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Current Medical-Moral Comment

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The question of prolongation of life in terminal illness comes up constantly in the current medical literature. While individual cases are not always easy to assess, the basic principles to be considered are reasonably clear. In any human context, whether it be religious, civil or medical (and these are the three areas which become involved in this problem) as long as the phrase "under God" rises naturally to men's lips, it is readily recognized that man is not the absolute Lord and master of human life. Man rather carries with him, both as a right and as a duty, the wise stewardship of his human life — toward the fulfillment of his human personality, his participation in the brotherhood of men, and his love and service of God.

Out of these concepts arise the convictions that man is not free to arbitrarily terminate human life, either his own or another's; that he must, moreover, take ordinary care of his life and health; but that since ultimate dissolution on the brink of eternity is a part and parcel of our common clay, he need not go to extraordinary and exotic lengths to stave off the moment of approaching death.

In our times of advancing medical and surgical techniques the question of what is ordinary and what is extraordinary has become more difficult to decide. A hundred years ago no one doubted that a purge was a quite ordinary therapeutic procedure, and that the amputation of a leg (without anesthesia and with the likelihood of lethal complications) was more than the concept of stewardship of one's life demanded.

But with the advent of modern medicine, of antibiotics and intravenous feeding, of the iron lung and cardiac surgery, colostomies and home dialysis, the distinction between ordinary and extraordinary becomes more difficult to discern.

The modern techniques cannot be judged as ordinary or extraordinary in themselves. They must be considered in relation to the proportion between what is to be hoped for in human values and the cost in terms of human resources, both personal and material. Hence, it would seem that while the use of a resuscitator is most vital at a critical moment, its continued use after very extensive and irreversible brain damage is

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clearly quite useless, and an extraordinary measure.

But these are not the most difficult decisions. The most perplexing problems arise in those cases in which the rights of the individual, the ideals of the medical profession and the prerogatives of the state seem to meet and clash. The most typical and recurrent of these situations involves the Jehovah's Witness and the question of blood transfusion.[1]

Although blood transfusion is not without danger of serious side effects, most people today consider it to be an ordinary life saving procedure. The authentic Jehovah's Witness, however, refuses blood transfusion as a tenet of religious conviction. The case is liable to assume one of three aspects.

First is the case of the adult patient who is seriously ill and in grave need of the transfusio The patient is conscious and ref permission for the transfusion. he patient is unconscious but previously refused the transfusio n religious grounds, the situatio essentially the same. In this case lieve it is a violation of human r s either to give the transfusion to seek a court order whereby transfusion would be effected. some cases such court orders have en granted. In other cases they hav een denied.

This is the easiest the three cases, and the reasons r my opinion are as follows. ile one is obliged to use ordin means to prolong his life, one ot obliged to use extraordinary r ns. Theologians agree that wh s, in itself, an ordinary means can considered *subjectively extraordin* if the patient has a grave s jective abhorrence, antipathy, r gnance or aversion to its use. Th is a subjective state of mind on t part of the patient which *de fac* can exist whether the consider ons which give rise to it are reas able or not. This is certainly ver ed in the Jehovah's Witness wi regard to transfusion. Therefo since the transfusion is a subjec ively extraordinary means of pr longing life for this patient, the pa ent has no obligation to resort to it. Hence, the patient has the right to refuse it. And no matter what the consequences to this patient, that right must be respected.[2]

[1]The Jehovah's Witnesses owe their origin to Charles Taze Russell, a native of Pittsburgh, who was influenced by the Second Adventists (an offshot of the New England Mormons). He presented himself as God's Witness, predicting the coming of the Lord and interpreted the scriptures according to what he claimed to be personal divine inspiration. Russell died in 1916 and his place was taken by "Judge" Rutherford until his death in 1942. Rutherford was succeeded by Nathan H. Knorr. Russell opposed both Catholic and Protestant Churches as being under the supervision and control of the devil (*Deliverance*, p. 122). The doctrine supposes an imminent Armageddon (final battle between good and evil) when Christ, said to be formerly the Archangel Michael, will descend and with 144,000 Jehovah's Witnesses stamp out governments and organized religions and set up the eternal theocracy. The sect has opposed participation in politics, jury duty, military service, salute to the flag, vaccination and blood transfusion as being contrary to various injunctions of scripture.

[2]Ford, J. C., S.J.: *The Linacre Quarterly*, 22: Feb.-May, 1955.

The second case is more difficult. What is to be done if the patient is an infant in need of transfusion as a life saving therapy, and the parents or the next of kin refuse permission?

In this case the more usual disposition of the courts has been to declare the child a ward of the state and to order the transfusion. The situation is usually approached under the juvenile court law of the various jurisdictions which provides, in some degree, for the protection of "dependent and neglected children." The procedure is ultimately based on the common law concept of the state "parens patriae."

This, I believe, is a morally sound approach to the problem. While the state recognizes the right of the individual to freedom of conscience, this does not include the right to act on such convictions in violation of the rights of others. In this apparent conflict the state is correct in assuming the custody of the child to insure that the child receives ordinary care. Moreover, it should be noted that the transfusion remains an ordinary means for preserving the infant life, since the child does not experience that personal abhorrence which made the transfusion subjectively extraordinary in the previous case.[3]

[3]Other legal complications which might arise in this case, such as the restricted right of the physician to testify regarding privileged communication or the right of the parents to trial by jury are legal rather than moral problems. From a moral viewpoint, such lesser rights would yield to the higher right of the child to life, and the legal approach would be a matter for the court to decide.

The third and most difficult case is that of the mother who is in need of life saving transfusion, and who is carrying her unborn child in her womb.

Such a case came before the Supreme Court of the State of New Jersey June 17, 1964 in regard to a patient at Fitkin Memorial Hospital. The court recognized the fact that the pregnancy was beyond the thirty-second week and that the mother was in danger of hemorrhage which would be fatal to both herself and the unborn child. After the Chancery Division of the Superior Court had held that the judiciary could not intervene, the Supreme Court on appeal did not hesitate to order the transfusion for the protection of the unborn child.[4]

Here, I believe, we have the unusual situation of the court being right in principle, but wrong in its application of the principle. Theologians would certainly agree with the court's insistence on the right of the unborn child to the protection of the law. Moreover, it is interesting to note that in the last twenty years there has been a healthy legal trend away from the view established by a decision of Justice Holmes in 1884. Justice Holmes refused to recognize the legal existence of an unborn child.[5]

Likewise, I would agree with the view that the mother certainly has

[4]Supreme Court of the State of New Jersey, No. A 158, September Term, 1963.

[5]Dietrick vs. Northampton, 138, Mass. 14, 1884.

an objective obligation to provide ordinary care for her unborn child. If she refuses to do this for whatever reason, the state, *parens patriae,* has a right to step in.

However, under the circumstances of this kind of case, I believe that the state should not exercise that right. Even if both the mother and the child will otherwise die — and this for two reasons:

1. To force a conscious Jehovah's Witness, on the point of death, to submit to a blood transfusion to save the life of her unborn child might well bring her human and religious feelings into such deep and confusing conflict as to endanger her own spiritual welfare at this uncertain and critical moment. Hence, if the obligation for her to accept the transfusion is verified, it should not be urged under these risk of her eternal

2. I am inclined the precedent of the invading the hum trary to her consci dangerous to the com outweigh the indivi unborn child.

Finally, by way velopment in this g it might be noted there has been some whether or not blo advance from, and use of, a particular acceptable to a Jeh for autotransfusion, t been rejected by *Th Bible and Tract Socie* which is an official Jehovah's Witnesses.[6]

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believe that te physically person con- is so dan- good as to good of the

a recent de- ral problem, at although cussion as to collected in rved for the ent could be h's Witness solution has *Watchtower* (New York) rgan of the

[6] *J.A.M.A.,* 188: 832, June 964.