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Towards the establishment of the right of death to preserve human dignity

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Abstract

There is no debate regarding the sanctity of the right to life as the cornerstone of legal structures designed to protect it, either explicitly or implicitly. Despite the universality of the right of life, it nevertheless poses a number of legal challenges, particularly in light of the coronavirus pandemic's effects and the unprecedented advances in technology, medicine and the radical transformations in Health Care Systems. One of the most important problems is the emergence of the right to die as a response to societal changes and growing individualism and a focus on quality of life as a prerequisite for its existence. The study will attempt to explore the possibility of establishing the right to death to maintain a dignified life and associated legal problems.

Keywords: the right to die, suicide, Euthanasia, human dignity refuse treatment.

Introduction:

All treaties acknowledge the the inherent value of life and the rights that go along with it, whether explicitly or implicitly. However, the universal right of life continues to be a complex topic that captures the interest of both governmental and non-governmental organizations. This right is problematic since it is difficult to define and set limitations for it, and the challenge is made more difficult by defining acceptable limits. More problems have emerged in the age of globalization, such as excessive State intrusion or the State's indifference to its fundamental responsibility to protect people's right to life.

The right of life has a distinctive nature that sets it apart from other rights because it is necessary for the exercise of other rights and the continuation of the human race. The right of life imposes obligations on its holder that cannot be waived by suicide or euthanasia, as well as obligations against others by making murder and abortion crimes, obligations against the State by prohibiting the use of the death penalty.

When people get sick, they may face difficult situations, leading them to a helpless and hopeless state of recovery. They want to end their life by suicide or medical assistance, shortening their days to ease the pain. This fact raises the question of the right of death, which has become a controversial issue worldwide in terms of its legality and attempts to justify it ethically and legally.

The issue is that both proponents and opponents of the right of death offer the same arguments for their positions: the right to freedom, the ability to make one's own decisions, and the maintenance a decent health in order to preserve human dignity.

Despite the difficulty in defining the right of death and the legal issues it poses, the societal changes that world is experiencing in the wake of the Corona pandemic indicate the emergence of an

international movement towards establishing legal frameworks for the right to die as one of the aspects of preserving the right to a dignified life. This was particularly apparent in the decriminalization of suicide and the patient's right to refuse treatment, as well as the right of terminally ill patients to refuse life-sustaining treatment.

Since the right to life is an individual right that is protected by the public authority, this has led to the emergence of the right to death or the right to renounce life once the latter has become an "undignified" life, thus overlapping law and philosophy to determine what is meant by a dignified life and what is the role of the public authority in determining the possibility of ending a person's life in respect for his dignity.

In light of the above, the following problem can be raised: **Can the right of death be established in order to preserve the right to a dignified life?** The answer to this problem is not easy, given the many sub-questions arising from this problem: What is human dignity? Is it possible to commit suicide or assist with the patient's consent? Is there a right to death or a mere waiver of the right to life? Who decides to end the patient's life? The patient or his parents or the judge or the doctor?

Given the nature of the topic, the complexity of its areas, the breadth of its sections, and its attempt to reconcile dichotomies, the nature of the problem, and the multiplicity of sub-questions arising therefrom, range of methodologies has been used.

The analytical descriptive method: This approach has been used as a flexible composite approach with a number of sub-research techniques, especially since the subject matter of the study is dynamic, and needs to determine the basis of the right of life and the right of death and human dignity by describing and examining the nature of the relationship between the three concepts, to demonstrate the relationship between these variables and to reveal the problems between them.

In order to respond to the problem and to combine the theoretical and applied aspects, the study was divided into two sections in an attempt to capture the multiplicity of vocabulary that the subject posed. The first part focuses on the international legal enshrinement of human dignity, in which it defines the concept of human dignity and its place in international texts in order to determine its relevance to the concept of the right of death. The second section focused on legal issues surrounding the right to die, notably those relating to euthanasia, the patient's right to refuse treatment, access to palliative care, and legal treatment of assisted suicide.

Section I: Human dignity as a foundation for the right of death

Ethical discourse today speaks to current problems that medicine was unaware of in the past. Such as the issue of extending human lifespan, cloning and euthanasia. In light of these contemporary changes, the principle of human dignity has been transformed, which has given a new perspective on life, the right of life gained a new meaning attached to the human dignity, in order to improve the life of the individual, while preserving their dignity through technological intervention in all spheres.

A) Human dignity: a concept that resists definition:

The concept of dignity is often cited in current debates: it condemns torture and cruelty, it serves as a motive for the fight for human rights, it establishes the right to intervene, and the euthanasia argument is based on it. But what does this classic concept contribute, and what is its basis? Disparate and contradictory ideas have formed around this consensus: to live and die with dignity.¹

Its legal status suggests that its role is more fundamental, and indeed structural. The etymology of the word is instructive in this respect. We often look for it in the Latin "*dignitas*", from "*decere*", agreed, appropriate. Greek origins are richer, where the equivalent of the word "dignity" is *axios* "what is proper, what is worthy, what is deserving", which also gives rise to "axiom". Now, very precisely, structurally, legally, dignity is an axiom.²

This concept is today the object of an invocation more than a definition, of an instrumentalization rather than an understanding. It is therefore urgent to make distinctions. The difficulty that our time encounters on this subject comes from the fact that it balances between two meanings of dignity: an ontological meaning and a meaning called "postural". The ontological meaning is the idea that man, as a man, has an absolute and inalienable value. *Dignus*, in Latin, means "worth". Man is worth in himself and must be respected, whatever his state, his opinion, his sex, his condition, even his behavior: from then on, there can be no unworthy man, dignity cannot be lost. This idea, which has become the *doxa* today. However, dignity in the "postural" sense, where it is essentially a matter of "behaving," has a "bourgeois" meaning. Beginning in the early XIXth century, a dictionary lists "dignity," "restraint," "maintenance," "decency," and "respect" as synonyms. Thus stated, the loss of dignity is possible and it has "degrees."³

Human dignity cannot be defined, so let's consider what it "does" instead: It "reminds us of who we are, our "humanitude." Therefore, we may rely on what is meant by "humanity." Man means "born of the earth" and comes from the Latin *homo*, which is derived from *humus* (the earth). Human dignity is a value that is solely dependent on what it means to be human. Human dignity is self-evident, unassailable, and yet incredibly challenging, if not impossible, to describe. Every human being is born with and boundless by dignity. But what foundation does dignity rest on? the soul, the physical body, or both?⁴

Human dignity as the dignity of the subject immediately follows the two traits that distinguish human rights from traditional conceptions of dignity: their egalitarian and fundamental character. If human rights are those subjective rights which have their meaning in the subjectivity of the bearer of those rights, then they must be strictly egalitarian. This excludes the concept, common in traditional legal systems, that different people enjoy different "freedoms" or "privileges"; regardless of whether this difference in freedoms or privileges is hierarchically constructed.⁵

The philosophical dictionary, which defines dignity as "the condition that man seeks to live his greatness and is related to his spiritual nature," provides the solution. Human dignity stems from the fact that we are all human, thus whenever we interact with a man, whether in his physical form or mental state, we do it with respect for his dignity. It is from this entry point that man attempts to formulate for himself an ethical framework governed by numerous international instruments. Right to live in dignity, as advocated by many religions.⁶

Dignity is the deepest foundation of law, but it is not easy to transform it into a legal concept. For the dignity of the human person is of a radically different nature from other legal concepts and does not fit into any of the classical categories such as subjective rights or even human rights in reality. The dignity of the human person is in fact like an indemonstrable and infeasible axiom, and probably even unspeakable.⁷

Human dignity is an ambivalent notion: it is the founding principle of all rights and freedoms, but at the same time it limits them. Dignity is a matrix and autonomous principle, which marks its superiority.⁸

B) The juridical consecration of human dignity:

There is no need to go into detail about every instance of the principle of dignity in international law.global legislation. We don't claim to be exhaustive, and a list like that wouldn't be interesting from a strictly qualitative standpoint. When it comes to the topic that interests us, "the consecration of the philosophical notion of dignity by the law," it is important to stop at the point when dignity is "seized" by the law, or when it is taken into account for the first time by a legal text, whether it be international or domestic law .⁹

The dignity of the human person has only recently emerged as a concept in positive law, the term "did not appear in the declarations adopted by the United States and France at the end of the 18th century, nor in subsequent texts for almost two centuries. Traditionally, charters and declarations of rights were based more on the notions of liberty and equality than on dignity.

The Charter of Fundamental Rights of the Union Dignity had certainly permeated Western rights for a long time (the Schoelcher decree of 27 April 1848 abolishing slavery thus already stated "that slavery is an attack on human dignity"), but the awareness and above all the need to express it only appeared in the aftermath of the atrocities of the Second World War. The Basic Law of the Federal Republic of Germany of May 23, 1949, in the first paragraph of its Article 1, states that "The dignity of the human being is inviolable. All public authorities are obliged to respect and protect it".¹⁰

The notion of human dignity was also enshrined in the Declaration of Philadelphia,of the International Labour Organization, which constitutes the first reference, in a normative text, to their a normative text, to the principle of dignity. It states: "All human beings (...) havethe right to pursue their material well-being and spiritual development in freedom and dignity, in economiceconomic security and equal opportunity.But in most human rights instruments, human dignity is not a separate right and cannot be invoked directly before the courts. dignity is not a separate right and cannot be invoked directly before the courts. courts. It is always invoked in conjunction with other human rights. only a few legal instruments recognize dignity as a right in its own right.¹¹

Numerous international and regional instruments, addressing many human rights issues, deal with human dignity. These instruments protect either against certain reprehensible acts or facts, or certain categories of people. In the 1948 Universal Declaration of Human Rights, the notion is present in the preamble, which states that "...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (preamble, § 1), and provides that "all human beings are born free and equal in dignity and rights" (article 1). In all legal logic, dignity penetrates other provisions of the Declaration to give rise to fundamental norms such as those relating to the right to life (article 2), to the integrity of the person (article 3), to the prohibition of torture and degrading or inhuman treatment (article 4).¹²

In a similar vein, the three main regional protection systems-European, American, and African-are affected by a similar normative construction, from which the preservation of human dignity emerges as a fundamental value., we see that the European Convention on Human Rights of November 4, 1950 makes no reference to the idea of human dignity. The reference to human dignity can eventually be found in Protocol No. 13 to Protocol No. 13 to the European Convention. The right to life for all individuals is described in the preamble to this protocol as "a fundamental value in a democratic society, and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings."The notion of dignity appears in the preamble of all the texts relating to human rights emanating from the American continent.The Organization of African Unity Conference in Nairobi, Kenya, endorsed the African

Charter on Human and Peoples' Rights on June 27, 1981. In Africa, Articles 5 and 19 of the African Charter on Human and Peoples' Rights recognize the supremacy of human dignity.¹³

The 1965 Convention on the Elimination of All Forms of Racial Discrimination embodies the same spirit that springs from human dignity. It recognizes the equality of all races under the form of an international treaty and establishes a legal framework based on the principle of non-discrimination to forbid any act of racial discrimination consisting of the distinction, exclusion, restriction, or preference adopted on the basis of race, color, lineage, national or ethnic origin, national or ethnic origin.¹⁴

C) Human dignity and the right to death: a relationship:

Today, we can discuss the right to death, but all discussions of rights have historically focused on the most fundamental one, the right to life. Since every individual right pertains to the use of a particular vital ability, the fulfillment of a specific vital need, or the access to a specific vital ambition, it is possible to view every single right that has ever been examined, requested, granted, or denied as an extension of this original right. The dying person is a living person. At the final moment, the dying person is entirely in the act of dying. Dying is an act. One must be able to act on one's death, to make it one's own, to live it with respect for one's inner self. What is the meaning of "dying" in the expression "dying with dignity"? From a philosophical point of view, the real meaning is to die humanely. It is a question of being able to make one's death one's own, to live it in the respect of one's human dignity as a free man.¹⁵

The concept of dignity is new in law, and the theoretical recognition of the right to die with dignity first appeared on 9 March 1991, at the opening of the 3rd International Congress of Medical Ethics, organized in Paris by the Council of the Order of Physicians. Claude Evin, then Minister of Social Affairs, declared that "the right to die with dignity seems to me a fundamental right". In April of that year, the European Parliament's Committee on the Environment and Public Health adopted a report in which it stated that "Dignity is what defines human life".¹⁶

Death can have various forms: voluntary, involuntary, collective, individual, brutal, slow, accidental, prepared, early, late. It does not matter. The law understands death only in terms of its consequences, consequences on the living, whether it is a question of succession or compensation, far from any emotional consideration. The effects of death are exclusively those that it produces on the "living", the living, the living. Before death, there is life, after death, there is another life, there are other lives. The ancient adage "The dead seize the living" illustrates quite rightly this relationship that the law has with death.¹⁷

a "good death", that is to say a moment of the existence on which it could exert a full control, in other words without being degraded, carrying a beautiful image of oneself, autonomous, this term being envisaged here like "not weight", "not a burden", capable of physical as well as psychological independence. This conception of the end of life is more prevalent because 'it would be more courageous to prefer death "with dignity" than to accept to submit to the persistence of a life that has become undignified. In this sense, to speak of the dignity of death at the heart of contemporary medicine could only be asserted as an aim that must always be reassured in an inter-individual and social dynamic, if it is indeed a certain social imaginary that risks, nowadays, offering a distorted understanding of it.¹⁸

The expression "right to death" is a quite ambiguous, paradoxical expression. Death being "an inescapable event", "a fact, a necessity, the term "right" does not seem to be appropriate." The

question of the right to death may seem meaningless, since death is a fact and one cannot claim a right where there can be no question of duty? The question of the right to death is the question of the right of a patient who is known and who knows that he is lost, incurable, in a completely diminished vital situation, the problem is to know if he should be given the possibility of exercising the right to choose the moment and the modalities of his death, of his personal death. Obviously, there can be no question here of approaching death as a biological phenomenon. It is the problem of the death of a man in his relationship to another man, namely his doctor.¹⁹

The Greek word euthanasia translates as "good death". Death as a benefit for the patient; to die without suffering, in dignity, while being accompanied. There has also been a remarkable evolution in the way the law addresses end-of-life issues. Until about ten years ago, one of the main battle horses of patients' associations was the denunciation of what was often called "medical paternalism". Patients were less and less willing to be subjected to the "omnipotence" of the doctor and were demanding to be responsible, autonomous.²⁰

however, a distinction must be made between the right to die and the right to death. The right to die consists in the possibility to die, whereas the right to death consists in the claim to die at the chosen moment. The right to die would more accurately mean allowing to die and would have nothing to do with euthanasia. It is in fact the right to refuse unreasonable obstination or therapeutic prolongation. As for the right to die, it would be at the origin of requests for euthanasia and assisted suicide. In light of this distinction, the right to die with dignity can be said to include the right to refuse life-prolonging treatment or palliative care and the right to die would include euthanasia and assisted suicide²¹

Section II: towards a consecration of a right to death

The talk of an express legal enshrinement of the right of death at the international level is intently since, to the best of our knowledge and despite references to it in some domestic laws, we could not locate any direct provision for the "right of death" in this phrasing. In addition to the legal arsenal connected to freedom and the rights related to physical and psychological health, an in-depth study of international texts observes a true dedication to the right to life and human dignity.

A) The freedom to commit suicide:

Nearly 703,000 individuals die by suicide each year, and many more make suicide attempts.²² Suicide is a fact that our societies struggle to qualify ethically. What is there in common between the sacrifice of a resistance fighter, the murderous hysteria of a kamikaze jihadist, the desperate act of an unfortunate person, the decision to end one's life out of a desire to control the moment of one's death? First of all, we must agree on the words: suicide is the action of directly and voluntarily taking one's own life; whether it is called "self-delivery", "free death" or "voluntary death", suicide is the singular act by which the one who takes life is the one whose life is taken away.²³

The suicidal act has never been considered as condemnable in itself. Suicide takes a very particular character in this picture of the murder because the possibility of voluntarily giving itself death is without question the proper of the man. This faculty places the man in the heart of his existential paradox: the murder of oneself, an act par excellence anti-human, inhuman, realizes at the same time the quintessence of the man, namely his freedom. The question of whether or not suicide is legal is nowadays posed in an intense way by the debate on "assisted suicide", which itself refers

to the intersecting issues of euthanasia and eugenics. Indeed, assisted suicide is not really a suicidal act since it requires the action of another who consents to kill the person who asks for it.²⁴

Most legislation does not punish suicide because there is no criminal responsibility. How do we punish people who end their lives? While the right to life is one of the fundamental rights inherent in human dignity and may not be waived or deviated under any circumstances, even attempted suicide cannot be punished because there is no criminal responsibility when the victim is the same person. But anyone who assists or encourages suicide is subject to criminal liability because doing so is regarded a criminal crime that is punishable by law.

Some jurisprudence claimed that the absence of penalty for suicide or suicide attempts should not be justified by the inability of enforcing punishment because it is theoretically conceivable to do so, at least in the event of an attempt. Suicide, in addition to the fact that anyone who makes an attempt at suicide but is unsuccessful will not benefit from the punishment in terms of reforming and correcting him because there is still a chance he will make another try. Some have also claimed that suicide is not criminally punished because the legislation is silent and lacks an express criminal wording, rather than because the suicide victim died and the lawsuit was dropped after his passing.²⁵

Thus, killing oneself continues to be essentially a matter of personal preference and, in most states, a matter of personal freedom. If suicide were truly a matter of personal choice, it would be dangerous to make it an action that society condones, much less a "right to claim" or a "enforceable right."²⁶ The right to life is distinct from other fundamental rights. Most rights protect faculties, not realities. These faculties are guaranteed by fundamental rights, but a person can renounce them. The right to life is an exception: it is not the faculty of living that is protected, but life itself, as an objective reality. Therefore, even if a person wants to die, killing or assisting in suicide violates the right to life.²⁷

Among them, Article 335 of the Criminal Code of the United Arab Emirates, Article 407 of the Criminal Code of Morocco, Article 305 of the Criminal Code of Qatar, Article 158 of the Criminal Code of Kuwait, Article 539 of the Criminal Code of Syria, and Article 408 of the Criminal Code of Iraq. As for Western countries, we find English law in article 269, Spanish criminal law in article 409, and Swiss criminal law in article 409.

Some laws increase penalties if the suicide is incapacitated, mentally retarded, or under a certain age, including UAE Penal Code Article 2/335, Bahrain Article 2/335, and Iraq Article 2/408, among others Lighter than fifteen years. 2000, such as Article 553/3 of the Penal Code of Lebanon, Article 241/3 of Oman, Article 539/3 of Syria and Article 223-13 of France. As for the Qatari Penal Code, it is specified in Article 305/2 and the Sudanese Penal Code in its Article 134.²⁸

B) The ability to refuse treatment :

Refusing treatment is a patient's right, but despite the absence of effective care by the practitioner or the simple continuation of care (aside from a refusal to continue curative care at the end of life, which is covered by a dedicated regulation, with palliative care generally implemented), it implies significant duties for the doctor.²⁹

In cases of denial of treatment, patients and caregivers are forced to face their limits, often violently. Although legal requirements for refusal are given, it is important to understand what they mean. Finding meaning in rejection involves examining the patient's true desires to see that things are not happening, and it involves the dialectic of providing and receiving treatment. When interpreting the ethical principles underlying a decision, the context of the decision must be considered. The

extremes that follow these rejections reveal differing professional practices, as well as ethical dilemmas and conflicting values.³⁰

The principle of dignity, which is frequently cited in the so-called "public health" laws, is particularly significant because it conveys, in the context of this patient/medical body relationship, the place our society has decided to give to the respect of others' persons and to fundamental freedoms. The right to refuse "treatment" is essentially based on the unconditional respect of the dignity of the human being.³¹

It is a right to refuse survival, to refuse the medicalization, a right to be allowed to die; indeed, in a medicalized, efficient, high-performance universe, the right to die is perhaps first of all a right to the cessation of this logic, to the cessation of all therapeutic relentlessness, to the cessation of curative treatment, either because the treatments undertaken would become unreasonable medical obstinacy, or because the patient feels them to be therapeutic obsession³².

The notion of therapeutic relentlessness became widespread in the 1970s when it was realized that certain treatments could be undertaken or continued in a medical activism that had no other meaning than the refusal of the inevitable deadline. According to Patrick Verspieren, the expression "therapeutic relentlessness" was proposed in 1965 by Doctor Jean-Robert Debray to praise the tenacity of doctors in their fight against the disease. By a singular reversal, the expression was taken up in a pejorative sense to denounce the excesses of excessive medicalization.³³

How could a patient truly decide to quit receiving curative care if it meant being abandoned to his solitude, subjected to the endure of a prolonged end of life, or even sent home to die? Palliative care, which includes the treatment of pain, suffering, and severe discomfort at the end of life, is a necessity. the right to put an end to therapeutic persistence and its excessive manifestation. the right to palliative care must be combined with the choice to refuse treatment.³⁴

Palliative care was born out of the desire to pay specific attention, in the care environment, to end-of-life issues and the resulting suffering. The development of the palliative care approach is inherent in the approach to the reality of death in places of care. This approach is intended for anyone suffering from a serious progressive disease that is potentially fatal and is part of an awareness of the suffering caused by the course of the disease for the patient, his relatives and the caregivers who accompany them.³⁵

But how can the doctor exercise these rights to refuse treatment and to treat pain with potent analgesics that may hasten death if the patient is unable to voice his or her will? Jurisprudence holds that the patient's family should have the final say in this matter. Preparing up a document detailing one's wishes in the event that one becomes unconscious is the only method to ensure that one's wishes will be understood and ultimately honoured at the end of life. If this statement were enforceable against third parties, including doctors in particular, it would empower people to exercise their right to self-determination, which needs to be recognized as a fundamental freedom.³⁶

It is important to distinguish between the debate over the right to die and criticism of "medical activism" or therapeutic obsession. If we continue to perceive aid in dying (whether by action or by abstention) as an interruption of medical activity and a rupture of the medical relationship, we are continuing the problem already mentioned. The right to die is then examined from the perspective of medical practice, from its original goal of fighting disease and preserving life, as well as from the viewpoint of the doctor.³⁷

the disappearance of the practice of therapeutic relentlessness rests, first and foremost, on the attitude of doctors, the need to legislate respect no longer appears obvious. Some see in it, moreover,

the demonstration that the existence, or not, of a patient's refusal would not change anything in the behavior which ethically must be that of the doctor in the face of a useless act. The reality is however sociologically more complex, as the silence of certain codes of ethics on therapeutic obstinacy. Furthermore, the strong social reaction against being "dispossessed" of one's death by medical technology could only lead to a legislative demand to restore the right to everyone to a "dignified and humane death".³⁸

C) The challenges in decriminalizing euthanasia:

Euthanasia is frequently brought up in discussions on the right to a dignified death. The possibility of slippage and misuse is one of the key defenses advanced by his followers. The latter claims that the goal of establishing laws governing the practice of euthanasia is to prevent organizations who offer suicide assistance from interfering illegally and clandestinely, with a high danger of abuse. Euthanasia should be made legal in order to prevent abuse and clandestine acts, according to the right to dignified life argument.³⁹

The problem of assisted suicide and euthanasia arises in western democracies that have decriminalized suicide. If suicide is not penalised, if the citizen is granted the freedom to commit suicide, the State does not oppose it, nor hinder it or condemn it, what about the freedom to commit suicide when patients can no longer do the necessary acts?⁴⁰

Criminally, the act of euthanasia can receive two qualifications. Either it is a homicide, if it is a matter of giving death directly to someone; or it is an aid to the suicide of others, separate offence from the first. Euthanasia can receive a similar qualification only if the act targets a person distinct from the agent. Euthanasia on oneself is just an ordinary suicide. Setting aside the case of euthanasia inflicted on others without its consent, the real legal problem is that of euthanasia requested and consented to. If suicide is a right, then it must be inferred that, to claim the fulfilment of this subjective right, the person has the faculty to be assisted in the search for his death. In other words, is there a right to death?⁴¹

The term "medically assisted suicide" is defined by the Société française d'accompagnement et de soins palliatifs (SFAP) as "the act of a physician who provides assistance and medicines to a patient who intends to use them to kill himself, at the patient's request." This is the peculiarity of this act: the patient acts on his own, while the doctor, as agent of the act of assisted suicide, confines himself to providing the deadly substances. Yet, the concept is absolutely not so "innocent". It is quickly apparent that the notion of "medically assisted suicide" is, in fact, the closest to euthanasia, while designating the same action – or rather, in specific legal terms, the same intention – as that of euthanasia, except that in the occurrence is the patient administering the lethal drug.⁴²

euthanasia is Understood as giving death to others, even if it is "good, gentle and without suffering", euthanasia constitutes a violation of a founding prohibition of human social organization. The law, which gives no weight to the consent of the victim in the constitution of the elements of the offence, therefore criminalizes euthanasia, the motive (compassion before suffering) being taken into account only to fix the sentence and, where appropriate, with regard to guilt, to clarify the author's intentions. In this logic, there is no specific offence of euthanasia in the penal code. It is according to the intention of the perpetrator of the act or the modus operandi that a legal qualification will emerge allowing to continue euthanasia as murder, poisoning, or not – assistance to the person in danger.⁴³

From an international perspective, "active assistance in dying" is considered a violation of human rights. The main UN treaty protecting human rights (1966) states that "the right to life is

inherent in the human person". This inherence implies that the right to life must be defended whatever the will of its holder. Similarly, the European Convention on Human Rights (1950) sets out a clear prohibition that "death cannot be inflicted on anyone intentionally". As the European Court of Human Rights (ECHR) recalled last year, the right to life "imposes on the authorities the duty to protect the vulnerable even from acts by which they threaten their own lives." The right to life therefore confers an obligation on States to defend human life in the face of euthanasia or assisted suicide.⁴⁴

4 European states have chosen to decriminalize the practice of active euthanasia: Belgium and the Netherlands, Luxembourg, and Spain. The purpose of this legalization was to bring out of the shadows a common practice in order on the one hand to offer healthcare workers better legal assurance and, on the other hand, to allow visibility, and therefore strict control, of euthanasia carried out in these States. In these States it is now possible for a doctor to intentionally end the life of his patient by respecting a number of criteria and following a legal protocol leading to a posteriori check by a special committee. However, outside the conditions provided by law, euthanasia remains a criminal offence⁴⁵

Starting from the conviction that human life is not only evaluated as a biological phenomenon, but also as a social entity endowed with a fundamental value and recognizing that in any society the coexistence of persons constitutes much more than a simple parallel existence of several individuals, such a "right to death" would be hardly conceivable. It could never be authorized in law, for it would contradict both the whole philosophy and logic of legal science as a whole, and the very definition of law as "power provided to the individual by the legal order for the realization of a biotic interest".⁴⁶

Most countries believe that the social prohibition against ending another's life is fundamental and must be preserved. To recognize in legislation the right of the doctor to kill a patient because of his condition, or the obligation to do so at his request, would induce changes in medical practices whose consequences are difficult to measure. This risk of drift must not be overlooked.⁴⁷

assisted suicide or active euthanasia which, in one way or another, are and remain criminally repressed, and ethically condemned, in principle, the role of the judge is even more eminent. , are and remain criminally repressed, and ethically condemned, in principle, the role of the judge is even more eminent. It is to symbolically recall the limits set by criminal law to human behavior while taking into account, when it comes to imposing sentences, the human circumstances specific to each situation. It is by assuming this role that the judge allows the debate to take place in the public arena, and even in the political arena, with greater clarity about the risks to social rules of abolishing or moving certain highly symbolic boundaries between what is permitted and what is prohibited.⁴⁸

Conclusion:

In light of the topic's breadth and complexity, on the one hand, and the overlap between political considerations and their philosophical and legal analogs, on the other, as well as the vast amount of information dispersed by various references, which has led to issues regarding the priority of information, the solution to the problem is not simple. Research prospects remain open on this subject. Despite the fact that this subject is multidisciplinary, the current study has produced a number of conclusions that can be summarized as follows:

-In light of the term's linguistic and terminological components, "human dignity" refers to the pursuit of justice, worth, and the rejection of degradation. The terminological definition has been the subject of intense debate, with researchers' goals varying in line with their varied intellectual perspectives and ideological leanings. In relation to the social, economic, cultural, and political

frameworks present in every aspect of national and international life, the idea of human dignity is continually changing.

-The problems of composite health care remain unresolved despite the legal sanctification of the right to life and human dignity, in light of the current discussion surrounding the conflict between the public interest and individual rights, the emergence and growth of public health crises in low-income countries, and the difficulties in regulating the activities of health professions.

-One of the most fundamental human rights, the right to health has evolved beyond only being treated to including prevention, treatment, and an individual's overall well-being. In this situation, the patient's freedom to choose how to die appears to extend to the right to life. especially in light of medical progress that has accelerated the aging process while failing to provide cures for diseases associated with aging.

-To our knowledge, and despite being alluded to it in some domestic laws, we were unable to find any direct provisions for the "right of death" in this formulation, therefore talk of an express legal enshrinement of the right to die at the international level is inappropriate. An in-depth examination of international texts reveals a true commitment to the right to life and human dignity in addition to the legal arsenal related to freedom and the rights related to physical and mental health.

-Decriminalizing suicide, granting patients the freedom to decline medical care, and allowing terminally ill patients the choice to disregard life-sustaining care do not constitute the right to die. Although the right to life is one of the primary inalienable rights of human nature that may not be waived or disposed of in any circumstance, most legislation does not penalize the offence of suicide due to the lack of criminal liability. A patient has the choice to refuse treatment, although palliative care is typically provided in a context of terminal illness.

-Both assisted suicide and euthanasia are considered to be a violation of the right to life when it results in another person's death, even if it is "good, gentle, and without suffering". Euthanasia is consequently illegal under the legislation, which disregards the victim's consent when determining the elements of the crime. whether euthanasia will continue to be considered murder, poisoning, or not-assistance to the person in danger will depend on the intent of the individual who committed the crime or the modus operandi.

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