidney from a dead person would save the doctor from taking this oppressing responsibility" – they wrote referring to the living donor. We practically cannot speak of a risk factor in the case of the recipient, because they will certainly die if they do not get a kidney. (At that time chronic patients could only be kept alive for a few months with artificial kidneys.) Their conclusion is clearly understandable: "With respect to the promising results this solution can be rightfully attempted in totally hopeless cases until the question of kidney transplantation is fully solved. Its rightness can hardly be questionable nowadays." At that time this was considered to be a very brave standpoint in Hungary. The realisation of organ transplantation, the organisation and maintenance of the broad network it requires is rather costly even today, but it is still more economical than keeping the patient alive for years with the help of regular artificial kidney treatment. The number of organ transplantations is constantly growing worldwide. We know about lung, liver, spleen etc. transplantations. Still, the achievement attracting the biggest publicity was *heart transplantation.* It was attempted a number of times, with a heterotransplantation among them. J. Hardy and his colleagues[39] not having any other options transplanted the heart of a chimpanzee into a human patient in 1964. They could not save the patient's life even this way, because the monkey's heart was too small, and it could not maintain the necessary blood pressure. The crown was placed on top of the experiments by Christian N. Barnard, a surgeon from Cape Town. On 3rd December 1967 he made a successful transplantation with the healthy heart of a young girl, the 25-year-old Denise Darvall, who died in an accident to replace the 54-year-old Louis Washkansky's heart, which had suffered two coronary blockages. The operation was technically successful. The patient survived for 18 days

[33]Mannick, J. A. – Lochte, H. L. – Ashley, C. A. et al.: A functioning kidney homotransplant in the dog. *Surgery* vol. 46 (1959) 821. p.; Cit.: Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 187. p.

[34]Hamburger, J. – Vaysse, J. – Crosnier, J. et al.: Transplantation d'un rein entre jumeaux non monozygotes après irradiation du receveur. Bon fonctionnement au quatrième mois. *Presse méd.,* 67 (1959) 1771. p.; Cit.: Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 7. p.

[35]Schwartz, R. – Stack, J. – Dameshek, W.: Effect of 6-mercaptopurine on antibody production. *Proceetings of the Society for experimental Biology on Medicine,* vol. 99 (1958) 164. p.; Cit.: Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 9. p.

[36]Starzl, T. E. – Marchioro, T. L. – Waddell, W. R.: The reversal of rejection in human renal homografts with subsequent development of homograft tolerance. *Surgary Gynecology Obstetycs,* vol. 117 (1963) 385. p.; Cit.: Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 8. p.

[37]At the trial of the ALS (anti-lymphocyte serum): "The treatments were carried out by the kidney transplantation team in Denver, Colorado (USA) led by T. E. Starzl. His colleagues were the American T. L. Marchioro, as well as K. A. Porter from London, Y. Terasaki and N. Kashiwagi from Chiba (Japan). The fast frozen excisions wer examined by G. A. Andres in Rome, as well as K. G. Hsu és B. G. Seegal at the Columbia University in New York. The serums necessary for special tests were provided by A. J. L. Strauss from Bethesda and H. G. Kunkel from New York." Cit.: Petrányi, Győző – Jánossy, György: Az átültetett szerv kilökődésének meggátlása: az immunszupresszió. [Preventing the rejection of transplated organs: immunosuppression]. In Csaba Gy. (szerk.): *A szervátültetés jelene és jövője. [Present and Past of Organ Transplantation]*. Budapest, 1969, Medicina, 156. p.

[38]Németh, A. – Petri, G. – Gál, Gy. et al.: Vese-homotransplantatio két testvér között. [Kidney-homotransplantation between two siblings]. *Orvosi Hetilap [Medical Journal],* Volume CIV. (1963) 1017-1023. p.

[39]Hardy, J. D. – Chavez, C. M. – Kurrus, F. D. et al.: Heart Transplantation in Man. *Journal of the American Medical Association,* vol. 188 (1964) 1132-1140. p.



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followed by the strained attention of the whole world.[40] Dr. Philip Blaiberg, the next fortunate recipient of a new heart survived the initial difficulties, and with this the series of more and more successful heart transplantations has started, which took impetus after a slight downturn in the middle.

Thus, organ transplantation has become a dynamically developing field within medical sciences. Naturally, warning voices could also be heard. Richard C. Lillehei professor of surgery in Minnesota even asked the following question: how long we can keep replacing the organs of old people? Wouldn't the soul be too tired to admire the artistic redecoration of its home?[41] This is, however, tomorrow's problem as far as its feasibility is concerned. Today's question is rather: In which direction do we want to go? If this became possible, another question is for whom and for how many people it would be available? Is it worth working on "eternal life" this way?

# 5. Moral Problems

We have already met moral consideration in the description of the medical-professional development of organ transplantation. The present chapter briefly summarises the formation of the medical moral and moral theological opinions. The two cannot be contradictory with the proper interpretation. The pastoral constitution "Gaudium et spes" emphasises this when talking about the autonomy of the earthly affairs: "For by the very circumstance of their having been created, all things are endowed with their own stability, truth, goodness, proper laws and order. Man must respect these as he isolates them by the appropriate methods of the individual sciences or arts. Therefore if methodical investigation within every branch of learning is carried out in a genuinely scientific manner and in accord with moral norms, it never truly conflicts with faith, for earthly matters and the concerns of faith derive from the same God."[42]

Mihály Medvigy emphasises in his publication "Moral problems of transplanting organs" that individual conscience just like the professional moral theological reflection is thinking in models. From moral concepts it builds a possibly true copy of the situation which is to be criticized and falls judgement on that. Thus, the new problem is compared to an existing case this way.[43] In case of medical ethical views an appropriate comparison is usually enough, moral theological opinions were – or rather used to be – derived from laws adopted for similar cases. The latter approach is the deontological method. When the judgement is deduced from the purpose of the deed it is called a teleological approach.[44]

# 6. Opinions with regard to medical ethics

Endre Nizsalovszky, professor of law deals with the development of deontological norms in detail in his book *Legal regulations on organ and tissue transplantation*.[45] We are informed in this book that there was a Code of Medical Ethics in England already in 1803 which was edited by Thomas Percival. "The Code consists of thirty-two fundamental rules. Rule 12 refers to the cases that are closely related to our subject matter, i.e. cases when previously unobserved symptoms appear or when a formerly routine treatment proves to be inefficient. In these cases it serves the interest of the public weal and especially the high number of poor people to apply new instruments and medicines. However, no such treatment should be started without previous consultation with the physicians competent in the given field... As Visscher aptly stated the opinion of the colleagues is often a more effective ethical and professional control than the regulations of law, as nothing is more unbearable for a physician than being seen as a dumb, negligent and unscrupulous person by his colleagues. The statute of the American Medical Association issued in 1848 was based on Percival's code of ethics. That example was followed by other countries as well, and nowadays it is very common to adopt normative declarations and statements on current issues in international medical congresses."[46]

The moral implications of scientific issues resulted in animated debates between natural scientists and theologians. Virchow asked for help on an assembly of natural scientists held in Wiesbaden in 1873 to develop a

[40]Barnard, C. N.: A human cardiac transplant: an interim report of a succesful operation performed at Groote Schur Hospital. *South Africal medical Journal,* vol. 41 (1967) no. 1271. 74. p.; Cit.: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 141. p.

[41] Lillehei, R. C.: Empfänger. In Largiadèr, F. (Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 109. p.

[42]Gaudium et Spes 36.

[43]Medvigy, Mihály: A szervek átültetésének erkölcsi problémái. [Moral problems of transplanting organs]. *Vigilia,* Volume XXXIII. (1968) Issue 2. 126-129. p.

[44] Boda, László: *A keresztény nagykorúság erkölcsteológiája. [Moral Theology of Christian Adulthood].* Budapest, 1981, Ecclesia, 19. p.

[45]Nizsalovszky, Endre: *A szerv- és szövetátültetések joga. [The Law of Transplantings Organs and Tissues].* Budapest, 1970, Közgazdaságtani és Jogi Könyvkiadó, 69-74. p.

[46]Ibid. 69-70. p.



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moral attitude, the rules of which are identical with that of natural sciences. “We also have faith: faith in progress and the recognition of truth.”[47] The medieval situation was completely condemned by Felix Largiadèr in 1996 probably as a reflection of his own experiments. “As the happy Greek times are over, dreams fade away too. An unearthly thinking took its place, for which the intact body was more important than living on in this world.”[48] This remark is rather unjust if applied for the Middle Ages as a whole and indicates ignorance. St Thomas Aquinas held it namely acceptable to remove the purulent limb in order to save the whole body.[49]

Moral questions concerning transplantation were dealt also with in detail by physicians themselves. They had to face a difficult situation since it had never happened before that a surgeon took a healthy person’s sound organ in order to help others with it. Another difficulty emerged with organs removed from corpses, which would make it indispensable to be able to tell the exact time of death. Physicians who were also dealing with other ethical issues dedicated separate publications to the moral problems of transplantation.

M. Woodruff, professor of surgery from Edinburgh touches upon practically all essential matters related to transplantation in 1964.[50] Should a physician experiment with a previously unknown method? If the answer is yes: there will always be first ones who are in great danger. However, what would have happened if Jenner had not discovered the protective effect of vaccinating humans with cowpox? He writes that several moral problems of transplantation would be solved if we could also use the organs of animals. For the time being we can only rely on human kidneys: volunteer donors, so-called “free” kidneys and cadaver kidneys. The operative risk of volunteer donors is at best 0.5%. There is no data available for any decrease in their life expectancy (i.e. whether their life would be shortened due to the removed kidney) and although it might be rather small, it cannot be neglected. As opposed to this the survival of kidneys received from living donors is slightly better than that of transplanted cadaver kidneys. According to Woodruff it is questionable whether it is right and permissible to take out a healthy kidney with healing purposes. The only remaining solution is the living donor. Woodruff gets over the difficult dilemma of moral theologians with surgical ease. He is convinced that people, irrespective of whether they are Christians or humanists, accept that there is a chance for them to sacrifice their lives for their fellow-people. At the same time it is true, that the transplantation of a kidney from a living person is not about sacrificing the life of the donor.

Examining the moral basis of organ donation Hamburger and Crosnier cite the encyclical letter “Casti connubii” and refer to the opinion of the Catholic theologians, B. Cunningham[51] (1944) and E. Tesson[52] (1956). According to Hamburger and Crosnier, we would act against our human existence if we would prohibit all deeds that are dangerous to life or physical health. He mentions as an example that we all tend to adore people who jump into the water to save their fellow-people. It is impossible for a physician not to bow with respect seeing the noble gesture with which parents testify their love for their children by offering their own kidney. The physician’s task is to ensure the rationality of the sacrifice: the risks should be as little as possible while the probability of the result should be as high as possible. The physician is also responsible for securing that the donor should not be forced to do anything against his/her will. The horrors of the mutilations in the concentration camps are memorable, which were allegedly performed “for the benefit of mankind”. According to Hamburger and

[47] Schipperges, H.: *Utopien der Medizin.* Salzburg, 1968, s. n., 114. p.; Cit.: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 9 p.

[48] Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 1. p.

[49] St Thomas Aquinas : Summa theologiae. Taurini–Romae, 1952, Marietti, 2. II. 65 q. 1a. “Utrum mutilare aliquem membro in aliquo casu possit esse licitum. 1.... Sed secundum naturam a Deo institutum est quod corpus hominis sit integrum membris; contra naturam est quod sit membro diminutum. Ergo mutilare aliquem membro semper videtur esse peccatum... Respondeo dicendum quod cum membrum aliquod sit pars totius humani corporis, est propter totum, sicut imperfectum propter perfectum. Unde disponendum est de membro humani corporis secundum quod expedit toti. Membrum autem humani corporis per se quidem utile est ad bonum totius corporis: per accidens tamen potest contingere quod sit nocivum, puta cum membrum putridum est totius corporis corruptivum. Si ergo membrum sanum fuerit et in sua naturali dispositione consistens, non potest praecidi absque totius hominis detrimento. Sed quia ipse totus homo ordinatur ut ad finem ad totam communitatem cuius est pars, ut supra dictum est; potest contingere quod abscisio membri, etsi vergat in detrimentum totius corporis, ordinetur tamen ad bonum communitatis, inquantum alicui infertur in poenam ad cohibitionem peccatorum. Et ideo sicut *per publicam potestatem aliquis licite* privatur totaliter vita propter aliquas maiores culpas, ita enim privatur membro propter aliquas culpas minores. *Hoc autem non est licitum alicui privatae personae, etiam volente ille cuius est membrum:* quia per hoc fit iniuria communitati, cuius est ipse homo et omnes partes eius. *Si vero membrum propter putredinem sit totius corporis corruptivum, tum licitum est, de voluntate eius cuius est membrum, putridum membrum praescindere propter salutem totius corporis : quia unicuique commissa est cura propriae salutis. Et eadem ratio est si fiat voluntate eius ad quem pertinet curare de salute eius qui habet membrum corruptum. Aliter autem aliquem membro mutilare est omnino illicitum. (...) Sed praecisio membri potest ordinari ad propriam salutem unius hominis. Et ideo in aliquo.”*

[50] Woodruff, M. F. A.: Ethical Problems in OrganTransplantation. *British Medical Journal,* (1964) 1457-1460. p.

[51] Cunningham, B. J.: The Morality of Organic Transplantation. Washington, 1944, Cath. Univ. of America Press ⁄Studies in Sacred Theol. n. 86./; Cit.: Hamburger, J. – Crosnier, J.: Moral and Ethical Problems in Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York–London, 1968, Grune et Stratton, 37-44. p.; Cit.: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 102-110. p.; Cit.: Hamelin, A. M.: Das Prinzip vom Ganzen und seinen Teilen und die freie Verfügung des Menschen über sich selbst. *Concilium,* 2/5 (1966) 366. p.

[52] Tesson, E.: Greffe humaine et morale. *Cahiers Laennec,* 16. (1956) 28–34. p.; Cit.: Hamburger, J. – Crosnier, J.: Moral and Ethical Problems in Transplantation. In Rapaport, F. T. – Dausset, J.: *Human Transplantation.* New York¦London, 1968, Grune et Stratton, 40. p.



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Crosnier, but also other transplantation teams, it has already happened that the recipient or their family put the potential donor under pressure. This is why they do not offer the possibility of transplantation to the family but wait until they ask for it. My own former workplace, the Clinical Department of Urology of the Medical University in Budapest tries to avoid the transplantation from living donors if it's possible.

Hamburger and Crosnier think it is evident that mentally disabled persons, prisoners and children cannot be donors. M. Woodruff does not want to exclude the possibility that a criminal wants to redeem his sins, at least partly, this way although he is really sceptical about the sincerity of this offer. It is hard to set the minimum age limit in the case of children. It is well worth taking the opinion into consideration, according to which if youngsters may be of military age in a country at the age of 17 or 18, i.e. they might even have to sacrifice their lives if necessary, why shouldn't they be allowed to offer their kidneys. Being worried about abuses, Hamburger and his colleagues only accept donations from relatives. The only exceptions are husbands and wives, who are not blood-related, but this solution is also considered to be wrong if the couple has small children.

It is an additional difficulty for donors that insurance companies have not yet taken a stand whether they are (also) ready to take the increased (though minimally) risk. A totally different, deeply philosophical or rather theological anthropological question is raised by the use of cadaver kidneys. When did the person die, and how long can his/her life be considered a human life? One cannot wait too long because the organ to be transplanted may become useless after a while. M. Woodruff depicts a vivid image of the practical difficulties to be solved in case of a dying potential donor. The surgeon who will remove the organ should preferably not be present until the patient is declared dead. Sill, the very thought, that he is waiting nearby – since he also has to get prepared for removing the organ and implanting it – may have an urging effect on those who are still working around the living person.

When does death occur? So far circulatory failure was taken as a definite sign of death, but today it can be maintained artificially for years. Hamburger and Crosnier compares the patient kept "alive" this way to the heart and lung preparations used for physiological experiments. When are we allowed to switch the machine off? When does a person as a human being die? Did he/she really die or do we commit euthanasia? Hamburger and his colleagues mention two criteria. One is to establish the neurological death (brain death) from any sure sign. The other criterion is that the occurrence of death should be confirmed by three physicians who do not participate in the transplantation before switching the machine off or starting removing the organ.

Another problem of a different nature also emerges: does anybody need permission to remove an organ from a corpse? It is also a heavily debated moral and legal question. Many people say that the prior consent of the deceased is necessary, while others assume that the relatives should give their consent to it. In France it has been legally permitted since 1947 to remove organs from corpses with scientific of therapeutic purposes even without the consent of the family. The legal situation in Hungary will be presented later at the detailed analysis of the problem.

Main issues of medical ethics, as shown by previous examples, had occupied the physicians performing transplantations from the very beginning. A detailed discussion of moral problems will follow the historical overview of the most important moral theological approaches.

# 7. Moral theological considerations

The greatest problem of moral theologians with transplantation is the same the one denoted in András Németh's article published in 1963 as the "overwhelming responsibility" of physicians: that of working with living donors.[53] How can it be morally justified that the organs of living and healthy people are removed. This is a difficult question even if the most important condition is met: the donor gives his/her consent to the organ transplantation. Thus, according to traditional views removing organs is mutilation. Something, that according to traditional moral theology is "in se malum", i.e. a wrong deed in itself, which cannot be justified even by good intentions alone. According to the traditional anthropological theological image humans are not masters, only guardians of their bodies, and they cannot do harm to the integrity of their body, the same way as they cannot commit suicide. St Thomas Aquinas and scholastic traditions have of course known some exceptions. Such an example is the one that has already been mentioned, when the physician is allowed to cut off an infected body part if that saves the whole body. That, however, is acceptable exactly because people are guardians of their own bodies and therefore they are allowed to sacrifice parts of it to help the body survive (see notes).

[53]Németh, A. – Petri, G. – Gál, Gy. et al.: Vese-homotransplantatio két testvér között. [Kidney-homotransplantation between two siblings]. *Orvosi Hetilap [Medical Journal],* Volume CIV. (1963) 1017-1023. p.



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This is also shown in H. Noldin's book entitled *De praeceptis Dei et ecclesiae.* According to him a chained prisoner in a burning prison has the right to cut off his hand or have someone else cut it off in order to save his life.[54] The part is submitted to the interest of the whole. (This principle was called "totality principium" by Pope Pius XII in his speech delivered on 13th September 1952.[55]) Arthurus Vermeersch was the first who, though carefully and with lots of question marks, tried to take this principle as the basis of justifying the possibility of organ transplantations besides skin transplantation and blood transfusion by referring to the unity of mankind.[56] Pope Pius XI in his encyclical "Casti connubii' takes a stand against mutilation, although in a different context.[57] Catholic theologian, B. Cunningham discussed the moral aspects of organ transplantation in a separate publication in 1944. Commenting on traditional views he assumed that they were not as contradictory to transplantation as we might think for the first sight. He referred to the spiritual organism that connects human beings to Jesus Christ and each other.[58] Cunningham's opinion created a stir. Ruff says the following about his book published in Washington: "Love wants to give more than the absolutely necessary space for living and development possibilities, wants to help the realisation of the other's personality. This is based on the »spiritual organism which connects people with Jesus Christ and each other in a more intimate and effective way than the union that exists between humans because of their similarity in species.« According to Cunningham this unity created by Christ embodies not only spiritual, but also corporal unity, which as an expression of love justifies not only transfusion but also organ transplantation. If direct mutilation is allowed provided it is performed for the well-being of the given person, it has to be allowed for the well-being of another person, as well. »Love thy neighbour as thyself« (Mt 22,39)."[59]

According to Ruff it was Cunningham who first tried to prove that the donation of an organ is morally permissible.[60] Similarly to Vermeersch, he was left pretty alone with this opinion. Pius XII took a seemingly similar standpoint in his speech in 1948, when he approved blood transfusion moreover he called Christ the "Great Blood Donor".[61] This, however, did not influence the public estimation of organ transplantation, because neither blood transfusion nor skin transplantation was considered a mutilation, as these did not cause permanent damage to the integrity of the human body.

As I have mentioned in the medical part of this chapter's section on the history of transplantation, in 1953 in France L. Michon and his colleagues transplanted one kidney of a volunteering mother into his son, trying to save his life this way. L. Bender, Roman theologian expounded his views in a long publication, according to which the removal of organs is mutilation, which is not permissible even if the intention is to transplant it into another person.[62] The spiritual atmosphere after the Second Vatican Council, the more integrating view of today's morality made it possible that after careful reconsideration of the issue, it became possible that the love of the fellow-people, the evangelical norm could also have a role in the estimation of organ donation.

Until then, however, long years had to pass. Physicians themselves also sought a way out from the "overwhelming responsibility". One option was using organs from cadavers. We could see that this solution aroused a number of new problems: Is the person dead for sure, how can it be confirmed? These are brand new

[54]"De sui mutilatione… Sui ipsius *mutilatio* per se graviter illicita est, nisi ad ipsam vitam conservandam sir necessaria. Ratio *primi* est, quia homo sicut vitae, ita etiam membrorum suorum non est dominus, ut pro arbitrio de iis disponere possit. Ratio *secundi* est, quia corpori sui custos et conservator est, et ideo potest ad totum corpus servandum partem seu membrum abscindere: pars enim ordinatur ad totum, ideoque postponi debet bono totius. a. Licet ergo e.g. manum catens ligatum sibi abscindere ad effugiendum incendium. Et sicut ad vitae conservationem licita est sui mutilatio, ita ex eadem ratione licet in amputationem consentire. (...)" Cit.: Noldin, H.: De praeceptis Dei et ecclesiae. *Oeniponte,* 1921, Pustet, Ed. XIII. 328. p.

[55]Pope Pius XII.: Az orvosi kutatási és kezelési eljárások természetjogi határai. [The Moral Limits of Medical Research and Treatment]. Address given on 13 September 1952. *Acta Apostolicae Sedis,* 44 (1952) 779-789. p.

[56]"Unitati generis humani, qua unum quodammodo sumus cum proximo, fortasse etiam explicandum est quomodo possit quis honeste proprii corporis detrimentum directe referre ad proportionatum bonum corporale proximi, ut cum quis sinit ut e propria avulsa pelle vulnus alienum curetur, vel ut e proprio transfuso sanguine renovetur alterius sanguis unde alter vivere possit. Nonne quaedam ordinatio nostrorum membrorum ad proximi corpus admitti potest?"; Cit.: Vermeersch, A.: *Theologia moralis.* Brugis, 1928, Beyaert, 323. p.

[57]"Ceterum, quod ipsi privati homines in sui corporis membra dominatum alium non habeant quam qui ad eorum naturales fines pertineat, nec possint ea destruere aut mutilare aut alia via ad naturales functiones se ineptos reddere, nisi quando bono totius corporis aliter provideri nequeat, id christiana doctrina statuit atque ex ipso humanae rationes lumine omnino constat." Cit.: Pius, XI.: Casti connubii. *Acta Apostolicae Sedis,* 22 (1930) 565. p.

[58]Cunningham, B. J.: *The Morality of Organic Transplantation.* Washington, 1944, Cath. Univ. of America Press. / Studies in Sacred Theol. n. 86./

[59]Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 110. p.

[60]Ibid. 102. p.

[61]Pope Pius XII.: *A véradás nemes cselekedete. [The Noble Deed of Giving Blood].* Address given on 9 September 1948.; Cit.: Utz, A. F. – Groner, J. F. (Hrsg.): *Aufbau und Entfaltung des gesellschaftlichen Lebens. Soziale Summe Pius XII.* Fribourg (Schweiz), 1954, Paulus, Band. I. 773-777. p.

[62]Bender, L.: Organorum humanorum transplantatio. Angelicum, 31 (1954) 139¦160. p. "Conclusio. Sic demonstratum esse videtur abscissionem quae est mutilatio licite fieri nunquam posse, ne ad transplantandum quidem membrum in corpus alius personae. Hoc est semper illicitum. Insuper in speciali probavimus transplantationem renis unius comprehendi sub huiusmodi illicita mutilatione et proinde esse intrinsece et semper illicitam."



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problems, testing the Church's adoptability. The idea of xenotransplantation from animals also emerged. Here it has to be mentioned that in 1956 Pius XII disapproved of sexual glands of animals being transplanted into humans.[63] In 1966 F. Largiadèr collected records of altogether 19 kidney-xenotransplantations from relevant literature. Kidneys of baboons and chimpanzees worked well in the beginning, a patient had lived for eight and a half months with a working transplant, while the others lived for a time between a few hours and 63 days.[64] Lately (1981) C. Barnard and his colleagues have been experimenting with the transplantation of babbon and chimpanzee hearts.

The most recent moral theological declarations are in line with the opinions concerning medical ethics in the most important questions. The problems and concerns are the same. Pope Paul VI congratulated on the outstanding success of Professor Christian N. Barnard, the first surgeon to conduct heart transplantation.

The development of medical sciences offers more and more possibilities for curing different diseases and for defeating painful and disabling conditions. Using them is generally very beneficial and ethically acceptable. The method inviting the highest amount of ethical concerns is organ transplantation.

# 8. Organ transplantation as a moral problem

*I had no kidney and you gave me a kidney!*

One of the most recent greatly significant achievements of medicine is the possibility to transplant organs from other people (and nowadays even from animals) and these function in the "new host" for a long time. Anyone who has been to an artificial kidney department knows what it means for the patients who are treated here to be constantly waiting for something. Their quality of life takes an immense leap, and their life expectancy also increases significantly. At what price though? Nowadays it is much less common, but it still happens from time to time that close relatives tend to give one of their kidneys to the patient suffering from chronic renal insufficiency. Long years ago at the time of the first transplantation from a living donor there was a serious dispute if someone should be allowed to give away one of their organs, and whether they commit sinful self-mutilation by this.

The ethical estimation of mutilation is an important question. In Germany 300,000 people were sterilised between 1933 and 1945 because of hereditary diseases in order to protect the purity of the German "race".[65] Pope Pius XI called attention to this danger in his encyclical "Casti connubii". He describes that there are some who, based on eugenic indications, demand legal measures to authorize physicians to deprive such people of their fertility against their will. He emphasises that the state has no direct power over the bodies of the citizens. Without a crime committed or a reason calling for grave punishment the state cannot attack or harm anyone's physical health merely for race improvement or other similar reasons without a crime having been committed or another reason calling for corporal punishment. *In this context* he proceeds as follows: „Furthermore, Christian doctrine establishes, and the light of human reason makes it most clear, that private individuals have no other power over the members of their bodies than that which pertains to their natural ends; and they are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, except when no other provision can be made for the good of the whole body."[66] The opinion shown in this communication is a unanimously accepted view within the Church since St Thomas Aquinas's teaching written about mutilation. The same teaching was also used as a starting point for negotiating the ethical fundaments of organ transplantation.

St Thomas considers the removal, the cutting off of a body part, or mutilation acceptable only in two cases. The public executive power can mutilate someone, the same way as it can take the life of someone for committing a major crime. A private person can only do this, if the removal of the body part is beneficial for the *whole body* – for example it has to be cut off because of a purulent inflammation. In any other cases mutilation is strictly forbidden (omnio illicitum).[67]

In his speech delivered on 13th September 1952 Pope Pius XII proclaimed that the second part of the above reasoning, allowing the removal of a body part for the benefit of the whole body results from the principle, that

[63]Pope Pius XII.: A szaruhártya-átültetés jogi és erkölcsi kérdései. [Legal and Moral Questions on Corneal Transplantation] Address given on 14 May 1956. *Acta Apostolicae Sedis,* 48 (1956) 459-468. p.
[64] Largiadèr, F. ( Hrsg.): *Organ-Transplantation.* Stuttgart, 1966, G. Thieme, 190. p.
[65]Elsässer, A.: Organspesde - selbstverstandliche Christenpflicht? *Theologische praktische Quartalschrift,* Jg. 128 (1980) Heft 3. 234. p.
[66]Pius, XI.: "Casti connubii" kezdetű enciklikája. A keresztény házasságról. Róma, 1930. In *Amit Isten egybekötött. Pápai megnyilvánulások a katolikus házasságról.* Budapest, 1986, Szent István Társulat, 50-52. p.
[67]St Thomas Aquinas: *Summa theologiae.* Taurini–Romae, 1952, Marietti, 2.II. 65 q.1a. The original text see above.


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a part can be sacrificed for the benefit of the whole, if its existence is in danger. He called this the principle of totality (principe de totalité). Mutilation is prohibited in any other case, because, as he pointed out, humans are not absolute masters, but only beneficiaries of their own bodies and souls. They are only allowed to use body parts for the purpose laid down by nature, bound to the immanent teleological approach of ethics.[68]

In 1944 B. Cunningham already considered real organ transplantation justifiable. Further developing Vermeersch's principle, he thinks of mankind as a spiritual organism. According to his views in this unity created by Christ there is not only a spiritual but also a physical interrelatedness. This makes not only blood transfusion but also organ transplantation permissible.[69]

Vermeersch and Cunningham however – as I have already mentioned in the section devoted to the history of transplantation – stood rather alone with their views. The general fear was that if the principle of totality is extended to the whole mankind, it could lead to dangerous generalisations and eventually even the mandatory eugenic sterilisation can become justifiable if performed the interest of the community. This makes it understandable that although many people *felt* that the above mentioned self-sacrifice of the mother who had given one of her own kidneys to her son is a positive example, the "official" view was the definitive denying standpoint represented by L. Bender, theologian from Rome. Shortly after the publication of the case, still in 1954 he dealt with organ transplantation in detail, primarily with one (and almost the only) moral problem at that time: is it permissible for one person to give their healthy organ to another one? In his argumentation he refers to and the continuous tradition. He proves what he considers to be the only right concept with strict logic and by excluding all counterarguments. Organ transplantation is the combination of two different actions: an organ is removed from somebody and then transplanted into another person. Removing an organ is the "means" of implanting an organ, there is no organ implantation without it, and taking out an organ alone has no purpose (except for the case when it is removed because of an illness, but that is a totally different aspect). Implanting an organ arises no moral difficulties. Removing an organ is not problematic either if it comes from a deceased person or an animal. It is a completely different situation if a healthy person's organ is taken out because that person is mutilated this way. Nobody should use their organs for anything else than what is laid down in nature. Cutting off or removing a healthy organ of a person is contradictory to its natural purpose, therefore it is unnatural. If something is unnatural, like lying, for example, which is against the purpose of talking, it is bad in itself (intrinsece malus). An evil end cannot be justified by good means and likewise, a good end cannot justify evil means. Apart from the two exceptions of St Thomas mentioned above (punishment, for which the executive power is authorized, and maintaining the integrity of the body), mutilation is "omnino illicitum". This same phrase is used by Thomas for the murder of an innocent person, so he considers it a bad deed in itself. "Those who think the teaching of the old should not be taken into consideration because they did not know surgical interventions like transplantation or blood transfusion, are wrong. The action is called mutilation and it was comprehended by the old ones very well. The ancient sentiment about killing the innocent should be taken into account too, even if the person is electrocuted."[70] Blood transfusion was widely accepted at the time of Bender's publication. He writes that this cannot be seen as mutilation because the drained blood will be complemented by the body. A slight loss of blood does not influence the body more than hard work or fasting. He does not think that the statement according to which humans are not master of their body, only beneficiaries would be of conclusive force, but believing that unnaturalness is proved, he draws the conclusion that organ transplantation from living people is morally impermissible.[71]

I discussed the matter in detail in my doctoral thesis. Among others I referred to father M. Kolbe who did not only give one of his kidneys, but his whole life to a fellow prisoner who had a family. Christ's crucifixion could also be cited as an example.

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[68]"En ce qui concerne le patient, il n'est pas maître absolu de lui-même, de son corps, de son esprit. Il ne peut donc disposer librement de lui-même comme il lui plaît. Le motiv même, pour lequel il agit, n'est à lui seul, ni suffisant, ni déterminant. Le patient est lié à la téléologie immanente fixée par la nature. Il possède le droit *d'usage*, limité par la finalité naturelle, des facultés et des forces de sa nature humaine. Parce qu'il est usufruitier et non propriétaire, il n'a pas un pouvoir illimité de poser des actes de destruction ou de mutilation de caractère anatomique ou fonctionnel. Mais, en vertu du *principe de totalité,* de son droit d'utiliser les services de l'organisme comme un tout, il peut disposer des parties individuelles pour les détruire ou les mutiler, lorsque et dans la mesure où c'est nécessaire pour le bien de l'être dans son ensemble, pour assurer son existence, ou pour éviter, et naturellement pour préparer les dommages graves et durable, qui ne pourraient être ni écartés ni réparés" Cit.: Pius, XII.: Az orvosi kutatási és kezelési eljárások természetjogi határai. [The Moral Limits of Medical Research and Treatment]. Address given on 13 September 1952 t o the First International Congress on the Histopathology of the Nervous System. *Acta Apostolicae Sedis,* 44 (1952) 782. p.

[69] Cunningham, B. J.: *The Morality of Organic Transplantation.* Washington, 1944, Cath. Univ. of America Press. /Studies in Sacred Theol. n. 86./ Cit.: Ruff, W.: *Organverpflanzung. Ethische Probleme aus katholischer Sicht.* München, 1971, W. Goldmann, 110. p.

[70]Bender, L.: Organorum humanorum transplantatio. *Angelicum,* 31 (1954) 143. p.

[71]Ibid. 142. p. : "Ut tota operatio integra sit licita, praeprimis requiritur ut actus, qui est medium, non sit actus intrinsece malus. Insuper requiritur ut finis sit bonus."



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Organ transplantation from deceased people has two major ethical problems. One of them is: along which criterion may someone be declared dead to be able to remove an organ. I have discussed it in detail. The other important ethical issue is: is a prior consent necessary in order to remove any organ after a person's death? Those who take human rights as guidelines will argue that some kind of consent is needed, at least in the form of implicit behaviour. Those who form their opinion based on experiences about the problems of suffering patients tend to say that there is no need for permission since no consent is requested for taking out organs at the autopsy for further examination. Since the fate of the organs is eventually to vanish anyway.

Some fear that brutality may appear when transplanting organs of animals. This has not yet been proved. Thus, it seems that it is not really a question of ethics but rather that of immunology: does the body reject the alien animal material or not.

# 9. Basic principles

Organ transplantation revived interest in medical issues to a great extent. However, the related ethical problems, at least at first glance, seem very farfetched for people who show only a general interest in the matter. We must not forget, however, that the possibility of organ transplantation raises many theoretical questions that might have direct practical consequences in other fields too. At this point I shall only deal with moral issues of general significance after giving a rather brief professional introduction to the topic.

The first heart transplantation made tempers flare. By that time organ transplantation had already had a significant history. Kidney transplantation had become very common. Skin and cornea transplantation and even the blood transfusion may also be regarded as organ transplantation.

In the case of transplanting organs from living persons, the donor often takes a high risk therefore it is important that they should offer their organs voluntarily. Real organ transplantation can only take place with paired organs. The sacrifice should be highly appreciated.

Taking out an organ from a corpse raises the following question: when does a person die? When do we "consider" someone dead? Who decides? The other question is: Whose consent is needed to remove the organs of a deceased person?

How long is life?

I have already mentioned in the introduction that in fact the physician does not verify death, but declares that the patient has got into a condition that we call death.

When do we "consider" someone dead? Whose opinion should decide? Common consensus? Among whom? Gábor Petri, professor of surgery highlights the difficulties and the probable way out as follows: "... it is about the medical and legal revaluation of the concept of death and this contradicts our deep-rooted traditions: both scientific and moral traditions. There is no absolute agreement so far among the physicians, lawyers, or the representatives of various religions. Under present circumstances there is no other solution than finding a compromise: a corporal agreement which satisfies public opinion" (1970).[72] Today, when we can maintain heart functions and respiration artificially, in problematic cases it is always the declaration of brain death that indicates the patient's death. Balázs Kenyeres, professor of forensic medicine took a stand in favour of this assumption already in 1909,[73] but at that time this could not be determined definitively and on time. (The medical criteria of brain death were summarized by the Declaration of Sydney in 1968.)

Death occurs only when the brain has ceased functioning irreversibly. It must be mentioned here also that nowadays some people tend to take this new definition as a decisive argument when defining the beginning of life too: if there is no functioning brain, we cannot talk about human, so the foetus can only be considered human when the development of brain fundaments has started. Naturally, there are many of us who find that this notion could easily be refuted. The overall functioning of an adult body is maintained by the brain, so the deceasing of this organ means the death of the "whole person". The development of the foetus must be controlled by something until the brain develops fully which is responsible for the integrity of the organism. If we want to declare the death of an embryo before the development of the brain starts, we have to find some other criterion! If we resist on the significance of the brain, we could also say that the brain of the embryo will

[72]Petri, Gábor: Előszó. [Foreword]. In Nizsalovszky, Endre: *A szerv- és szövetátültetések joga. [The Law of Transplantings Organs and Tissues].* Budapest, 1970, Közgazdasági és Jogi Könyvkiadó, 7-12. p.
[73]Kenyeres, Balázs: *Törvényszéki Orvostan. [Forensic Medicine].* S. l., 1909, M. Orvosi Könyvkiadó Társ.


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develop if we do not kill it, while the final death of the brain cannot be helped. In the latter case the given person has entered Kharon's boat, but if we kill the foetus, we toss it there!

The possibility of transplantation drew attention to the moral significance of the precise determination of the time of death. If an organ is removed too early, a person might be killed with it. If they wait too long, the removed organ cannot be implanted effectively, moreover the implantation might seriously damage the recipient.

# 10. Consent to the removal of an organ from a corpse

According to the legislation of several countries an organ can be removed from a corpse only if the person expressively consented to it. Thus, it is the personal right of everyone to decide about the fate of their organs. However, there will be few people who have such a declaration of consent in their pockets. (Among the reasons of the prohibiting regulations it certainly plays a role that the law-makers try to hinder the possibility of abuses.)

When judging the question several experts in the field of ethics assume that, whatever happens, the body will moulder and rot anyway. If necessary, an obligatory autopsy can be ordained. In such cases some organs may even be removed as corpus delicti. No consent is needed for that and there is no possibility to protest to it effectively. Could the saints protest to their tongues, hearts, legs, hands or bones being made subjects of adoration separately? We must not forget that we can save human lives and improve their living conditions with transplantation!

Implanting artificial organs raises no ethical problems, but that cannot always be carried out technically. Implanting animal organs is repulsive for many people. It is rarely advisable medically either.

The risk of a change in the recipient's personality also arises, mostly in sci-fi novels. There is no such experience yet. Brain transplantation cannot yet be performed for technical reasons. The question in such cases might be how much of the personality is "inherited" from one person to another. We shall form an opinion about this subject matter if we have related practical experience.

# 11. Financial issues

Organ transplantations are extremely expensive. This is especially true for heart transplantations. It cannot be denied, however, that a kidney transplantation is much cheaper than a permanent haemodialysis and in if it proves to be successful the result is much better. There are several women with transplanted kidney who gave birth to a child. The problem is that there aren't enough transplantations in Hungary. Nevertheless the situation seems to have got better in the past years, first of all due to elaboration of the national allocation system of available organs.

The issue of financial allocation raises many questions. Who can get rare life saving treatments? Does choosing a certain person mean that we want to kill others? This is allocation, in other words the problem of distributing personal and financial goods.

# 12. Legal regulation

Organ transplantation demands prudent legal regulations. In Hungary it may be owed to the achievements of Endre Nizsalovszky, professor of law that an up-to-date regulation was adopted. Currently, Act CLIV of *1997* on Public Health is effective. Some of the latest regulations could be criticized, though. Prior consent of the deceased person is, for example, not required in Hungary to be able to remove an organ from a dead body, although many people fight for the introduction of obligatory consent recently. No doubt, there is a sound reason for the present practice: there aren't enough kidneys that could be used for transplantation.

However, anyone can protest in Hungary as well if they do not want their organs to be used for transplantation after their death.[74]

[74] 1997. évi CLIV. Törvény az egészségügyről. [ *Act CLIV of* 1997 *on Public Health].* 19. § (2) "In the framework of this act the patient is entitled to describe the interventions affecting his/her corpse in case he/she dies. According to the provisions of this act the patient may prohibit the removal of any organs or tissues from his/her corpse for transplantation or for the purpose of any other use, research or education."



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As far as the issue of living donors is concerned, the legal regulations are really careful. It is practically only relatives who can offer their organs to each other, although in exceptional cases the act on public health also makes the donation of organs possible for people who are who are not relatives, primarily if it happens voluntarily and free of financial advantages. Each and every case shall be judged individually.[75]

The only reason for including this rather short paragraph was to refer to the fact that the most essential ethical issues have legal implications as well and to shed light on a very important fact, i.e. that theoretical problems emerging at the beginning and at the end of life are similar. I also dealt with the topic in my previous book, I wrote my theological dissertation about this subject matter, so details and abundant literature can be found there.[76]

# 13. Heroism and Christian wisdom

Professor Antonellus Elsässer writes that it often came up as an argument in the debate of the draft legislation on transplantation in the Federal Republic of Germany that there would be no need for a difficult decision if the Christians would be ready to fulfil the self-evident obligation of altruistic love.[77] What is this obligation based on and how far does it go? The love for our fellow-people makes it permissible, it even encourages us to sacrifice our physical endowments, if necessary even our lives for our friends. Christ himself encourages us to do so. “Greater love has no one than this, that he lay down his life for his friends”[78] “The man who loves his life will lose it, while the man who hates his life in this world will keep it for eternal life”[79] According to Alonso Hamelin: “...the passages where Christ calls upon us to sacrifice physical limbs if needed to get to heaven[80] should not only be understood in a spiritual sense. Firstly they show the immense energy with which Christ tried to tear out the roots of the evil, but they also give certain rights to sacrifice part of the body for the benefit of our spirit. Christian tradition had always explained these texts in a figurative sense because it did not know about cases where the adequate deeds would have been needed.”[81]

In case of emergency even life may be sacrificed out of altruistic love, as father Kolbe did in Auschwitz. It is a general principle that the person, who could do the more, is also entitled for the less. Thus, it is not only permissible but a sign of heroic love, if a mother for example gives one of her kidneys to her child. For this deed Ziegler offers the phrase altruistic instead of the principle of humanitarian totality –in order to avoid false interpretations.[82] With this he intends to emphasize that it is not about the unjust expansion of the principle of totality. Knowing the abuses that were committed in the name of common benefit, Ziegler’s cautiousness is fully understandable.

Moral theologian Karl-Wilhelm Merks puts emphasise on the significance of personality, and on getting rid of individualistic egoism. However he also considers it important that “...the right of autonomy cannot be given up, therefore it is very important that the person concerned should give his/her consent to the procedure. To what extent should people be allowed to risk their own lives in pharmaceutical experiments or in trying new surgical methods, to what extent should they be allowed to agree to irreversible damages of their body when donating organs? In these cases it cannot be applied as an argument that they promote their own benefit, neither that an unavoidable exigency has emerged – which is a usual method of convincing people in the principle of totality. Legitimacy will become understandable from the point of view of the personality. The person decides who knows that he/she is in the network of duties and responsibilities towards other people... It is evident that the probability of the peril and that of results has to be taken into consideration.”[83] He also stresses that we do not dispose of our own lives. This latter statement might seem strange after mentioning the example of father Kolbe.

[75] 1997. évi CLIV. Törvény az egészségügyről. [ *Act CLIV of* 1997 *on Public Health].* 206. § (2–3).

[76] Gaizler, Gyula: *A szervátültetés erkölcsteológiai szempontjai. [Moral Theological Aspects of Orgna Transplantation].* Doctoral dissertation in theology and bibliography. Budapest, 1982, Hittudományi Akadémia; Gaizler, Gyula: *Felelős döntés vagy ítéletvégrehajtás? Orvosetika változó világunkban. Orvosoknak, betegeknek, mindnyájunknak. Gyepűjárás. [Responsible decision or enforcement of judgement? Medical ethics in our changing world. To physicians, patients, to all of us. Borderland journey].* Budapest, 1992, Szent István Társulat.

[77] Elsässer, A.: Organspesde - selbstverstandliche Christenpflicht? *Theol. prakt. Quartalschrift,* Jg. 128 (1980) Heft 3. 231. p.

[78] Jn 15,13

[79] Jn 12,25

[80] Mt 5, 29-30; Mk 9, 43-47

[81] Hamelin, A. M.: Das Prinzip vom Ganzen und seinen Teilen und die freie Verfügung des Menschen über sich selbst. *Concilium,* 2/5 (1966) 363. p.

[82] Ziegler, J. G. ( Hrsg.): *Organverpflanzung. Medizinische, rechtliche und ethische Probleme.* Düsseldorf, 1977, Patmos, 76. p.

[83] Merks, K. W.: Probleme der Selbstverfügung des Menschen. Überlegungen zu Fragen heutiger medizinischer Ethik. In Hertz, A. ( Hrsg.): *Moral.* Mainz, 1972, M. Grünewald, 129. p.



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Richard Egenter discusses the problems of organ transplantation in detail in the light of the biblical ethos. He poses the question whether Christ can unite Christians supernaturally with his will so tightly that they should do for their fellow people what is probably only permitted to be done for themselves based on the natural moral laws. This is indisputable. God is the master of all creatures. He can order Abraham to kill his son. So he can allow that someone sacrifices a part of his/her body for a friend. The problem is whether he actually permitted this. Christ did not explicitly give such an absolute power to people in the New Testament. Can we draw the conclusion from his statements that he approves of such sacrifices? "This is how we know what love is: Jesus Christ laid down his life for us. And we ought to lay down our lives for our brothers."[84] "My command is this: Love each other as I have loved you."[85] According to Egenter, however, one cannot draw conclusions on a minor thing from a major one: if I have to give my life, it is even more so if a part of my body is concerned. Christ did not have himself killed intentionally. He gave proof of his messianic mission, therefore his enemies killed him. It was a deed of twofold impacts. We cannot directly sacrifice one of our limbs either with reference to his deed – unless it is allowed anyway. It may only be concluded from the cited passage[86] that we can help people in life danger even if our own lives or limbs are at risk. In Egenter's opinion the direct sacrifice of life (what for example P. Kolbe did), cannot be deduced from Christ's sacrifice. Therefore Egenter seeks for another evidence to support his point: "...Jesus... loved his own... he loved them to the last."[87] This final love may even mean sacrificing one's life in certain cases. Apostle Paul writes the following: "For I could wish that I myself were cursed and cut off from Christ for the sake of my brothers, those of my own race"[88] Jesus preaches the command of love as a new command: "A new command I give you: Love one another. As I have loved you, so you must love one another."[89] Egenter cites Rudolf Schnackenburg who thinks this new command of love is based on faith. What does it mean in our relationship with Christ and our friends as alter egos? Apostle Paul explains this as follows: "And I no longer live, but Christ lives in me",[90] "...Christ is speaking through me",[91] "...because God has poured out his love into our hearts by the Holy Spirit, whom he has given us."[92] Where we meet our friends and fellow-people, we also meet Christ, as it can be seen in the depiction of the Last Judgement.[93]

Hence, if our life is so deeply interrelated in a supernatural relationship with Christ and our fellow-men, don't we have the right to suppose that Christ empowered us to sacrifice a part of our body to save a fellow just as we would do for ours?

Egenter continues as follows: Doesn't it lead to an unsustainable conclusion – for example that we also have to sacrifice our heart? Christ's grace pervades us but it does not automatically mean the extinguishment of our personality. As we cannot kill ourselves directly for Christ, we cannot do it for our fellow-people either. God disposes of our lives, He determines the hour.[94]

Antonellus Elsässer, professor of theology goes a step further. Isn't it possible to offer a vital organ with an adequate purpose? He thinks Egenter uses the traditional arguments of moral theology in this matter, according to which the death of the martyrs or sacrificing our life for others (for example the case of P. Kolbe) only means accepting death and not inducing it consciously, directly. "This is, however, pure sophistry for today's ears." We do not think today that God's sovereignty would decrease if we admit that humans have wider opportunities to decide over their own life – of course with final responsibility before God.[95] He cites Bruno Schüller, who dealt with the issue in detail. According to him the strict prohibition of suicide has two shortcomings. One is that it silently supposes: suicide is the same as disposing of one's own life arbitrarily, independently from God and his laws. It is obviously not permitted for a Christian person. Wasn't there any other possibility? The other shortcoming is that moral theologians were not consequent enough. Abraham could have sacrificed his son at Yahweh's command.[96] The circumstances of Saul's death are also known.[97] It could have been concluded from this that humans cannot dispose of their lives against God's will, and then, thinking further: humans can dispose of their lives if God authorises them to do so. It is beyond doubt that God only gives such an authorisation in

[84] Jn 3, 16
[85] Jn 15, 12
[86] Jn 3, 16
[87] Jn 13, 1
[88] Rom 9, 3
[89] Jn 13, 34
[90] Gal 2, 20
[91] 2 Cor 13, 3
[92] Rom 5, 5
[93] Mt 25, 35 et seqq.
[94] Egenter, R.: *Die Organtransplantation im Lichte der bioethischen Ethik* . Düsseldorf, 1964, Patmos, 146-151. p.
[95] "...das Axiom: »Gott ist der absolute Herr über Leben und Tod«, um dessentwillen nicht zuletzt die Unterscheidung von »direkt« und »indirekt« gemacht wie auch die Lehre von der doppelten Handlungswirkung entwickelt wurde, von uns jedenfalls nicht mehr so verstanden wird." Cit.: Elsässer, A.: Organspesde - selbstverstandliche Christenpflicht? *Theol. prakt. Quartalschrift,* Jg. 128 (1980) Heft 3. 237. p.
[96] Gen 22, 1-19
[97] 1 Sam 31, 4



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favour of a good purpose. Moral theologians, however, could only think of examples of suicide with selfish aims: to terminate an incurable disease as soon as possible, to stop suffering, to escape the threat of shame. They did not devote enough attention to the possibilities that people want to kill themselves because this is the only way they can save the life of another. The moral theological solution of these cases was created by the principles of direct and indirect killing, and that of double effect acting. According to Elsässer these traditional auxiliary constructions are no longer necessary today. In his opinion people's right to autonomy derived from God does not only refer to particular organs but to life as a whole as well. They themselves have to decide under what circumstances and for what purpose can suicide be justifiable. Naturally, these cases can only be very exceptional. "It seems that the fundamental possibility of the heroic deeds of Christian charity cannot be excluded.[98]

After discussing transplantation from living donors Elsässer briefly deals with the theological aspects of cadaver transplantation. The brain represents the integrating power of the whole adult body. If the brain deceases, the "whole" disintegrates. Sustaining circulation artificially is no longer aimed at keeping the donor alive but at the "vital conservation of certain organs of an unburied body".[99] The declaration of death by a physician is adequate from a theological point of view as well, because the latter means the disintegration of the unity of body-spirit-soul.

Thus, if organs are removed from a definitely dead body, the consent to this can indeed be taken as an evident Christian obligation. This is a special opportunity to help sick fellow-people after our death or even save their lives with our organs, which would otherwise perish uselessly.[100]

It results from Elsässer's standpoint that habitual imaginations or emotional aspects should not influence the otherwise right decision of Christian people. Jesuit professor Walter Kerber takes a similar stand on transplanting organs from cadavers. He suggested already in 1978 that Christians should offer this last good service voluntarily.[101]

We indeed have to assume that it is right that in cases where the general legal approach makes it difficult to accept that these organs can be removed after death if someone had not protested previously to it, at least Christians should serve as a good example. A declaration on the possibility of death might be a psychic burden, but not more than a last will including financial provisions. In Hungary there is currently no need for such a declaration to be able to transplant organs from a corpse.

The voluntarily sacrifice of Christians in various stages of transplantation may give the special surplus which results from the endeavour of complying with the evangelical norms.

[98]Elsässer, A.: Organspesde - selbstverstandliche Christenpflicht? *Theol. prakt. Quartalschrift,* Jg. 128 (1980) Heft 3. 235-238. p.
[99]Ibid. 242-243. p.
[100]Ibid. 243-244. p.
[101]Kerber, W.: Organverpflanzung und Moral. *Stimmen der Zeit,* Jg. 196. (1978) Heft 6. 361-362. p.


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# Chapter 12. The Medical Oath (Gyula Gaizler – Kálmán Nyéky)

Knowing the medical oath and its alterations can lead to the understanding of the underlying fundaments of bioethics. The Hippocratic tradition has been decisive in the medical practice for thousands of years, its ethical prestige holds strong even today. The aim of this chapter is to compare the Hippocratic oath to the present-day practice.

## 1. Social expectations and internal requirements of professional ethics

The medical oath, as so many other things in life, follow closely the external, social and the internal, professional ethical changes and requirements. It is be seen as natural that nowadays when the general crisis of values and their reevaluation has become as evident as breathing, the medical oath – as one of the most important deontological, statutory regulations – has got into the focus of attention for many. Its characteristic, well-established form is based on the traditions of two thousand years, including both conservative and progressive features. Its significance is enhanced by the fact that it has an impact on the inner consciencous decisions of physicians. Usually, the traditional character is emphasised in Hungary, but a more attentive observer soon realises the reflections of prevailing ideas in the characteristic traits.

The oath is the short summary of our medical ethical views. It may be regarded as natural that changes in our views enduced by technological developments are reflected in it. Thus, newer oath formulas, for example, leave out the ban on lithotomy, while include in some way or another the need for medical consultations.

Is there a need for something like a medical oath at all? Isn't it enough to act according to one's own conscience?! Let me quote a few sentences from the declaration adopted in Honolulu at the 6th Congress of the World Psychiatric Association in 1977: "Even though ethical behaviour is based on the individual psychiatrist's conscience and personal judgement, written guidelines are needed to clarify the profession 's ethical implications." I suppose that the people drawing up the declaration were aware of the fact that they wrote the above and compiled the declaration for independent adults. Gottfried Roth, who has dealth with the alterations of medical oaths in several publications writes the following on the significance of the oath in his publication entitled *Jus Jurandum*: "The oath lays down necessary guidelines in order to avoid that one has to reconsider all circumstances and possibilities again and again in contovertial situations, in order to give certainty to uncertain physicians and right standards to others."[1] These right standards seem relative to many people today, although old principles are still valid. These help us in finding our way and in making actual decisions.

First I intend to provide the text and outline of the Hippocratic oath, then comes the outline of the oath that I have compiled. I wish to use it to further expound on the topic. Therefore I first describe the general structure of the text of the oaths with regard to this.

## 2. The oath of the Hippocratic medical school

"I swear by Apollo the Physician and Asclepius and Hygieia and Panaceia and all the gods, and goddesses, making them my witnesses, that I will fulfill according to my ability and judgment this oath and this covenant:

To hold him who has taught me this art as equal to my parents and to live my life in partnership with him, and if he is in need of money to give him a share of mine,

and to regard his offspring as equal to my brothers in male lineage and to teach them this art – if they desire to learn it – without fee and covenant;

[1]Roth Gottfried : *Jus Jurandum - Sponsio Solemnis. Konstanz und Wandel der ärztlichen Eide und Gelöbnisse im 20. Jahrhundert.* (Including several oath texts.) Lecture sent to the congress "Bioetikai kérdések keresztény szemmel" [Bioethical issues from a Christian perspective]. 18 June 1993. Budapest. 2. p.



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to give a share of precepts and oral instruction and all the other learning to my sons and to the sons of him who has instructed me and to pupils who have signed the covenant and have taken the oath according to medical law, but to no one else.

I will apply dietic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.

I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect. Similarly I will not give to a woman an abortive remedy.

*In purity and holiness I will guard my life and my art.*

I will not use the knife, not even on sufferers from stone, but will withdraw in favor of such men as are engaged in this work.

Whatever houses I may visit, I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons, be they free or slaves.

What I may see or hear in the course of treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep myself holding such things shameful to be spoken about.

If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art, being honoured with fame among all men for all time to come; if I transgress it and swear falsely, may the opposite of all this be my lot."[2]

# 3. Outline of the Hippocratic oath

I. Invocation of the gods

II. Central part:

1.

   a. Respect for the Master

   b. Teaching the offsprings of the Master without a fee

   c. Teaching in general all those who have signed the oath

2. Therapy – obliges the physician to ban certain actions

   **It is forbidden to:**

   a. Treat someone with poison, even if the patient asks for it

   b. Induced abortion

   c. Sexual abuse of patients or their relatives

   d. Break medical confidentiality

III. Invocation of the gods

1. Blessing

2. Curse

# 4. Main provisions of the medical oath

*Praeambulum (may vary)*

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[2] Antalóczy, Zoltán: *Kardiológia. [Cardiology].* Budapest, 1983, Medicina, 23. p.



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- God (Omipotent, Eternal, Holy Trinity, Allah, Supreme Being)
- Gods
- Emperor, king
- Homeland
- Humanity
- State
- Social order
- University

*Permanent elements of medical ethics*

- General benevolence and helpfulness
  - Spiritual salvation
  - Financial arrangement
  - Baptism of a weak child
- Protection of human life
  - (Primum) Nil nocere
  - Salus aegroti suprema lex esto
  - Ban on abortion (unless legally allowed)
  - Ban on assistance in suicide
  - Ban on killing the patient (Euthanasia)
- Respect for the patient
  - Respect in terms of sexuality
  - Confidentiality even after the death of the patient (unless disclosure is legally required)
- Professional expectations
  - Respect for masters
  - Respect for colleagues
    - Call for consultations
    - Participation in consultations
  - Further education
  - Scientific development
- General moral behaviour
  - General ban on bribes (raised in the case of pharmacists as well)
  - Ban on issuing false certificates



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*Closing formula*

To whom/what: God, Honour

Sanctions

Let me first call attention to the fact that even the word "oath" is a matter of debate. It is being criticised from two sides. Those who do not believe in God disapprove of the word because irrespective of the fact whether there is reference to God or not, the word itself refers to God and thus it should be discarded. Instead they propose the use of the word "pledge." It might come as a surprise to some that there is a varying degree of opposition to the term even among conservative fundamentalist Christians. Especially members of small denominations have strong objections to the use of the word "oath" refering to the words of Jesus: *"Again, ye have heard that it hath been said by them of old time, Thou shalt not forswear thyself, but shalt perform unto the Lord thine oaths: But I say unto you, Swear not at all; neither by heaven; for it is God's throne: Nor by the earth; for it is his footstool: neither by Jerusalem; for it is the city of the great King. Neither shalt thou swear by thy head, because thou canst not make one hair white or black. But let your communication be, Yea, yea; Nay, nay: for whatsoever is more than these cometh of evil."*[3] Just recently I have heard of the difficulties of a Baptist, who was reluctant to take the oath of public servants with reference to the above. Medical oaths in Hungary generally use the term "I swear" although the oath of the University of Pécs uses the phrase "I pledge".

I wish to accomplish the impossible by comparing the various oath formulas: that is to make such an abstract topic interesting. The comparative study also aims to reveal to what extent the oaths used in various countries of the world nowadays resemble the Hippocratic original –how much they can resemble at all. We know that the majority of society expects adherence to the original form and also representatives of the medical professionals wish to abide by it. This is demonstrated, for example, by the oath of the University of Sheffield,[4] which calls attention to the Hippocratic text. Let me point out that from our point of view it is rather irrelevant whether the oath was actually written by Hippocrates or not. The text is of ancient origin and, as I have said, it serves as a basis of comparison.

It is beyond doubt that the medical ethical principles laid down in the oath were debated already at the time of its creation. What should a physician do if the quality of life seems unbearable for someone due to physical, mental or other reasons? (Plenty of examples can be cited for each of them: lasting or incurable illness, extensive limitations in movement – loss of honour, lovesickness – bankrupcy, etc.). Stoics emphasised the quality of life. In their view: "… the wise lives in harmony with nature, with other people and himself. If he cannot bear the burdens of external life, or cannot otherwise realise his moral commitments – see the problem of the captured spy – after due consideration of the circumstances, he may voluntarily leave this life."[5] Do we have the right to decide about our own life – or even about the lives of others? What role does (or can) a physician have in this? Hippocrates and his followers decided firmly against extinguishing foetal life as well as for rejecting assistance in suicide. Today, the reconsideration of the "sacredness of life" and the "qualitiy of life" are being debated again demanding among others "death with dignity", "a worthy death" and the "right to die".

After mentioning these essential questions, let us discuss the structure and conceptual context of various oath formulas based on the above outline.

Let mepoint out *as a general feature* that the various oaths formulas usually express current demands as well. The oath of medical officers of the Austro-Hungarian Monarchy, for example, proclaimed that it is important that physicians should not shrink back from the risk of infection, should be at the disposal of seriously injured patients immediately, and should not use arsenic products. (The ban on lithotomy was such a current issue at the time of Hippocrates.) The situation of the person taking the oath also influences the text. A medical officer, for example, is obliged to be available "on water and land …whereever his commands call him".[6]

*Introduction:* The medical oath, just like laws, usually begins with an introduction, a so-called preamble. The person swearing the oath invokes the help of some external power, who is at the same time also responsible for sanctions. That can be God, the way he is manifested in various religions (the Holy Trinity, Allah, etc.) or gods, as we can see in the original text. It may also be a constitutional form, a society or a social order (some consider these secular "gods").

[3]Mt 5,33-37.

[4]See in Gaizler-Nyéky: *Bioetika. [Bioethics].* Gondolat, 2003, 227. p.

[5]Nyíri, Tamás : *A filozófiai gondolkodás fejlődése. [The Development of Philosophical Thinking].* Budapest, 1977, Szent István Társulat, 114. p.

[6]See in Gaizler-Nyéky: *Bioetika [Bioethics]…*, 227. p.



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Then come the specific elements of the medical oath, which I called the "*permanent elements of medical ethics". General benevolence and helpfulness* are directed equally towards body and soul.

The *protection of life* is centered around the axes of "nil nocere" (non-malficence) and the positively formulated "salus aegroti suprema lex (esto)" (The well-being of the patient is the most important law). The protection of unborn children also belong here, as well as the ban on assisted suicide and the killing of the dying. *Respect for the patient* includes their respect in terms of sexuality and the requirement of confidentiality. The principle of informed consent could also be included in this category. *Professional expectations:* Respect for superiors, tutors, masters and their families is not a specialty of the medical profession, nevertheless its significance is undebatable. Equally important is the respect for colleagues and an open and progressive attitude towards sciences (further education). Under the heading *general moral behaviour* I have listed the ban on bribery and the issueing of false certificates. There is a section on this in the oath of medical officers, it is interesting to note that in their case even the collaboration with pharmacists was mentioned.

The order of listing these elements is also important in the individual oaths. It is a way of emphasising, weighing certain parts of the oath. It is also relevant whether something is stated as a positive suggestion or whether its opposite is forbidden! The latter has a much greater weigh.

Finally, there are the closing formulas which refer back to the preamble and include sanctions as well.

First I shall compare the Hippocratic oath with the Declaration of Geneva, then with the Sheffield affirmation. The first description shows the original order of the Declaration of Geneva, while the second follows the order of the Hippocratic oath. (The order is always important, it is usually a way of emphasising, weighing things.)

# 5. Comparison of the Hippocratic oath, the Declaration of Geneva and the Sheffield affirmation

The Declaration of Geneva[7] is basically the modern version of the Hippocratic oath. Let us have a look at the similarities and the differences.

Invocation and reference to the gods is left out of the preamble of the Declaration of Geneva, there is not even a Christian version included. The Hippocratic oath linked the adherence to the listed duties to this part. In the Declaration of Geneva the service includes not only sick people, but the entire humanity, and this leads to the permanent elements of medical ethics – thus it is related to general beneficence.

Respect for teachers is listed as the first among permanent elements of medical ethics in both texts. The Hippocratic version compares teachers to parents, while the Declaration of Geneva talks about "respect which is their due". The treatment of colleagues as brothers is referred to later in the Declaration of Geneva. Neither text includes reference to the primacy of the patient over colleagues or anyone else. At the general formulation of the protection of human life it is of utmost importance that the phrase "salus aegroti suprema lex (esto)" is expressly used in the Declaration of Geneva: "The health of my patient will be my first consideration." There is an essential similarity between the two texts in specifying the protection of life. The Hippocratic text uses a prohibitive formulation and takes a stand against abortion and assisted suicide. The Declaration of Geneva used to write talked about an "utmost respect for human life from the time of conception" until 1983. The "utmost respect" fro human life can by no means be understood in a sense including irreponsible experimentation or the extinguishing of life, the killing of the patient. Revised versions use the expression "from the beginning of human life" which leaves room for different interpretations.

Influenced by recently drafted laws, generally binding oath texts were created for individual groups, in which it is again definitely and explicitly forbidden for physicians to assist in any kind of homicide. Examples for that are the oath in Poland, the Wartburg oath and the Hungarian draft (see Annex).

The interpretation of the protection of life divides the society including that of physicians. Anti-life views have become louder in the world, but so have humanistic, life protecting endeavours as well. Pro-Life movements and various associations are established. Such an institution is, for example, the "World Federation of Doctors who Respect Human Life". Abortion and experimentation on embryoes aroused indignation all over the world.

[7] Genfi nyilatkozat [Declaration of Geneva] 1948, 1968. World Medical Association. In Gaizler, Gyula: *Felelős döntés vagy ítéletvégrehajtás? Orvosetika változó világunkban. Orvosoknak, betegeknek, mindnyájunknak. Gyepűjárás. [Responsible decision or enforcement of judgement? Medical ethics in our changing world. To physicians, patients, to all of us. Borderland journey].* Budapest, 1992, Szent István Társulat, 145. p.



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People demand that doctors should be faithful to the Hippocratic oath which is nowadays written on the banners. The ongoing debate over euthanasia will soon become increasingly fierce. It is not irrelevant what standpoint we take and what we intend to hand down. "Everyone is entitled to all the rights and freedoms set forth in this Declaration" – states the Universal Declaration of Human Rights (Article 2). How do people interpret this? How far can a common standpoint be established, where do we see only differences in opinion of smaller or larger groups?

"Even under threat, I will not use my medical knowledge contrary to the laws of humanity" – states the Declaration of Geneva.

A furher addition is the reference to "considerations of religion, nationality, race, party politics or social standing". The listed detailed description has recently become increasingly defined, which is a defence against the threatening influence of external circumstances. Already in the past century in the oath of the medical officers of the Austro-Hungarian Monarchy we can read about poor patients and a treatment irrespective of the social rank of the patient.

The obligation of confidentiality is among the most ancient demands. As I have mentioned, there is a canton is Switzerland where physicians are not required to report even wanted criminals to the police – the "outcasts of life" have to be provided with the possibility to turn to their physician with trust.

With or without sanctions, the medical oath has been guarding the profession of physicians for a very long time. It is important because it is a point of reference when doctors have to refuse something because it is contrary to the oath.

First and foremost, the Sheffield affirmation warns (reminds) us of the Hippocratic oath and then eluminates its most important elements. It refers to tradition, the positive and negative "main rules" such as "salus aegroti..." and "nil nocere". The behaviour earning the trust of fellow people is manifested among others in the expressly mentioned obligation of confidentiality.

There is an increasing interest in the texts of oaths again, as I have already mentioned. The Hungarian Medical Chamber has also proposed a revised version of the medical oath. Universties have the right to decide on the text of the oath that their students have to swear.

The aim of presenting this overview on the present situation is to enhance the scientific founding of the interest in the subject matter. It is crucially important to lay down the wishes of the physicians' community in the formulation of the oath[8] at least in some countries in order to avoid that certain groups feel themselves forced to pledge to another version of the text. The Wartburg oath[9] is an excellent example for the latter case. I sincerely hope that the texts of our medical oaths will be a worthy reflection of the sublime aims of the medical profession in our renewing society.

# 6. The oath of the Hippocratic medical school

"I swear by Apollo the Physician and Asclepius and Hygieia and Panaceia and all the gods, and goddesses, making them my witnesses, that I will fulfill according to my ability and judgment this oath and this covenant: To hold him who has taught me this art as equal to my parents and to live my life in partnership with him, and if he is in need of money to give him a share of mine, and to regard his offspring as equal to my brothers in male lineage and to teach them this art – if they desire to learn it – without fee and covenant; to give a share of precepts and oral instruction and all the other learning to my sons and to the sons of him who has instructed me and to pupils who have signed the covenant and have taken the oath according to medical law, but to no one else.

I will apply dietic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.

I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect.

Similarly I will not give to a woman an abortive remedy. In purity and holiness I will guard my life and my art.

[8]See in Gaizler-Nyéky: *Bioetika [Bioethics]...*, 230. p.
[9] Ibid.


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I will not use the knife, not even on sufferers from stone, but will withdraw in favor of such men as are engaged in this work.

Whatever houses I may visit, I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons, be they free or slaves.

What I may see or hear in the course of treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep myself holding such things shameful to be spoken about.

If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art, being honoured with fame among all men for all time to come; if I transgress it and swear falsely, may the opposite of all this be my lot."

(The Hungarian version is to be found in: Antalóczy, Zoltán: *Kardiológia. [Cardiology].* Budapest, 1983, Medicina, 23. p.)

# 7. Declaration of Geneva

*Adopted by the General Assembly of the World Medical Association at Geneva in 1948 and amended in Sydney 1968, Venice 1984 and Stockholm 1994.*

"At the time of being admitted as a member of the medical profession:

I solemnly pledge myself to consecrate my life to the service of humanity;

I will give to my teachers the respect and gratitude which is their due;

I will practice my profession with conscience and dignity; the health of my patient will be my first consideration;

I will maintain by all the means in my power, the honor and the noble traditions of the medical profession; my colleagues will be my brothers;

I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I will maintain the utmost respect for human life from the time of conception, even under threat, I will not use my medical knowledge contrary to the laws of humanity;

I make these promises solemnly, freely and upon my honor."

(The World Medical Association, Inc. [1994]: *Handbook of Declarations,* 17.A)

# 8. Sheffield University: Annual Degree Congregations

*Chancellor,*

I would like to remind students with a scientific degree and those aspiring for one of the Hippocratic oath that has been guiding our practice for more than two thousand years:

1. I shall remain loyal to the noble traditions and responsibility of the medical profession.

2. T*he health and well-being of my patient will be my first consideration*. I will do everything for the benefit of my patients in all times, remaining free of all intentional injustice, of all mischief.

3. I will endeavour to earn the trust of my patients during my work. I will remain free from all harmful and dishonest deeds.

4. Whatsoever I see or hear during my practice that ought to be kept secret, I will not divulge.

(Johnson, Alan G.: *Pathways in Medical Ethics*. London, 1990, Edward Arnold, 156. p.)



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# Chapter 13. Euthanasia (Gaizler Gyula – Nyéky Kálmán)

*“I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan.”* (Excerpt from the text of the Hippocratic Oath)

*“I will maintain the utmost respect for human life, from its very beginning* (originally: from the time of its conception)*, even under threat, I will not use my medical knowledge contrary to the laws of humanity.”* (Excerpt from the Declaration of Geneva)

*“The protection of life is a primarily urgent task for Christians and for everybody else with a good will, for every humanist in this era, when the »culture of death« is getting more and more widespread, when the legalisation of manslaughter – infanticide and euthanasia – is ever more extensive, although pacifists object to wars and humanists to capital punishment.”*[1]

## 1. The wish to escape to death is spreading

Nowadays it has become fashionable to write and speak about euthanasia. Though otherwise death “is not supposed” to be dealt with. There exist some taboo topics today as well! This is one of the major ones. I would like to give a helping hand to those who want to help themselves: how it can be done in the hope of success but I would also like to help them, if they themselves get into a critical situation, if their own death is approaching.

We all know that sooner or later we must die, but these days more and more people want to hurry the occurrence of death, not only that of others’ but their own death as well. We, physicians have the task to fight for life. Our possibilities today are much greater than they used to be just a few decades ago. Nevertheless, we know it the most directly that there comes a time when the patient, the dying patient has to be “released.” It is completely different from the case of an escape to death or helping one to do so. Nowadays the desire to annihilate and get annihilated is increasing. In the past it was self-evident that “it is better to be than not to be” (using the ancient words of the Holy Scripture: “choose life, that thou mayest live, thou and thy seed”[2]) – it seems as if it had been questionable today. “East or west, nowhere is best”, people sing. People are getting more and more dissatisfied with the *quality* of their life!

In Hungary the number of those committing suicide is outstandingly high, and interest in euthanasia is also increasing. Obviously this is significantly promoted by newsmongers. By all means we must distinguish between “accompanying till death” and “helping to die”!

## 2. Getting into Charon’s boat: active and passive euthanasia

TThe word “euthanasia” can be misleading. Its original meaning is “good death.” In fact the act of helping people to die is defined with it. It is especially misleading if we talk about active and passive euthanasia as with the word “active” we actually describe the act of “helping people to die” (Sterbehilfe), with a cruder expression that of murdering the patient. Passive acquiescence is quite different from this, it can be by no means classified in the same way. It means accompanying till death (Sterbebegleitung). That is, when we let the patient die peacefully. For the physician this latter one means that agony should not be lengthened. However, it does not mean a forceful shortening of life. Of course, if we also call the latter one euthanasia, then the number of physicians “performing euthanasia” significantly increases, so do their number in the statistics. It is an awfully dangerous game, as it easily seems to prove that active (!) euthanasia is a widespread practice among doctors. The interest of physicians requires either to differentiate the phrases active and passive euthanasia or rather not to apply the phrase “passive euthanasia” at all – as the activity of the doctor in the above-mentioned context is not directed at the patient’s death, he/she does not want to achieve that, he/she just accepts the fact, which is a really great difference. The Ethical College of the Hungarian Medical Chamber also suggests avoiding the use

[1] Szabó, Ferenc: Az emberi élet védelme. Filozófiai és teológiai megfontolások. [The protection of human life. Philosophical and theological aspects]. *Távlatok,* (1991) Issue 4. 3-11. p.
[2] Deut 30,19c


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of the phrases active and passive euthanasia and in the future this differentiation might also be abolished from the Code of Ethics as well.[3]

Nowadays people often argue in favour of euthanasia by telling stories when physicians practically lengthened the patient's agony. In fact, the latter one is indeed unnecessary, moreover, in cases when an obvious decision can be made, it should even be banned. It is not euthanasia, if we do not do everything in the last days of the incurable patient's life to lengthen his or her suffering. Palliative terminal medicine applied in such cases means that we give up the treatment that proved to be unsuccessful, but we continue giving the patient the necessary amount of painkillers, we nourish him/her and also give him/her something to drink as well as mental and physical care – and what might be even more important, we never let the patient alone. Our activity, however, does not aim at bringing forward the time of death occurring as a natural consequence of the disease.

Thus, euthanasia is the kind of intervention when somebody intentionally causes the patient's death and pushes him/her into Charon's boat. "I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan."– I have already quoted the Hippocratic Oath. Everything possible should be done to decrease a patient's suffering. When he/she wishes to die, it actually means getting rid of suffering. Nevertheless, it is not all the same if I give 3 grams or 0,03 milligrams of morphine to ease the pain!

Let us take a look at the problem of the so-called active euthanasia: who carries out the "intentional ending of life"? To whose request does it happen? And how can it be proved subsequently that the patient in fact asked for it?

In the Netherlands there have been separate committees set up to make decisions in such cases. However, it is quite important for us to know that until recently the laws banned abortion even there (but hardly anybody has taken this law seriously!), so it was not permitted, but it was not punished either under certain circumstances. The situation was rather similar to that of the Hungarian abortion-law. The similarity is also manifested in the fact that this difference (considered subtle by some of the people) is not noticed by the majority – it is especially true for the people interested. They thought both of them to be legally permitted and the opinion spread that what is allowed by law is also allowed on a moral basis. The Dutch law on euthanasia is the paradox consequence of all this. Before its adoption in the Netherlands euthanasia was only legalized in Australia in the Northern Territory in 1995, but there eventually the Australian Supreme Court found the law anti-constitutional and annihilated it.

The sad example of the Netherlands brings up the following question: can lawyers exempt us by a law or decree from listening to the voice of our conscience if somebody's life is at stake? Can we kill by an order? Who can command us to do so? Afterwards can we say: "I have done so as I was ordered to"?

The following question arises: Is the profession of physicians' and that of executioners' still different? Which one is more objectionable? Does an executioner kill sinners in the prime of life, while physicians murder innocent people either at the beginning or at the end of life or even in between? One of them becomes unemployed if capital punishment is abolished, the other one is and will be highly occupied with exterminating lives at the beginning and at the end of life as I have already mentioned it when discussing the topic of abortion. Nevertheless, they want to extend their work to eliminating the elderly and perhaps again the mentally retarded and all the groups of people who make no profit for the society. There are people who still remember when this latter one was the physicians' task! Did they do it because they were commanded to do so? Are they doing it again for the same reason? Again I repeat the question already asked: are we going to be executioners?[4] Are we still humanists at least?

It is my firm belief that direct, active euthanasia should not be permitted!

Passive acquiescence is a completely different matter, as I have already mentioned, it would in fact be wrong to apply the phrase "passive euthanasia" for it, as the death of the patient in this case is intentional. The combative supporters of active euthanasia often confuse the situations and the two courses of actions intentionally, although in the majority of cases they are easily distinguishable.

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[3]Makó, János: Indokolt-e az aktív és a passzív eutanázia megkülönböztetése? [Is the distinction between active and passive euthanasia justified]. *Magyar Bioetikai Szemle,* Volume VII. (2001) Issue 4. 32. p.

[4]Petrányi, Gyula: Az orvos mint bíró és ítéletvégrehajtó. Meditáció a medicatio és jog határán a suicidiumról, resuscitatióról, műszervekkel és intensiv therapiával fenntartott életről, transplantatióról, emberen végzett kísérletezésről. [The physician as judge and executioner. Meditation on suicidum, resuscitation, a life maintained by artificial organs and intensive therapy, transplantation, experiments on humans at the borderline between medication and law]. *Orvosképzés,* Volume XLV. (1970) 163-173. p.



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It is extremely important to know: in developed countries with an outstandingly well-functioning health care system there might be totally different reasons for the fact that patients want to die on their own account than in less developed countries. Where the main point of view in the treatment of the patients is to prolong their lives with at least a few hours or days at all costs, there fear takes control even over healthy people, or at least they become reserved. The prevailing majority of people do not wish to be kept alive with artificial equipment unnecessarily for a few hours or days. From this desire another desire emerged – also approved by Pope Pius XII – to die with human nobility. This question is going to be dealt with in greater detail in the section about overtreatment. In less developed countries people want to die because they are afraid of suffering, defencelessness and loneliness. So in the former case it is *exaggerated treatment*, the overdone helpfulness of health care, which causes the patient to want to get rid of it, while in the second case *the insufficient functioning of health care* is the reason for the patients' wish to die. Countries on a similar level of development as Hungary have just started to catch up with the higher developed countries in the overtreatment of the patients. Protests against overtreatment are just as justified as the despair on account of insufficient treatment.

From a legal point of view things laid down in the Code of Ethics of the Hungarian Medical Chamber (HMC) are quite significant, as these, beyond their professional importance, are legally binding for the members of the HMC, i.e. for every practicing physician.

Euthanasia is a physician's intentional behaviour acted out in connection with his/her profession, which is aimed at an incurable patient's death. In case of active euthanasia this behaviour is active while in case of passive euthanasia it is realised with negligence. A doctor performing euthanasia precedes the natural time of death and makes it happen earlier. A physician has sworn an oath to cure patients and also to ease their pain and not to end a patient's life. This is irreconcilable both with the medical profession and with medical ethics.

The Ethical College of the Hungarian Medical Chamber rejects all types of euthanasia, at the same time it agrees with the suggestion of the Committee on Science and Research Ethics of the Medical Scientific Council which says that it is advisable to introduce the concept of *terminal palliative medicine*, which is not identical with passive euthanasia. Terminal palliative medicine is a special field of medical activity. Its objective is to reduce the physical and mental suffering of a patient who – according to the present state of science – is incurable. It is the physician's right to choose the appropriate treatment after careful consideration and to omit the one which proved to be unsuccessful, with special attention to the following statements, so it is not an unlawful neglect but a decision within the competence of cure. This responsible ethical and professional decision inherent in treating people cannot have disadvantageous legal consequences for the physician. When informing the patient and his/her relatives about terminal medicine, points 49-53 of the Code of Ethics of the Hungarian Medical Chamber are to be followed under the heading "Euthanasia and the health care of patients in a terminal state." Let me remark here that it is in line with the Declaration of Madrid of the World Medical Association (WMA) on euthanasia and with its Declaration of Venice on terminal illnesses.

Thus, we can only call the extermination of life euthanasia if it is performed by a physician – in other cases it has to be called a murder or manslaughter!

What makes it especially topical apart from the situation in the Netherlands, is that in Great Britain the House of Lords requested the Christian Medical Association to expound its standpoint about this issue. In Hungary there might be a similar official request in the near future. Therefore it is essentially important for Hungarian physicians, including Christian ones, to be as well-informed as possible, as they will certainly be asked a lot of questions. "... be ready always to give an answer to every man that asketh you a reason of the hope that is in."[5] The way of discussing medical ethical or bioethical issues, the arguments brought up for or against a certain view significantly depend on the author's philosophy of life, as I have already called attention to this many times. It gets manifested in our approach which changes according to our view of life and is nowadays in the centre of attention: when does life begin and when does it end? The continuous change in our views and our uncertainty is reflected by the following wording: from when do we "consider" the conceived ovum a human being and at the end of life comes the other question: when do we "consider" a human being dead. In the past we used to "know" the answer! The problems arousing in connection with the genesis of life are, apart from the question of abortion, tightly linked with artificial fertilisation, with experiments on embryos, and our conviction about euthanasia is also influenced by our views about the end of life, but also, for example, by our positive or negative attitude concerning organ transplantation.

Let us see what arguments are usually brought up in favour of euthanasia. (By the word euthanasia we generally mean the "shortening of life" by physicians in an old age, although abortion and especially the extinguishment

[5] 1 Pet 3,15



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of an already born child’s life are also carried out along the same principles. Those who are either for or against abortion usually profess the same view at both ends of life. These cases are not completely identical, as at the beginning of life there is a surplus, i.e. there is a whole life for the human being ahead, so we cannot say that we “let death take its natural course.”)

When death is approaching everybody’s most ardent wish is to avoid suffering. Death cannot be avoided but “we should die with dignity”, everybody at the time when he/she can still behave like a human being, does not need anybody’s assistance, is not at anybody’s mercy, is not defenceless and does not feel superfluous. It is quite understandable that everyone intends to avoid physical and mental suffering and humiliation. It is also connected to the matter that an accident or a disease can seriously influence the course of our further life and we can be forced to live on a lower standard of living. Do we have to accept it? Numerous articles, plays, theatre performances, lectures and hearing bitter examples prompt us to make an anti-life decision!

First let us take a look at the question of the deteriorating quality of life. It is undeniable that since life can be sustained with a heart-lung machine, it has become uncertain and relative how long *we should* and how long *we are allowed to* prolong life? Should we do it until the last breath as we have done so far? As the Hippocratic Oath obliged us to do? Overtreatment is getting widespread. Do we need to, are we allowed to prolong agony? There is even a Christian declaration on the topic. On 24th November 1957 Pope Pius XII emphasised in his address to anaesthesiologists managing intensive therapy as well that it is a human right given by God to die in dignity worthy of a human being. With the usual wording of that time he said the following: “We are not obliged to prolong our lives by special equipment.” Of course now, after 40 years, we call different things ‘ordinary’ and ‘special’. It is also a problem to define when agony starts, but the basic concept may be considered valid even today, even if this reference gives way to much abuse. There is a view according to which all the equipments that have been used for 40 years may be considered ordinary, thus appropriate.

We also have to take it into consideration that judging one’s quality of life is an utmost delicate matter. We all know that in the National Socialist Germany the patients of psychiatric asylums were granted a “merciful death.” The slogan with which thousands of people were exterminated was „Lebenunswertes Leben”, „life not worth living“. They only meant a superfluous burden for the society, they proclaimed.

The physicians who were not willing to do so, who considered this a murder, hanged the text of the Hippocratic Oath in the wall in their waiting room. (I have already distributed texts like this to my students, just in case they needed them!)

However, the first mentioned difficulty, the rightful wish to suffer as little as possible is much more general. We have more and more efficacious medicines to ease physical pain. With proper qualification and adequate care there is hardly anybody who could not be helped.

Mental suffering can reach a point when the patient rather chooses death than tolerate humiliation, defencelessness and the feeling of uselessness any longer. Should we kill the patient then? Should we help him/her to commit suicide? What would happen if we decided to help someone who was being beaten up by shooting him?

There is someone who assumed it was an act motivated by the instinct of killing. Aladár Duray, a head physician specialised in otolaryngology writes in his article the following: “The excitement of shortening someone’s life is a latent negative instinct in many human souls. Just think of the stories of Cain and Abel, that of Ivan the Terrible and his son. Lots of people want to »democratise« manslaughter as well, which used to be the royal power of life and death. Now we wish to give this power to everyday people. That is what duels used to be good for in the past. Literature also laments a lot about lawful and unlawful murders. And aggressive souls want to create a law to prove it.... They would indulge in manslaughters »legally«. (...) Besides legalisation, the superlative of cowardice would be if the role of the executioner and the hangman could be forced on to physicians who have sworn an oath to delay death.... If there was a legal paragraph created on the issue, only amoral lawyers and doctors would be needed to start “mass euthanasia.” Dr Mengele also »practiced his profession« according to »laws« effective at the time. (...) Death needs to be experienced. It is the patient who experiences it and to some extent the physician and the nurse as well. It is not the lawyers, nor sociologists or psychologists and not the economists. If there was a paragraph for euthanasia, it would be another article of merchandise in the shop of law. (...) Shortening lives is a political and military task. Many people think it is also science and honour at the same time. (...) The physician’s mandate only applies for life.”

It is unquestionable that nurses and attendants are often in a very difficult situation as well. A lot of chronic patients are sent at least temporarily to hospital only because their relatives are exhausted. There are many who



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can never again get dismissed from hospital. This applies, for example for people who are kept alive by a medical ventilator. What can physicians and nurses do when patients are becoming more and more impatient and insistent? It is not only the patient lying helplessly for years who gets exhausted of this situation, but also the nurses. Then the idea of "mercy kill" definitely arises.

What about the Hippocratic Oath? The majority of people who are not physicians still think that we doctors swear an oath on that. They even refer to it quite often. "*I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan; and similarly I will not help a woman to cause an abortion. But I will preserve the purity of my life and my arts.*" It would be good if we could swear on it again! Let us not forget that those who have formulated the text of the oath had done so under similarly negative circumstances!

Who is responsible for achieving that everybody interested should get the adequate information? Churches have made a declaration about the questions concerning the beginning of life, but of course it has only got public within narrow bounds. The Pro-Life movements, the Ecumenical Christian Friendship Society, the Hungarian Society of Christian Physicians, the Association of Christian Intellectuals, the Society for the *Protection* of Unborn Children, the Pacem in Utero, the Gynaecologists for Life, etc. are also trying to reach as many people as possible.

What kind of knowledge do people have about the essential questions of life? Who inform us and how do they do it? We usually have to face total ignorance, sometimes even in the circles of believers. These are serious tasks, both for the responsible leaders of public life and for the leaders of the churches. One should not talk in an ambiguous way, neither on behalf of the "people of God" nor in the name of God, but we, Christians should not reconcile to the fact either that our voice cannot reach far enough. We have to influence the people who direct public opinion but if necessary even the leaders of the church. In the issue of abortion the Christian churches have made cautious, correct and brave declarations. We shall hope that in the case of euthanasia (which is getting more and more central) the situation will be similar. The College of Ethics of the Hungarian Medical Chamber has already taken a stand in the matter. I can only recommend to every church leader to take a careful look at it before formulating their declaration. The essence of the declaration is that any kind of active or passive euthanasia is forbidden. The latter one means that the patient's death is not enhanced but the necessary steps are not taken either to keep him/her alive. However, it is permissible that the medicine used for easing pain had the *side-effect* of shortening the patient's life. Here the patient's death is not intentional! Pain should always be relieved! (It is really important, as those arguing for euthanasia always refer to the unbearable pain the patient has to suffer from. By the way, today's medicine can ease different kinds of pains to an unbelievable extent.) Naturally, agony should by no means be prolonged, but that is a totally different kind of thing. As I have already mentioned: it is one thing to accompany a patient to Charon's boat and another thing to push him/her in! A dying person should indeed never be left alone. *Hospice movements* are meant to make the last phase of their life easier. The foundation of such movements is also underway along Christian principles. Today the existing Pro-Life movements almost exclusively deal with questions concerning the beginning of life, there is hardly any association or society dealing with the issues of old age and the end of life. It would be so sad if we only started to devote attention to these matters after a series of wrong decisions had been made.

We have to make wider and wider circles aware that we must differentiate between accompanying people till death and helping somebody to die! We have to know that life is sacred, something that we have got from God, for which we are responsible to Him. God created us in His image. The commandment "Thou shall not kill!" is one of the oldest ones, still, a lot of people break it at the beginning or end of life, in wars. We, physicians should be at the side of life, especially if we are Christians.

When accompanying someone till death the circumstances surrounding the dying person are really important. We can believe that our Creator also wants us to surround our beloved patients with love, particularly if their last goodbye is approaching. Physicians and friends should also deal with the family members. It is their task to encourage and to console if necessary.

The propaganda of euthanasia is spreading in Hungary as well. We also have to start fighting against it. We have to know and let others also know about its serious demoralising effects and the practical consequences. Soon a fear is going to be developed in patients: where euthanasia upon request has been started, it will not be long to perform euthanasia without anybody asking for it. In the Netherlands half of the cases of active euthanasia are performed without a request being made.

It is an important aid if Hospice institutions which give help in the last phase of life are developed. A lot of bioethical experts emphasise that it depends on the development of the Hospice movement if the number of the



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people in favour of euthanasia is going to decrease or not.[6] I consider the revision and proper rewording of the text of the medical oath a topical task. The Hippocratic medical school also insisted on its principles within harsh circumstances and against much opposition. We should not show ourselves weaker either. We have to call upon existing official state authorities to help us with this matter.

It is of utmost importance to provide for the appropriate legal protection of life, in this case I primarily mean that of human life. Life should be protected from the beginning to the end. Especially, if we talk about the protection of an *innocent human life.*

In clarifying the theoretical questions, the Committee on Science and Research Ethics of the Medical Scientific Council is of great help. It has dealt extensively with the ethical issues of euthanasia, it even passed a resolution on it, which was included in the Code of Ethics.

I cannot emphasize it hard enough that there is an urgent need to set up independent bioethical centres at least in university towns. The Faculty of Law at Pázmány Péter Christian University sets an outstanding example for us in this matter. We have to take every opportunity to make our views as widely known as possible. We, Christian people should consider this as one of our major tasks, a duty of conscience.

# 3. Overtreatment, euthanasia, suicide, hospice

Here again we talk about the difficult decisions of conscience. The topic is how to define the end of life and our necessary tasks when death approaches.

In the past only physicians' opinion was decisive in this matter, it was us who "knew" when a life started and also when somebody passed away. Let us take a closer and deeper look at the end of life, although, as I have already mentioned, it is not completely independent of our concept in connection with the beginning of life, either.

It used to be the criteria of death in the past that the patient ceased to breathe and his/her heart stopped. It is true that according to Balázs Kenyeres, a professor of forensic medicine, the death of the brain meant a person's death, but the time of that could not be exactly determined.[7] (Except for the case when the head was severed, although this did not automatically mean the immediate death of the brain either.)

The feeling of death approaching, the unbearable increase of pain brings up the thought in many people, even in Christians, whether the patient should be freed from suffering with medical intervention, with a lethal injection. But this question should be asked in a different way as well. What does the patient actually desire? Does he/she really want to die or only wants to be freed from agony? Every physician is obliged to relieve the patient's pain, even at the cost that the medicine given might shorten life as a side-effect. However, I am convinced that a doctor should not murder the patient and he or she is not allowed to assist in performing the patient's suicidal tendencies either! Naturally, a patient's agony should not be extended, but that is another matter. We, physicians, have to know and also make others understand that we are not "the lords of life"! According to every truly religious believer, the Lord of Life is God exclusively, of whom we also have to know and believe that he is a Father, he is benevolent and philanthropic! Physicians and patients alike are subjected to the judgement of God, but we can all know and believe that God is the God of Love. Of course all this has its consequences in legal regulations.

What is there to be done if a physician is not willing to accept the definition of the criteria of death as morally right? The other question is what should be done if he/she accepts the criteria but finds them not to be fulfilled yet? Who or what can help with our decisions?

We cannot simply be the executioners. I am convinced that it is better to be than not to be, it is better to live than not to live. We should therefore choose life. It is an ancient desire, an ancient decision, we can even read about it in the Bible: "Therefore choose life, that thou mayest live, thou and thy seed" (Deuteronomy 30,19c). This decision basically influences all medical practices as well. Physicians have to stand on the side of life. It is their professional duty to protect and save lives. This is the target of every doctor's life, this determines their profession, or at least it should be like this.

[6] Boné, Edouard – Malherbe, Jean-François*: Engendrés par la science; éthiques des manipulations de la procréation.* Paris, 1985, s. n.
[7] Kenyeres, Balázs: *Törvényszéki Orvostan.* [Forensic Medicine]. S. l., 1909, M. Orvosi Könyvkiadó Társ.



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So life should be protected. Of course we still do not know what kind of life?! Is every kind of life, even the one full of agony, more than no-life? Who can decide this? Everybody for themselves? (*Whose Life Is It Anyway?* – a play by Brian Clark.) Or should others make a decision? Should it be the society, which cannot tolerate the life of suffering people any longer? That of the mentally handicapped, that of the retarded who make no profit, only consume bread? Can we even exterminate those who belong to a less congenial group? The enemies? Or are there any generally obligatory principles? If yes, who are the ones to determine them? Do they derive from God or from mankind? How do they become binding? Is it based on general agreement? Do we recognise already existing laws or it is us who create them and make them accepted by others? (Does the end justify the means? Take a look at it in philosophical books: like deontology, teleology, etc.) Do we bear responsibility towards anything, anybody or Somebody?

I have asked numerous questions waiting to be answered, only to make it visible what is there at the bottom of the well! We wish to make decisions about people's life, their health and their fate and it turns out that not everything is so simple to it could be arranged with commands or a wave of the hand. When certain problems come up, I try to go down to their roots.

I would also like to present that final questions are not as easy to answer as it was so enthusiastically believed especially in the last century! The essence of our standpoint very often goes back to irrational causes and the depth of our unconscious.

I will make an effort to show wider connections, so not only horizontal, but also vertical 'background ropes' are going to be made visible. It is essentially important to know: whoever thinks he/she is neutral have also taken a stand in favour of something or somebody. Those who only deal with things that they can see also follow some kind of philosophy of life and adhere to a certain some kind of value judgement as only visible and experienced things represent a value for them.

Who or what can decide what is the right thing to do? Is it law? But we have created the laws as well! Who can tell if a law is right? What is of crucial importance is the following: is there a TRUTH or there are only truths? Is it our aim to achieve that the legislation should serve the TRUTH?

However, the knowledge of truth is not automatic. It is useful to have a certain amount of healthy humbleness, always ready to yield to facts, not only in natural sciences but also in ethics. Many times we also have to take it into account that we cannot give a unanimous opinion in certain matters. What is significant: in case of uncertainty we should have the right not to form an opinion about it!

Let me present a problem as an example. When does a human being die? As we know, it is the physician who verifies the occurrence of death. But on what basis does he/she do that? I would like to emphasize that the doctor does not actually state that somebody is dead, only the fact that the patient has got in a condition which we call death. In the past people considered the stopping of the heartbeat and that of breathing decisive. Nowadays, when both breathing and the beating of the heart can be maintained artificially, how can we state that a person with a cardio motor is dead?

In Karen Ann Quinlan's case this question also caused a problem to the US legislation. This young girl collapsed at the age of 21 and fell into coma and never again did she gain her consciousness back again. She was kept alive with a ventilator and intravenous nourishing for months. The parents who acknowledged the inefficiency of the treatment asked the physicians to stop it. But the hospital was not willing to do so. (Obviously they were afraid to get involved in a lawsuit on account of euthanasia.) Finally the New Jersey Supreme Court gave the permission for the machines to be turned off almost one year after the beginning of treatment. Quinlan continued breathing without the ventilator as well, but remained unconscious. In this case it was the judge who decided what the physician should do. The argument was that only he could decide about life and death. (It is really strange to bring this matter up now, when capital punishment has been abolished!) After all this a professor of surgery demanded that the court should stand a judge next to every operation table, so that he could decide during every operation when the patient should be let die and when it is worth fighting for his/her life. This is a real conflict between physicians and lawyers. By no means can lawyers retreat from this field completely, because in that case doctors would be the only lords of life and death.

This question brings up serious problems of principle. Debates about euthanasia have arisen again. New aspects have also become important. If we accept the same point of view as P. N. Levinson chief rabbi,[8] that people only die when every one of their cells ceases to function, then we have to wait longer before a person is buried than

[8]Cit.: Ziegler, J. G. (Hrsg.): *Organverpflanzung. Medizinische, rechtliche und ethische Probleme.* Düsseldorf, 1977, Patmos, 84. p.



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so far. This in itself would cause no special problems. But there would be no possibility of organ transplantation in seemingly obvious cases either, for example when somebody's head is smashed by a train, but his/her heart still beats and he/she takes a few more breathes as well. If the person is still alive when taken to hospital, shouldn't we assist him/her by a cardio motor? If the brain dies are we allowed to take out the kidney or even the heart? Others ask if it might be a matter of consideration in judging the question that it would be nice to transplant the organs.

The things written down so far show that the supporters of the various kinds of actual or supposed truths, cannot easily come to an agreement. Much has been said and written about the willingness to make compromises and the limits of these compromises. It helps a lot if we take the principles of "choosing life" and *nil nocere* (never do harm, non-maleficence) seriously. I am convinced that for a physician following his/her conscience all these should be of basic importance. Christian doctors should also strive to achieve this.

Finally let me emphasize the usage of words. Recently people have been dealing with the playful choice of words even on a theoretical basis. Let us see a few examples. At the end of life many people speak about the fact that the patient should be helped to heaven, they should be freed from their suffering. Of course they do not openly say: "Let us kill the old chap at last, he has lived long enough!"

From the publication of G. Roth[9] studying the different texts of oaths it becomes well apparent that the obligation to help patients is a stable core of medical ethics. Different parts are emphasized or considered more important in different periods.

The philosophy of life hidden behind a certain oath text does not necessarily show the underlying state system. What is rather essential is the interpretation of the protection of life. From when (from the conception? later?), until when (for example in case of incurable patients) and what kinds of lives (mentally and physically handicapped) are protected? To what extent and under what circumstances can an individual's life be subordinated to the interests of the society (experiments on people)?

The text of the Hippocratic Oath is by all means a point of reference. It shows what direction our ancestors accepted. They did not assist the woman asking for abortion and as opposed to the stoics they also forbade euthanasia.

I would also like to highlight some of the contemporary documents. These are usually composed by the World Medical Association (WMA), usually according to the immediate needs. One of the most relevant ones is the Declaration of Geneva. This is a sample oath taking modern aspects into consideration (1948, 1968). Let me call attention to the fact that out of the most debated two topics the Declaration of Geneva does not even mention euthanasia and does not directly refer to abortion either. It states, however, that human life has to be utmost respected from the moment of conception. It does not say directly that killing a conceived life inside or outside the womb is definitely a murder. It is apparent, however, that "utmost respect" cannot be understood in a way that the foetus or a dying person could be killed without any problems. In Geneva they have also chosen life!

Determination of the death of an unconscious patient, who is kept alive with machines, has burdened physicians with a more and more serious responsibility and problems of conscience. The Declaration of Sydney (1968) summarizes the criteria of the occurrence of death and its verification.

It is self-explanatory that for believing Christians and Jewish people the most important code of ethics is the Bible, the Holy Scripture.

For physicians the guidelines are the Code of Medical Ethics and the statements of the Ethical College of the Hungarian Medical Chamber.

Let me also mention briefly that it is necessary to get informed about legal questions as well. It might be useful if we do not only think about them if there is a problem!

# 4. The bioethical questions of suicide

*"I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan."* (Excerpt from the text of the Hippocratic Oath)

[9]Roth, Gottfried: Cunctis officiis quem probum medicum decent. Promotionsgelöbnis - Aerztegesetz - Strafgesetz. *Österreichische Aerzte Zeitung,* Jg. 34. (1979) Heft 10. 681-682. p.



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*"I will maintain the utmost respect for human life, from its very beginning* (originally: from the time of its conception)*, even under threat, I will not use my medical knowledge contrary to the laws of humanity."* (Excerpt from the Declaration of Geneva)

We could put the question in a different way as well: does anyone have the right to choose death on his/her own account? The next question is: what should a physician do in such a situation?

"Choosing death", suicidal tendency is a concept including a lot of things. In a wider sense of the word harmful habits, which damage health can also be classified here, such as smoking and drinking problems, especially if one is not moderate. (Naturally the question arises who is there to determine the bounds of moderation.) Between methods causing slow and immediate death (poisons, hanging oneself, jumping to the depth or in front of a speeding vehicle, etc.) there is the ever-spreading consumption of drugs and medicines. In which case what kind of attitude are we supposed to choose?

In general it has not caused a problem so far. The physician's task is to protect life and health. However, nowadays the principle of respecting autonomy is spreading and its excessive use can cause that nobody is allowed to be treated and cured against his/her will. We could say quite cynically is someone wants to die, let it happen. Nevertheless, a physician has to cure people and not find cynical answers and solutions.

How do we interpret this in the following situation: when a person who has committed suicide by taking poisons is taken to hospital and there he/she declares that his/her stomach should not be pumped out, because he/she wants to die. After all, is it allowed in a case like this to take the suicidal person to hospital – against his/her will – or the desperate person calling for an ambulance should be informed about the autonomy of the patient? Can we assume that he is not aware of what he is doing? Thomas Szasz thinks just the opposite. According to him, mental disorders do not exist, they are just fictive myths.[10] Obviously a physician feels obliged (as for now at least?) to help a suicidal person. Worldly laws prescribe this today when saying that in mortal danger the patient's will should not be taken into account. However, what will happen when laws are not going to provide for this or rather they are going to forbid us to do so? Presumably there will be physicians who will abide by the law, while others are going to listen to their conscience and follow the inscribed laws. They think this is how they can serve the laws of humanity, the respect for which is laid down in the Declaration of Geneva as a binding rule, despite all the threats. Respect of a patient's autonomy cannot refer to an attempted suicide.

There are even Biblical examples brought up for suicide cases. One of the best-known examples is the end of Saul's life, the other one is less well-known, Razis's death. About Saul's life the Bible writes as follows: "The fighting grew fierce around Saul, and when the archers overtook him, they wounded him critically. Saul said to his armour-bearer, »Draw your sword and run me through, or these uncircumcised fellows will come and run me through and abuse me.« But his armour-bearer was terrified and would not do it; so Saul took his own sword and fell on it. When the armour-bearer saw that Saul was dead, he too fell on his sword and died with him."[11] Razis's death is described like this: "Now was there accused unto Nicanor one Razis, one of the elders of Jerusalem, a lover of his countrymen, and a man of very good report, who for his kindness was called a father of the Jews. (...) So Nicanor... sent above five hundred men of war to take him (...) (and) they violently broke into the outer door, and... he being ready to be taken on every side fell upon his sword... calling upon the Lord of life and spirit to restore him those again, he thus died."[12] I have to remark that in none of these cases does the Bible take a stance, whether suicide was the right thing to do or not – but it does not say the opposite either. Saul at that time was already in disgrace, so we can take it as condemnation, and Razis trusts God's grace till the end.

What did our ancestors do? According to the stoics: ".... the wise one lives in accordance with nature, with people and himself. Provided he cannot tolerate the burdens of life, or cannot fulfil moral values, after considering all the circumstances he passes away on his own account. Zenon, Cleanthes and other renowned stoics ended their life by starving to death."[13]

Thus, it is apparent now that the Hippocratic views were not the only ones accepted, they rather counted as guidelines or flags showing the direction. (Nowadays the content of the Hippocratic Oath is used in the same way by the members of the „World Federation of Medical Doctors Who Respect Human Life"!)

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[10]Szasz, Thomas: *The Manufacture of Madness.* London, 1971, Routledge and Kegan Paul; Cit: Kovács József: *A modern orvosi etika alapjai. Bevezetés a bioetikába. [Fundaments of Modern Medical Ethics. Introduction to Bioethics].* Budapest, 19992, Medicina, 121. p.

[11]1Sam 31,3-5

[12]2Macc 14,37-46

[13]Nyíri, Tamás: *A filozófiai gondolkodás fejlődése.* [The Development of Philosophical Thinking]. Budapest, 1977, Szent István Társulat, 114. p.



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It is another question if we can regard it as suicide when somebody does not want to prolong his/her life or have it prolonged by all means. Nowadays life can actually be prolonged. The heart can be resuscitated by an electric shock, blood circulation and breathing can be maintained artificially for months and even years. Do we still have our right to die in a natural way? In 1969 W. Symmers[14] published the deterrent example of a 68-year-old patient, who was inoperable with stomach cancer. Both the patient and the physician were aware that his condition was hopeless. So the patient asked the doctor not to be resuscitated in case of death. Two weeks later the patient had a heart attack, lost consciousness, his heart and respiration stopped three times, and he was resuscitated every time. For the fourth time the patient was not resuscitated, but only because the necessary equipment was not available. It is no wonder that Symmers gave his writing the following title: “Not allowed to die.”

We again wish to refer to the fact that there is even an official Christian declaration on the issue: “We are not obliged to extend our life with the use of extraordinary means.”[15] Later the meaning of extraordinary means has changed and the concept of dignified death has been abused by many, still, the opinion of Pope Pius XII is still instructive for many people.

# 5. Physician-assisted suicide

Socrates’ physician helped him drink out the poison cup. Cato’s stomach, ripped with the purpose of committing suicide, was sewn back by his doctor. The Hippocratic Oath reflects the views of the doctors representing the latter attitude. Christian traditions also back up the latter view and so do modern statements. I quote from standpoint of the World Medical Association in Marbella in 1992.

“Instances of physician-assisted suicide have recently become the focus of public attention. These instances involve the use of a machine, invented by the physician who instructs the individual in its use. The individual thereby is assisted in committing suicide. In other instances the physician has provided medication to the individual with the information as to the amount of dosage that would be lethal. The individual is thereby provided with the means for committing suicide. To be sure, the individuals involved were seriously ill, perhaps even terminally ill and were wracked with pain. Furthermore, the individuals were apparently competent and made their own decision to commit suicide. Patients contemplating suicide are frequently expressing the depression that accompanies terminal illness.

Physician-assisted suicide, like euthanasia, is unethical and must be condemned by the medical profession. Where the assistance of the physician is intentionally and deliberately directed at enabling an individual to end his or her own life, the physician acts unethically. However the right to decline medical treatment is a basic right of the patient and the physician does not act unethically even if respecting such a wish results in the death of the patient.”

More and more people are demanding a “right to death.” However, this is a serious contradiction. Death itself is not a right, since we, living creatures are all “sentenced to death” – at least in our world. We can of course talk about a right to natural death, as the declaration of the Congregation for the Doctrine of the Faith describes[16] but László Dezső outlines his opinion in a similar way.[17] We can hear people speaking about the right to die with dignity, which was welcomed by Pope Pius XII in his declaration[18] but, as we have already mentioned, it gave way to a lot of abuse.

How long can I choose life? Is it a question of the quality of living?

How long is it worth living? “We should die with dignity.” Is it an example of rhetorical flourishes or is it reality? Isn’t “merciful” death that we demand so resolutely while we are young rather frightening and terrible in old age?

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[14]Symmers, W. St. C.: Not Allowed to Die. *British Medical Journal,* I/1969, II. 17/442. p.

[15]Varga, Andor: *Élet és Erkölcs. [Life and Ethics]. Original title: Bioethics: The Main Issues.* Rome, 1980, s. n., 245. p. /Teol. Kiskönyvtár IV/6 b./

[16] *Hittani Kongregáció: Instrukció a kezdődő emberi élet tiszteletéről és az utódnemzés méltóságáról. Donum vitae 1 987. [ Congregation for the Doctrine of the Faith: Instruction On Respect For Human Life In Its Origin and on the Dignity of Procreation. Donum vitae 1987].* Ford.: Gresz Miklós. Magzatvédő Társaság, Szeged, 1990, Szent Gellért Egyházi Kiadó. /Családi Iránytű 5./

[17]Dezső, László: Euthanasia avagy az orvosi etika válsága? [Euthanasia or the crisis of medical ethics?]. *Orvosi Hetilap [Medical Journal],* Volume CXVII. (1976) Issue 22. 1323-1328. p.

[18]Pope Pius XII: Az újjáélesztés jogi és erkölcsi kérdései. Beszéd, 1957. XI. 24. [Legal and Moral Issues of Resuscitation. Address given on 24 Nvember 1957]. *Acta Apostolicae Sedis,* 45 (1957) 1027-1033. p.



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And what about the other extreme? How long are we supposed to continue the treatment? Until the last breath as we have always demanded it so far? We may put the question in another way as well: Should we prolong, or rather, are we allowed to prolong the agony of a patient? Do we have to wake everybody up, who is “asleep”?

Kálmán Széll,[19] the founding chairman of the dr. Batthyány Strattmann László Society of Christian Health Care Workers, writes in a referendum the following: “apart from cases when it is recommended, we do not consciously apply resuscitation and/or special life-prolonging processes”. He could have done this as a Christian as well, since, as we have already seen it, Pope Pius XII also made a similar declaration. According to Kálmán Széll, there is no disagreement between him and Tibor Jávor. “I think we must agree in the fact that not everybody should be treated intensively before their death, as practically every dying person could be assisted with machines... Every person has the right to die in dignity worthy of a human being. I am afraid that in this respect we have a lot more to do because we can make a great deal of harm both by over-eagerness and indifference.” They both emphasize that “a dying person deserves the same human rights as a so-called living healthy person. So he/she must not starve, thirst or suffer, and should remain in human conditions (and company) until the time of death comes.”

The opinion of the already mentioned Rudolf Kautzky, who is a committed Christian neurosurgeon and often writes about medical ethical questions, is extremely remarkable. “Prolonging life as the generally valid target of medical activity, has obviously become questioned”, he wrote in 1969. Even Christians may come to two extremely different conclusions. One of them is that it is God’s intention to keep every life. The other approach is: it is a Christian obligation to accept diseases and death obediently and willingly. In the revelation there is no definite reference to the judgement of extreme medical activities.[20]

This issue has got to the centre of international debates. What should we do, if the person we have to decide about, cannot give his/her opinion? Courts are trying to influence views with right judgements, others are criticising the attitude the courts have taken. There are advocates of the so-called “substituted decision”, when the judge wishes to represent the expected decision of the patient. Hornett[21] expounds in detail that this substitution cannot be objective, since, for example an adult, healthy, intelligent person can have no idea what kind of decision an ill, mentally handicapped infant would make. It is fiendishly difficult to say if it is desirable for the patient that his/her life is prolonged by all means, or it is allowed to let the patient die with peace and dignity. It is important, as I have emphasized it several times, that the patient should pass away in a loving, warm atmosphere. According to a numerous physicians the family home is the most appropriate for this role. If it cannot be solved for some reason, then at least the atmosphere of hospitals should be improved. Hospice movements are fighting to create such hospital units.

I would like to add here that in case of a serious illness other problems may also arouse. Some of them are really frequent. Let us think about the case when somebody shrinks back from a more or less serious operation. For instance the patient knows that he/she has stomach cancer and can still be operated on the basis of the examinations, but he/she rather claims to want to die without undergoing the operation. The other case: a nun asked my wife if she was obliged before God to undertake an operation the result of which is uncertain and can also be lethal – but the physicians say without it she would definitely die. Is it suicide? I am convinced it is not. Everybody has the right to choose to take or refuse a special treatment. It is not suicide, but – if I really force myself to give a definition – it is the choice of the way of death. Of course the possibility of recovery and permanent injury must be weighed. It is weighed in different ways if a mother with a small child does not undergo a seemingly easy operation than if a lonely old person refuses a serious one. It is the physician’s task to inform the patient about the possible advantages and disadvantages as objectively as possible.

I would like to call attention to a special problem, of which the Declaration of Tokyo also writes: “Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgement concerning the consequences of such voluntary refusal of nourishment, he or she shall not be fed artificially.” The declaration is about the obligations of physicians in connection with tortures and cruel treatment in prison. Understandably it does not approve of any kind of behaviour prolonging the possibilities for tortures.

Maintaining life by all possible means and leaving the patient to his/her fate are two extremes. We can make mistakes by both of them. Recently the permission of euthanasia is demanded in the name of the right to death.

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[19]Széll, Kálmán: Reszuszcitálni vagy sem? [To resuscitate or not?] *Orvosi Hetilap [Medical Journal],* Volume CXXXI. (1990) Issue 36. 1999. p.

[20]Kautzky, R.: Technischer Fortschritt und ethische Problematik in der modernen Medizin. *Concilium,* Jg. 5. (1969) 371-373. p.

[21]Hornett, Stuart I.: The Sanctity of Life and Substituted Judgement: The Case of Baby. *Journal Ethics and Medicine,* vol. 7 (1991) no. 2. 2-5. p.



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The article of D. Jackson and St. Youngner[22] was published in 1979, 22 years after Pope Pius XII's speech and it warns us of this danger. There exists even a World Federation of Right to Die Societies. The thought of "Death with dignity" is spreading all over the world. Even those would insist on ceasing the treatment, whose condition does not indicate it at all. In these cases it is the physician's task to persuade the patient with adequate information about the necessity and relevance of further medical treatment. Here the Hippocratic principle emerges again: Life is a value which should be protected and fought for.

# 6. The encyclical "Evangelium Vitae" on euthanasia and suicide

*„I kill, and I make alive":*[23] *the tragedy of euthanasia*

As I have already mentioned in the section about abortion I find it important to inform Christian people first and foremost, but all the other good-willed people as well, about the point of view that our Church represents. The already quoted encyclical by John Paul II dwells on abortion and euthanasia separately. At the end of our life we will all find ourselves facing "the mystery of death".[24] There is a prevailing view nowadays – he writes – according to which one should "value life only to the extent that it brings pleasure and well-being",[25] so suffering and pain very often "seem like an unbearable setback, something from which one must be freed at all costs".[26]

Denying the possibility of a relationship with 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".[27] In developed countries the continuous progress of medicine and other sciences can strengthen this consciousness[28] – this is what John Paul II calls our attention to.

"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"[29] – is how the encyclical puts with a very clear vision. Can this process be reversed? What is needed for it is patient conviction and guidance to the real essence of life.

In the definition of the encyclical "*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".[30] "Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used."[31]

John Paul II similarly to his predecessors makes a distinction between the decision against the so-called "*aggressive medical treatment*" and euthanasia, that is "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".[32] However, he makes it even more precise as it would give way to a really wide and subjective way of interpretation. It refers to the cases "when death is clearly imminent and inevitable".[33] In such cases one can consciously "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".[34]

[22]Jackson, D. L. – Youngner, St.: Patient autonomy and „ Death with dignity". Some clinical caveats. *New England Journal of Medicine,* vol. 8 (1979) no. 301. 404-409. p.

[23]Deut 32,39.

[24] *Evangelium Vitae* 64.

[25]Ibid.

[26]Ibid.

[27]Ibid.

[28]Ibid.

[29]Ibid.

[30]Ibid. 65.

[31]Iura et bona, II.; Cit.: *Evangelium Vitae* 65.

[32] *Evangelium Vitae* 65.

[33]Ibid.

[34]Iura et bona, IV.; Cit.: *Evangelium Vitae* 65.



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The moral obligation that one should cure himself and get a medical treatment should be measured in definite situations. So it has to be measured if the therapies available are objectively proportionate to the prospects for improvement.[35] “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.”[36] Therefore it is quite obvious that we are only allowed to give up the special treatment in the final moments. And what about the normal treatment? If there is hope to keep the patient alive, however petty it is, is it our right and obligation to ask for the special, new techniques as well? Of course, only if it is available for us. The decision requires individual consideration in every single case. It is possible, for example, that a really expensive, new therapy could prolong my life with one or two years, but for this my family should sell everything it has and after that they would need to live in extreme poverty. In a case like this am I obliged to ask for a therapy? Opinions differ if treatments entailing unbearable pain can be given up or not. As I have already mentioned several times, recently there have been significant advances in the field of easing pain. This is an uncertain matter because it is practically uncontrollable what is intolerable and what is not. At the same time we have to express total sympathy towards the anguished patient. While we are encouraging him/her for life, we cannot set a greater burden on him/her than is still tolerable. According to Viktor Frankl[37] a key to tolerate pain is to be able to give a meaning to suffering. He himself has spent several years in a concentration camp.

“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.”[38] Pope Pius XII also taught that it was permitted to relieve pain by narcotics, even in cases when the patient’s consciousness is restricted by this and it might shorten the patient’s 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”.[39]

According to the encyclical “euthanasia.... is as bad as suicide and murder”.[40] “Suicide is always as morally objectionable as murder. The Church's tradition has always rejected it as a gravely evil choice.”[41] It is important to make a distinction between the judgment of the person performing it and that of the action. With my judgment about the action do I condemn the person performing it as well? Wouldn’t the respect of the person concerned get harmed by this? “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,” – claims the pope sadly, but he still declares, without condemning the perpetrator in person – that “*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”.[42] “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.”[43] It is a clear standpoint in an age when a lot of questions are asked about good and evil. Is there anybody to guide the uncertain?

Can a person wishing to help become exempt from self-deception? “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.”[44]

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[35] *Evangelium Vitae* 65.

[36] Ibid.; Iura et bona, IV; Cit.: Evangelium Vitae 65.

[37] Frankl, Viktor E.: *...mégis mondj igent az életre! Egy pszichológus megéli a koncentrációs tábort. [...say yes to life after all! A Psychologist Experiences the Concentration Camp]* Budapest, 1988, Pszichoteam Mentálhigiénés Módszertani Központ; Frankl, Viktor E.: *Az ember az értelemre irányuló kérdéssel szemben. [Man Against the Question on Intellect]* S. l., 1996, Kötet Kiadó.; Frankl, Viktor E.: *Orvosi lélekgondozás. A logoterápia és az egzisztencia-analízis alapjai. [Mental Care Provided by Physiciany. Introduction to Logotherapy and Existence Analysis].* Budapest, 1997, UR.

[38] Evangelium Vitae 65.

[39] Pope Pius XII: Beszéd az orvosokhoz. 1957. II. 24. [Address to physicians. 24 February 1957] *Acta Apostolicae Sedis,* 49 (1957) 147. p. “S’il n’existe pas d’autres moyens et si, dans les circonstances données, cela n’empêche pas l’accomplissement d’autres devoirs religieux et moraux : Oui.”

[40] *Evangelium Vitae* 66.

[41] Ibid.

[42] Ibid.

[43] Ibid.

[44] Ibid.



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The consequence of helping a person die might be that even those are deprived of their last hope who do not intend to give it up at all. “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.”[45] “I kill, and I make alive”[46] – we read in the Bible. God exercises his power according to his wise and loving plan. When a man wants to use this power, in the service of unwise logics, he inevitably causes injustice and death. If the life of the weaker ones gets into the hands of the more powerful, then the sense of justice is lost in the society and mutual trust gets in danger, which is the basis of all human relationships.[47]

What the encyclical offers as a possible solution 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 (...) 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«.”[48]

There is natural opposition in us against death, but the subtle hope of immortality is accomplished in Christian faith, which promises and offers us a share in the victory of the Risen Christ. The certainty of future immortality and *the hope in the resurrection promised* cast new light on the mystery of death and fill believers with extraordinary power to be able to trust God completely.[49]

Apostle Paul expresses the same idea in the following way: “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.”[50]

# 7. Accompanying till death, the Hospice movement

The Hospice movement (Hospiz, Hospicium) was started in England in 1967 by Cicely Saunders, by establishing the St. Christopher’s Hospice.[51] The essence of hospice is that those patients who are likely to live on just for a few days or weeks are placed in a separate hospital. Here first of all their pains are relieved, but most importantly, everything is done here so that patients could end their life with dignity and they could die in dignity worthy of a human being. Patients who are hospitalised here are well aware of their illness and get prepared for death consciously.

This accompanying till death works in Hungary in four different versions at the moment.

One of the possibilities is that they try to provide the circumstances in one’s home to end the patient’s life in a humane way, keeping his/her human dignity. This is organised by the Home Care Centre.

The other possibility is to establish a separate palliative unit in an already existing hospital – with as much independence as possible.

The third way is a day-time sanatorium, where patients are given the necessary treatment but they spend the night at home.

The fourth one is the most complete, when an independent Hospice institution is established.

From a moral point of view the most important thing is to surround the patients preparing for death with as much love and care as possible. A lot of people have been surprised how friendly the atmosphere is in such institutions. Patients know that they do not have much time left, but they are not desperate, they get to the point of reconciliation.

The objective is to form a hospice-model where all these things are together at the same time. In Hungary there are about fifty hospice organisations at present, however, the number keeps growing.

[45]Ibid.
[46]Deut 32,39; Cf. 2 Kings 5,7; 1 Sam 2,6.
[47] *Evangelium Vitae* 66.
[48] *Evangelium Vitae* 67.
[49]Ibid.
[50]Rom 14,7-8.
[51]Saunders, Cicely: Hospices. In Duncan, A. S. – Dunstan, G. R. – Welbourn, R. B. (Eds.): *Dictionary of Medical Ethics.* Revised and Enlarged Ed. London, 1981, Darton, Longman and Todd, 218-223. p.


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There have been two monographs published in the topic, a two-volume book entitled *Halálközelben [Near Death]* edited by Katalin Hegedűs,[52] and the other one, the *Hospice kézikönyv [Handbook on Hospice]*, edited by Dalma Böszörményi.[53]

There have been a lot of debates about the fact if it is allowed in such institutions to aim at Godly consolation. Every believing mental nurse intends to take the dying person to the point when he/she stretches his/her empty hands towards God. A frequent problem of religious nurses is how to approach a dying patient. The answer is contained in the question. If I ask the following question: Do I have to convert the dying patient by all means?, the answer can only be that people cannot be converted at all costs, because forcefulness can trigger the opposite result. ("Helping at all costs" syndrome – Éva Makó.[54]) Nevertheless, when asked if we are allowed to help the patient find our Lord, Jesus Christ the answer can only be yes. Let us not forget that for a believing Christian the basic principle is the following: "You should never be accused that there was a soul, who has not seen Him because of you!"

# 8. The basic principles of Hospice

I have stated my views several times that it is a totally different matter to kill someone or to let him/her die. Still, in an actual case it is rather difficult to make a responsible decision. Should I assist a patient without spontaneous breathing with a ventilator? What kind of damage is expected? Will he/she be able to live a human life afterwards? What do I call a human life? These are questions to answer, but the physician working in the intensive care unit might have only a few minutes to decide!

# 9. Empathy at the end of life

A patient who is certainly going to die in a short period of time requires not only medicinal but mental support as well. Empathy towards the dying patient is the hardest thing. Only those can realize it completely who have already got to the threshold of death. (Psychologists recommend trying to imagine and experience our own death as deeply as possible. A lot of people got up and gave the exercise up, it was so stressing for them!)

The patient is preparing for his or her last journey. The sacrament of the Catholic Church called "extreme unction" is respected today as the sacrament of the sick. The name "Sacred Provision" is also often used, which already refers to the nearness of death but also to the certainty of afterlife!

We have to realize that death is inside us all, living creatures from the very beginning of life. The patient feels if the doctor really feels compassion for him/her and desires to hear words of comfort. He/she expects humane sympathy. At times he/she even starts hoping for recovery again.

It is important to get the patient informed all the time in a clear, sincere, responsible and (for him/her) understandable way. A conscious patient in the intensive care unit should first be made understood where he/she is and why it is so. If it is possible the patient should be called by the name! Let us be patient towards the family members as well! Also let us take the advice of the nurses', who are in constant contact with the dying people and still keep their patience and understanding love for them.

Here I would like to call attention to the significance of the physician's visit. Do we really visit patients or we are just "doctors on their rounds"? ("I was sick and you visited me..."[55])

Let us never forget that people suffering from often unbearable pain, can see no more prospects before them and only hope for the earliest possible death. It is them who ask for, beg for the lethal injection, of which they think it might bring salvation. We should recognise that this means our failure, in the sense that we have not cared for them well enough, we have not dealt with their pain, we have not done everything to relieve their suffering. They do not want to see us again. A lot of us think that the most efficient way of fighting against euthanasia is exactly the alleviation of pain, as the practice of the Hospice movements also proves.

[52]Hegedűs, Katalin ( ed.): *Halálközelben. 1. A haldokló és a halál méltósága. [Near Death I. The Dying and the Dignity of Dying],* Budapest, s. a. (1994), Magyar Hospice Alapítvány; Hegedűs Katalin (ed.): *Halálközelben II. A haldokló és a halál méltósága. [Near Death II. The Dying and the Dignity of Dying].* Budapest, s. a. (1995), Magyar Hospice Alapítvány.

[53]Böszörményi, Dalma ( ed.): *Súlyos betegen élni. Méltósággal meghalni Hospice kézikönyv. [To Live with a Serious Disease. To Die with Dignity. Handbook on Hospice].* Budapest, 1995, Megnyugvás Hospice Alapítvány, Corvinus.

[54]Makó, Éva: A Hospice-mozgalom.*[The Hospice Movement]. KOMT Híradó,* 4 December 1990.

[55]Mt 25,36b



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Relieving pain is absolutely necessary in practically all cases, but if it is possible it should be done in a way that the patient should not lose consciousness permanently. The use of drugs and painkillers containing morphine is especially justified if death is near, so there is no need for fear of addiction. One of the main justifications of Hospice movements is that physical and mental care and the appropriate pain-killing can give back the patient's human dignity for the remaining time. Of course every kind of pain-killer can have the side-effect of shortening the user's life. But all this is not like giving poison to somebody as practically every kind of medicine has some kind of side-effects to be considered. In a wider sense everything we do to keep a patients' dignity can count as pain-killing, so for example if we always address them by the name, or allow them to bring their favourite pieces of furniture even pets into the hospital – thus making their circumstances homely and cosy. We should never forget that for those who cannot die at home, it is primarily a loving atmosphere that we need to ensure.

# 10. Consoling the family members

We must console the family members as well. Let us take an example from Jesus' life. It happened after Lazarus's death, when Jesus arrived in Bethany. "»Lord,« Martha said to Jesus, »if you had been here, my brother would not have died. But I know that even now God will give you whatever you ask.«" We should recognise in her words both reproach and hope in a hopeless situation. "Jesus said to her, »Your brother will rise again.« Martha answered, »I know he will rise again in the resurrection at the last day.« Jesus said to her, »I am the resurrection and the life. He who believes in me will live, even though he dies; and whoever lives and believes in me will never die. Do you believe this?«" After all Lazarus was resurrected in his physical body.[56] (The whole story can be read in the passage John 11, 17-44.) We are not capable of resurrecting people, but we can arouse faith and hope and we are able to console. And this is indeed our task.

# 11. Where should the patient die?

At home? In a hospital? In the past it was self-explanatory in Hungary as well that people died at home in the circle of beloved people. Today's society would like to exclude death, it is not even allowed to talk about it, it is a taboo. In our civilised world if someone is supposed to die soon, he/she is taken to hospital, to be hidden from the healthy ones' eyes. (As it is described in Aldous Huxley's novel, *Brave New World*.[57]) In the hospital nobody cares for the patient. He/she is left alone and when death occurs, they surround the dead body with curtains as long as it is still in the ward. The person does not exist any longer.

Ethics requires us to do what is best for the patient. Who would like to die in a ward among strangers? It is a terrible thing. So if nothing decisive can be expected from the treatments, then the patient should be allowed to go home. We should try to convince the family members, too. Of course, we should also inform them about the fact that in case of an acute situation, for instance if the patient starts to bleed, he/she might be admitted to the hospital unit again.

We have to know that not everybody has the possibility to die at home among beloved people. Lonely people do not have a nurse, and if they had one, these nurses do not work at home. There might be various conditions which prevent one of dying at home. Let us try to make a loving atmosphere in our hospitals, too, so that everyone could have his/her "own death." (Rilke "Stundenbuch"[58]).

# 12. The art of letting pass away

For physicians it is an almost schizophrenic inducement "to know how to let a patient go". So far it has been their task, faithful to their oath, to do everything possible to keep the patient alive. That is why they learnt and worked day in and day out and now they are expected to act like the doctors in medieval pictures: when the "mower" appears the doctor hurriedly leaves the place through the other door – this is how Johannes-Gobertus Meran reflects on the topic. According to Hans Jonas, a philosopher, a person's right to life is one of the most fundamental of all human rights. However, he sees death as the final and inseparable part of life, so its prevention may even be a violation of the patient's right. In Albert Schweitzer's opinion the respect of life also involves that of death.[59]

[56]Cf. Jn 11, 17-44

[57]Huxley, Aldous: *Szép új világ. [Brave New World].* Budapest, 1982, Kozmosz.

[58]Cit.: Meran, Johannes – Gobertus: Die Kunst des Netzes. Gedanken zum Auffangen eines dissonanten Sterbens. In Löw: *Bioethik*. S. l., 1990, s. n., 164. p.

[59]Meran, Johannes – Gobertus: Die Kunst des Netzes. Gedanken zum Auffangen eines dissonanten Sterbens. In Löw: *Bioethik*. S. l., 1990, s. n., 156. p.



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The process of death is like twilight, a state between daytime and night. We have to find the exact time when we are still supposed to struggle for life and also the time when we should let the patient pass away. It is by no means an easy task. At twilight motorists turn their spotlights on, one after the other and in the end all of them are on. And what happens in the meantime? It is a question of individual decision. We have to take the patient's will into consideration, his/her desire to get cured or not and the eventual changes in this desire. There is always a great deal of uncertainty on the part of physicians and other health care workers. Art and intuition[60] should always be and remain an inseparable part of science.

[60]Ibid. 157. p.



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