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Ethics in Medicine

With 63 Figures and 29 Tables

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Tadeusz Biesaga

Is Personalism or Utilitarianism an Adequate Foundation of Medical Ethics?

Fundamental principles of personalism and utilitarianism

One must state in the very beginning that medical ethics develops not so much under the influence of philosophical views, but under the influence of growing empirical sciences, which can create scientific mentality, under the influence of legal decisions of various international or national medical organisations, under the influence of various social movements or some policy of a democratic country, which wants to avoid numerous social conflicts and sets the law through consensus, in case of abortion or euthanasia – the right to live, thus suggesting moral norms in this field. Contemporary bioethics and medical ethics should, however, develop in connection with philosophical ethics, otherwise it will be unaware of the philosophical presuppositions which are *implicite* considered in many medical decisions, made for thousands or millions of patients every day.

Philosophical ethics distinguishes at least three ways of justifying moral norms. These are a) utilitarianism (good is what brings benefit); b) deontonomism (good is what an autonomous subject commands himself as a duty) and personalism (moral good is what is the affirmation of the human dignity). We have in mind here especially the possibility of using the principles of personalism and utilitarianism in medical ethics.

The fundamental principle of personalism can be formulated as follows: *homo homini res sacra, homo homini summum, persona est affirmanda propter se ipsam*, etc. I. Kant expressed this in the statement: »Act in such a way that you always use the humanity as the aim and never as the means in your own self and in other people« (3). Prior to this imperative he wrote a general formula: »act according to only such a maxim, due to which you may at the same time want it become a universal law« (4). This principle of universalism is indeed formal, but it is fundamental, it rejects subjectivism, arbitrariness and

situationism in making moral decisions. The one who wants to apply some specific norm towards another person must take into account the fact that by doing that he can apply it to all people and to himself. In the Judeo-Christian tradition this is expressed in a golden rule as an negative imperative: »do not do to others what is unpleasant to you« and a positive imperative: »do so as you wish others do to you. Nevertheless, both a formal generalisation of a principle and its material basis are important. The basis is the human person, his/her value, dignity. Being recognised directly, intuitively, as the phenomenologists do, or justified by the metaphysical analysis, as the Thomists do, the human dignity becomes the foundation of the norm: *persona est affirmanda propter se ipsam*. It causes that in formulating all norms the human person must be treated as the aim, and not as means to reach something else.

The utilitarianism of J. Bentham and of J. St. Mill accepts the formal principle of universalization of the norm of morality, however it does not put the human person with his/her value, which cannot be reduced to anything else, as the material definition of this norm, but it puts pleasure, benefit, prosperity and happiness of mankind. Bentham uses a well-known principle: »greatest happiness of greatest number of people«. The author of this principle intuitively assumed the universally obvious statement that suffering is evil and happiness is good. Contemporary utilitarians also take into much consideration the autonomy of subject and then the understanding of happiness depends on the individual autonomous preferences. »They are ready to agree with economists, which have similar views – writes R. Gillon about utilitarians – and accept that people can evaluate generally at least the individual measure of happiness and suffering in the way similar to the measure they evaluate financial gains and losses« (7). Thus simplified utilitarianism seems to be attractive because the calculation of losses and gains itself is to show us what to do.

General versus specific norms

The application of those two norms of morality to formulate specific moral norms in bioethics and medical ethics creates various difficulties and thus there is a continual discussion between personalism and utilitarianism in this respect. Personalism seems to win in the discussion as far as the main, most general norm of morality is concerned. Treating a patient as the human person is a fundamental requirement of medical ethics. Under the influence of philosophy and humanistic psychology scientific mentality in medical ethics, which treated a patient impersonally as a thing, as a case of some illness to be exam-

ined by doctors-techniques, has been overcome. The personalistic norm can be expressed as the principle of imperative value or sanctity of human life, the right of every innocent human being to live or as fundamental principle of medical code: *salus aegroti suprema lex*, the highest ethical imperative for a physician is the health of the patient.

However, the application of these norms to concrete, more and more complicated situations of ill patients, is very difficult. The development of medicine and technical equipments, i.e. to sustain life, creates situations, which have not occurred so far and in which doctors have to make a decision. In a very short time a doctor has to discern, for example, whether to connect a respirator to a patient with a brain damage after an accident, knowing that the patient will remain in a vegetative state for a long time with life sustained only by the respirator or not to connect the respirator and make the patient an organ donor for other waiting patients. Similarly difficult decisions are in cases of some deep handicap (i.e. anencephalia, Down's syndrome, etc.) in foetuses during the prenatal period or in babies. Other situations difficult to judge embrace very complicated and costly operations or organ transplants, possibilities to substitute organs with technical equipments where, for example, there are more patients than equipments of maintenance dialysis.

In such situations doctors must segregate patients, taking some for treatment and making others wait. In spite of a general personalistic attitude towards patients, doctors – according to R. Gillon – apply the principles of the utilitarian ethics in complicated cases. They regretfully admit that. However, it seems that the principles of the utilitarian calculation win in making concrete decisions in extreme cases.

The authors and followers of the utilitarian ethics make doctors believe in this attitude arguing that their theory is right since it allows doctors to judge effectively which treatment is beneficial for the patient and society. Utilitarians suggest simple calculations of losses and gains, close to contemporary economic calculations, which in a way show with scientific certainty what decision has to be made. The words: »benefit«, »quality of life«, »prosperity, happiness of humankind«, »welfare«, »effectiveness and economic, medical, civilizational growth« – these are key ideas of this ethics. Nevertheless, one must ask if any theoretic justification accompanies this practical utilitarianism in medical ethics and the triumphalism of the utilitarian theorists.

Utilitarianism and fictionality of its fundamental ideas

Utilitarianism appears as an attractive justified ethical theory, which through hedonistic calculation, or better calculations of benefits, proposes a coherent and reliable procedure of making difficult decisions and thus solving moral and social conflicts insoluble in the field of, for example, personalistic ethics. In such a presentation utilitarianism seems to be very attractive for politicians who seek methods of overcoming social conflicts, or for social activists and courts of justice that want to have effective instruments to solve difficult conflicts between patients and doctors or patients' families and society. Such an ethics develops under the influence of politicians, social activists and organisations that use pressure, manipulation and consensus of majority. In such a context most healthy people and their standard of life may step after step eliminate those whose maintenance of life is a severe burden for the whole society.

In the meantime theorists raise serious objections against the fundamental ideas of utilitarianism, thus showing the incoherence of this theory and questioning its conclusions, which at the same time destroy the scientific belief that a simple, linear, quality, utilitarian calculation is a wonderful instrument to solve conflicts in medical ethics.

Utilitarianism uses indefinite, fictitious but very suggestive words: »happiness, benefit, prosperity of humanity«. In his principle »greatest happiness of greatest number of people«. J. Bentham defined happiness in a rather primitive way because he identified it with pleasure. *Hedonistic calculation* was to be the criterion of good and evil. J. St. Mill questioned that by differentiating a hierarchy of pleasure. Furthermore, phenomenologists showed a hierarchy of values and variety of corresponding personal experiences and irreducibility of higher experiences to lower ones. One should mention Kant here, who radically questioned utilitarianism as contrary to ethics, i.e. as a theory and tactics of realisation of both individual and group egoism.

The word »pleasure« in the utilitarian norm is today substituted by »greatest benefit, interest of greatest number of people«. As it has already been mentioned, hedonistic calculation is changed into *economic calculation*, close to the evaluation of financial gains and losses. The focus on the benefit of a greater number of people in the norm shows that the decisive factor will be selfishness of the majority applied towards those who, for example, would decrease the benefit of humanity. The patient's interest must be, therefore, conformed to *social interest*.

The words »benefit«, »patient's interest«, »social interest«, »effectiveness« are very suggestive. One may also show numerous specific benefits which may be derived from experiments on embryos, on the sick, genetic experiments, changing the definition of death, as some utilitarians suggest, in order

to take living babies with serious brain defects as dead and use them for transplants. Taking the economic definition of benefit as principle it would be difficult to assume that poets, painters, philosophers or even doctors are of any profit for humanity. They do not bring prosperity nor produce useful things. Doctors who maintain life in the sick increase the economic and financial burden of humankind and decrease people's material standard of living. According to the utilitarian calculation they should rather become instruments of selection and destruction of biologically weak individuals. Thus we could imitate the selection Darwin saw in nature. Medicine involved in the destruction of human fetuses with defects, in euthanasia of terminally ill or in sterilisation of too fertile and less civilised peoples, would probably be consistent with the utilitarian view.

Utilitarians themselves see that they are inconsistent (9) by tolerating for example the situation in the same hospital where abortions are made in one room and in the other there are attempts to maintain new-born babies. In the first case medicine kills a healthy man in the prenatal period, who without this interference could live and be useful to society and in the second case it wastes social power and means to maintain life, using expensive technical equipments, that will not be of profit to society because of the patient's permanent handicap. Both involvements of medicine are contrary to utilitarianism. The reference to the principle of freedom of decision in this case means abandoning the principle of benefit since such decisions are not beneficial for society.

The regard to *autonomy of subject* by contemporary utilitarians and with it the individual, emotional and subjective preferences concerning what is enjoyable and profitable, makes the formulation of any definition of benefit and prosperity of humanity even more impossible. This brings about *ethical emotivity*, which rejects any rational discourse about what is good and what is wrong. Some utilitarians openly admit that such ideas as universal happiness, prosperity, benefit are empty ideas, fictions to which one cannot attribute any contents. According to A. MacIntyre contemporary utilitarianism prevents any rational moral discussion because it uses various emotive techniques of manipulating others. 10 Utilitarians lavishly use various slogans of effective action, development and better civilisation. They show temporary benefits and thus easily win fame for their attitudes.

However, the principle of prosperity and humanity in the utilitarian interpretation makes the value of the human person subject to society. Social interest threatens the individual here because it defines his/her value of life. The drift towards maximalization of benefits and prosperity of humanity strikes the seriously ill, e.g. babies with brain damages, Down's syndrome, etc., people after accidents and with serious brain defects, the terminally ill. Let us consider the arguments of Peter Singer, one of the most involved utilitarian.

Is it in the patient's interest to be put to death?

Aiming at a more effective and successful medicine Peter Singer claims that »it would be better to legalise organ transplants from living babies with anencephalia or damaged brain mantle, who meet strictly defined conditions and are properly diagnosed«. He accuses the opponents of such a possibility of great waste and that they do not allow many other babies waiting for donors to survive. He praises the legislation of abortion. »The impairment of the law to kill a foetus directly – he writes – was the first victory of the ethics of *quality of life over the ethics of its sanctity*« (2). The principle of the quality of life – according to Singer – begins to make its way in practical medicine. He quotes the famous example of the treatment of Tony Bland who as the result of an accident at a stadium on 15 April 1989 found himself in a coma in hospital. His case was dealt by doctors and the Supreme Court in Great Britain. In order to justify euthanasia arguments referring to the *interest of the patient* and to the *quality of his life* were used. One judge claimed that »the continuation of maintenance of life is not in the interest of the patient who does not experience anything«. Singer described the formulation that »maintenance of life does *not bring the patient any perceivable benefit*« as »perfectly rational conclusion« which should be used as an argument for the quality of life (3). In cases of serious brain damages in babies or patients after accidents one should – according to the judge – consider whether the patient »has some benefit or loss« (14) through the maintenance of his/her life. The same kind of theses has been used by the World Health Organisation in its formulation that abortion »is in the interest of a future child who will be a cripple« (5).

It is true that the evaluation of benefits and losses for a patient or speaking strictly – calculation of hierarchically ordered goods for a person – is taken under consideration in applying every treatment. However, in the above mentioned argumentation the problem of benefits and losses for a patient is solved by his/her death. In what can a patient benefit if he/she ceases to exist? Therefore, Singer's promotion of active euthanasia, for example of babies with Down's syndrome, which is more rational because of its fast and effective realisation, is based on empty, fictitious idea of the benefit which the patient can have. Singer, being aware of this to some extent, does not apply explicitly this principle to adults with Down's syndrome because it is more difficult to argue that death will be in their interest.

Raanan Gillon asks rightly: whether the principle »life not worth living« (*lebensunwertes Leben*) (16) segregates people limiting their right to live. »Are people with Down's syndrome second category men?«, »Have they got fewer rights than other patients?«, »Are duties by them smaller than by others?« Does this principle segregate people in the way that the life of a healthy per-

son is valuable and an ill one less valuable and the terminally illness unworthy of man?

From the position of personalism one cannot define the value of the human person on the basis of his/her health, biological, psychic, conscience or social characteristics. No society, be it state, legal or medical, can give or take this value from man. The subordination of the value of person to the utilitarian values of a given society is drawing medicine into reification of man and treating him/her as a product useful or not useful to the majority of the healthy group of people. Thus medicine is losing its personalistic and humanistic face and becomes an instrument of politicians who, with their desire to have power as long as possible, will attempt to use medicine in a non-ethical way, i.e. to annihilate the patient and calm and solve problems.

Those who claim that »somebody's life is not worth living« may be asked: are your lives worthy of this? For if you consider benefit in the moral sense, the most unprofitable thing for society is proclaiming immoral ideologies that forbid others the right to live. One can mention the Nazi ideology or communism. Why is life of a prisoner in a costly prison worth living (in many countries the death sentence is abolished) and the life of new-born handicapped babies and adults not worth living? So utilitarianism, not defining its fundamental ideas, can easily change medical ethics in a theory of elimination of the uncomfortable people.

Therefore, as a theory utilitarianism cannot serve as the basis for medical ethics. Undue *thrust on success* in this theory, which is the annihilation of those patients being in the most difficult situations, even with the desire to use patients as organ donors, is not a proper way. Humanistic civilisation cannot be built in an unhumanistic way. Medicine, according to the principle: *primum non nocere*, does not need to yield to the ideology of success and realise it by experiments on people or by annihilation of the most seriously ill. It does not need to yield to the scientific belief of utilitarians that they have a scientific and precise way of making difficult decisions. Medicine should rather be aware of its limitations and be a humble servant of man.

Personalistic ethics seeks general norms and has not got ready recipes to be applied to individual and extreme situations of patients. However, it always confirms that for a doctor *salus aegroti suprema lex*. Thus it protects and prevents a doctor from being an expert in the matter of the sense of life and happiness of human being, from evaluating which life is worth and which is not worth living. It does not make a doctor's life easier nor does it indulge him in illusions that we have found a simple scientific calculation to help him make difficult decisions.

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