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ethics

rethinking the ethics of refusing nutrition

In January this year, I spoke about the Christian Rossiter's case at the 2010 Bioethics Colloquium of the Australian Association of Catholic Bioethicists. This article summarises that presentation.

Christian Rossiter was a 49-year-old Perth man who became quadriplegic in March 2008. Unable to move, he was cared for by the Brightwater Nursing Home, and received nutrition and hydration through a PEG or feeding-tube inserted directly into the stomach. Obviously, to stop this would lead inevitably to his death. Even so, on 14 August 2009 the Supreme Court of Western Australia affirmed Mr Rossiter's right to instruct his carers to discontinue providing him with nutrition and hydration.[1] Soon after this decision, Mr Rossiter developed pneumonia, refused treatment and died on 21 September 2009.

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ethical arguments

Catholic teaching holds that each person has a moral responsibility to use those means of sustaining life that are effective, not overly burdensome and reasonably available. We call these ordinary or proportionate means. If someone omits these ordinary or proportionate means, we recognise euthanasia by omission, which is morally wrong.

But on the other hand, Catholic teaching also holds that each person has a moral right to refuse any treatment that is futile, overly burdensome or morally unacceptable. We call these extraordinary or disproportionate means.[2]

Several arguments can be made that a refusal of nutrition and hydration in this case would be morally wrong. Firstly, the Church defines euthanasia as "an act or omission which of itself and by intention causes death, with the purpose of eliminating all suffering".[3] Refusing nutrition and hydration in this case certainly looks like euthanasia by omission!

Secondly, Mr Rossiter was advised by prominent Australian euthanasia advocate Dr Philip Nitschke, and stated repeatedly that he wanted to die. Indeed, Mr Rossiter said that his preferred way of dying was to travel to Switzerland, and to be killed there at the Dignitas euthanasia clinic.

Thirdly, Mr Rossiter wanted to refuse nutrition and hydration. However, Pope John Paul II has identified this as "a natural means of preserving life" which is "in principle, ordinary and proportionate, and as such morally obligatory, insofar as and until it is seen to have attained its proper finality, which ... consists in providing nourishment to the patient and alleviation of his suffering".[4] Fourthly, as Chief Justice Martin noted, Mr Rossiter was "not terminally ill," nor was he "dying". With tube-feeding, he could have continued "to live for many years".

On the other hand, other arguments can be made that this refusal of nutrition and hydration is simply a legitimate refusal of extraordinary, disproportionate and overly burdensome treatment.

Firstly, we should not be overly literal as we try to understand what patients are really saying. We know that it's not ok to say that we want to die, but that it is ok to say that we'd like to be free of the excessive burden of treatment. A patient who does not know this may well say the first when he or she really means the second.

Secondly, among their other statements, Mr Rossiter and his advocates did indeed talk about refusing the excessive burden of treatment. For example, in his statement to the Supreme Court, Mr Rossiter stated, "My desire to cease nutrients or food being supplied to me arises from the profound inconvenience I suffer as a result of my medical condition". Or again, his solicitor Ms Black stated, "It is not so much that Mr Rossiter wants to die, but ... Mr Rossiter does not wish to continue to endure the pain and agony of being kept alive".

Thirdly, the Catholic tradition is quite broad in its understanding of disproportionate treatment. In the Middle Ages, this tradition permitted a woman who was deeply distressed by the thought of a male doctor examining her private parts not to seek treatment. It permitted a monk who was distressed by the thought of life as an amputee to refuse an amputation which would save his life. In this broad Catholic tradition, can we confidently say that the demanding treatment needed to maintain a quadriplegic must necessarily be judged ordinary and proportionate? I'm not sure that we can.

Fourthly, our Catholic tradition included a category called vehemens horror, which means either severe dread or profound terror. If either the treatment or one's condition after treatment evoked vehemens horror, this in itself made the treatment overly burdensome, disproportionate, and no longer obligatory. And while some people do adapt well to quadriplegia, I can well understand how in other people all this might indeed evoke vehemens horror.

Finally, our Catholic tradition does not require someone to be dying before they can refuse overly burdensome treatment. And given that our tradition permitted sick people not to eat if the thought of eating revolted them, might it not also permit someone to refuse medically assisted nutrition when the overall burden of treatment had become too great? The standard for medical nutrition cannot be greater than the standard for ordinary eating.[5]

resolution

I confess that I have been greatly troubled by this case. I have walked for hours thinking about it: at times convinced one way, at other times convinced the other way, but most times genuinely ambivalent. I have also sought opinions from many health professionals and ethicists. I heard this same ambivalence in many of these opinions. And I felt the ambivalence even more deeply as different people well versed in the Catholic tradition gave me contradictory conclusions. Eventually, I came to my resolution. For me, the solution was not to continue to strive to resolve that ambivalence. It was instead to recognise the ambivalence. There is genuine doubt here. And one of the firm principles of the Catholic tradition is that a doubtful rule does not bind.

Fr Norman Ford wrote about this moral principle in a recent publication for Catholic Health Australia. He noted that in a complicated world there are some moral doubts that we simply cannot resolve. He continued: [A]n irresolvable ... moral doubt about [an] action cannot alone give rise to a definitive moral obligation to avoid that ... action. In short, a person is morally free to act unless it is certain that [an] action is morally wrong. A doubtful obligation... constitutes no obligation...[6]

My resolution of this case, therefore, is that for a quadriplegic patient who must receive complicated care we cannot establish a clear moral obligation to continue that care. One patient may well decide to continue that care, but because of the genuine doubt it is not wrong for another patient to decide to discontinue that care. Furthermore, if a patient did decide to forego further treatment, a Catholic facility could continue to care for them even as they moved towards death. I should add that I offered my initial thoughts on this case soon after it became a matter of public comment. At that time, I was more convinced by the arguments that this case involved euthanasia by omission. I therefore wrote that in these cases "a request to discontinue tube feeding could not be honoured in a Catholic hospital or aged care facility ... A patient who persists in this request may have to transfer to another, non-Catholic facility".[7] Obviously, now that I have had more time to consider, I no longer believe this. To the contrary, I now conclude that there is genuine doubt there; that a doubtful rule does not oblige; and therefore that a quadriplegic patient receiving complicated care may legitimately refuse further treatment; and a Catholic facility may legitimately continue to care for them even as death approaches.

implications

Finally, I offer three implications which follow from this view:

Firstly, in my opinion, it is very important that Catholic facilities are not prevented from caring for patients who have refused treatment in these sorts of circumstances. We may hesitate either because of the risk of scandal or the danger of facing criticism. But, ultimately, these considerations should not deter us. Even in these difficult cases, this is how we continue the healing mission of Jesus, and how we play our part in building both a culture of life and a civilisation of love.

Above all, at the centre of these cases is a very vulnerable human being who has asked for our help and whose request should not be refused unless we are truly certain that this would be wrong. So despite temptations to the contrary, in my opinion it is very important that Catholic facilities are not prevented from caring for patients in these sorts of circumstances.

Secondly, we must give a clear and public account of what we are doing. Chief Justice Martin noted in his judgement that "this case is not ... about euthanasia". In the same way, we must explain the difference between euthanasia and this refusal of disproportionate treatment. It is not always an easy concept to explain, nor for people to grasp. But it's not impossible to explain either. This clear and public account of what we are doing is very important.

I confess that I have been greatly troubled by this case. I have walked for hours thinking about it

Thirdly, within our Catholic facilities, we must carefully respect the right to conscientious objection. Some health professionals may well believe—as once I did—that this sort of case does involve euthanasia by omission Such a person working at a Catholic facility must be able to withdraw from this sort of case if they so choose. This is how we show our respect for them & for their conscience. It is also a right which we have affirmed in the Code of Ethical Standards II.7.19.

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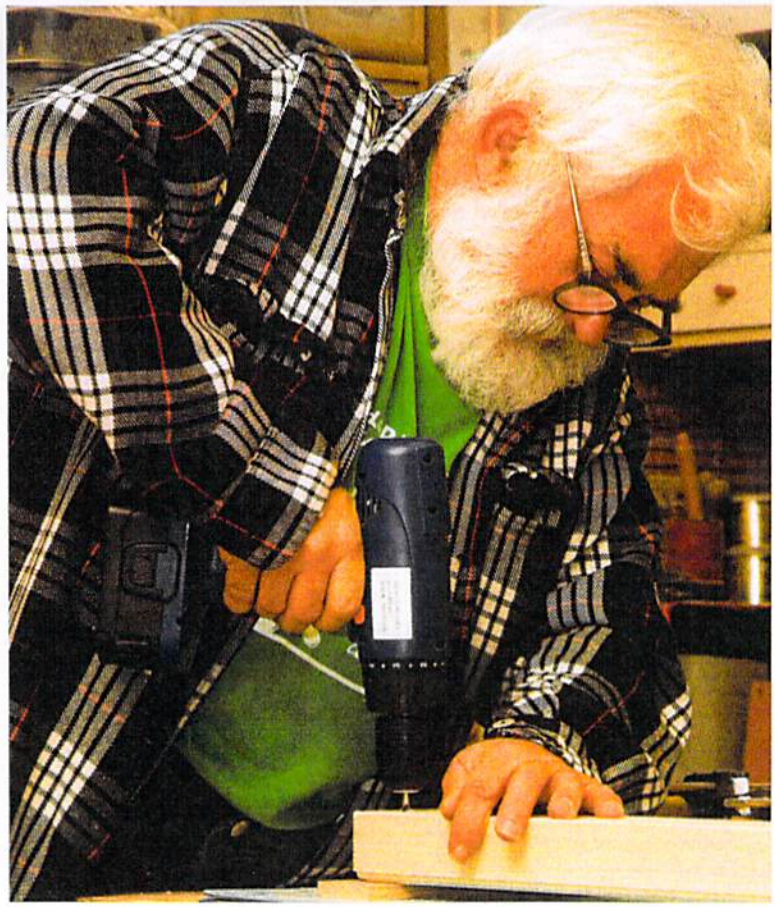

before the sudden increase in immigration in the 2008–09 periods. As seniors increase in number, to bring the population into social equilibrium there will be significant social pressure on employment, commercial, education and social systems to value and encourage continued participation by seniors and decry discriminatory attitudes towards older Australians if national prosperity is to be preserved.

I predict that the 'boomer' generation will most probably do what they have always done— they will either arrange for whatever they need to occur, or invent something that will achieve it.

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2. See A Guide for People Considering Their Future Health Care and A Guide for Health Care Professionals Implementing a Future Health Care Plan, both of which are available as a free download from the CHA website
3. John Paul II, Evangelium Vitae, #65
4. John Paul II, Address to Participants in the International Congress on 'Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas,' #4
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