

EDITORIAL

Why dedicate a publication to “Death and Dignity” if a right to die is not among the main disputed questions at the United Nations? It is precisely because of the absence of this debate that such a document is crucial! The emerging vocabulary of a human ‘right’ to a dignified death is discreetly rising in UN texts and reports, establishing its terms as “non-opposed language”. Over time, this might become “consensual language”.

In this instance, such a consensus is probably better described as most states’ mild indifference to or ignorance of the risks at stake of an evolving vocabulary. A change of words - or a subtle change of the meaning of words - is often all that is needed at the UN to land a victory and later impose measures introduced by the alteration in wording or definition. The Special Rapporteur on the Rights of Older Persons adopted the expression: “right to life and to dignified death” in 2014; such troubling terms stimulate a transformation in the very interpretation of human dignity.

The notion of inherent and universal dignity is one of the corner stones of the Human Rights system. To assign levels of human dignity to a type of death is to alter the way it is commonly understood in the U.N. Charter and the Conventions. Dignity does not change or alter with illness or age. If inherent, it is not qualifiable. Are human rights so well respected around the globe that we can afford to undermine this basic principle?

To speak plainly, there is nothing dignified in assisted suicide. The killing of another human being is always a tragedy. In all UN texts, dignity is supposed to be objective, universal and undeniable, not linked to the actual capacity of an individual to perform autonomous acts. This is why children, the demented or persons with disabilities are said to have an essential and inviolable dignity that no state, no group of persons, no piece of legislation can deny. This was one of the great lessons learned as a result of both the World Wars. This was moral progress.

Yet, the push for recognition of legal forms of euthanasia at the national level is quickly transforming the fundamental assumption of inherent human dignity. The fear of terminal illnesses, unbearable pain, incurable degenerative diseases or extreme dependency in old age, all have added up in the present generation, fuelling the call for a “right to die”. The fear of a loss of autonomy, of consciousness, of rationality or just the experience of physical or psychological pain is now seen as denting or denying our fundamental dignity. So much so, that a “legal exit” from pain, illness and old age is presented as the truly dignified form of dying. To support this claim, attractive language such as “compassion” and “mercy” is invoked to induce emotionally charged convictions and assent. Likewise, the deeply ingrained fear of the state’s encroachment upon individual rights is used to leverage the legal preservation of the supposedly very private and essentially individual wish to die. Instead of safeguarding an objective quality that no amount of pain, illness, rationality, poverty or state sponsored discrimination can deny, this agenda suggests that complete and uninterrupted autonomy is the new basis of dignity and, thus, the new basis for defensible human rights.

Litigation on the right to die in national or international courts show how far and quickly the interpretation of dignity has shifted from a basis in human ontology to a basis in unrestricted personal autonomy. Thus, this working paper raises the question: can we afford to undermine the objective dimension of dignity in international law by recognizing a human right to a “dignified death”? Have we considered the long-term legal and social consequences that will surely result? Are we prepared for the logical repercussions to follow?

Such recognition of a so called “human right to a dignified death” would introduce a new and fundamental tension within the system of Human Rights. Wherever individual autonomy might be threatened, so would human dignity; whenever a restriction to individual choice may occur, it would encroach upon human rights. Under this troubling development, preserving human rights would soon become a fine balancing act, aimed at preserving as much autonomy as possible. Dignity may well be but the maintenance of equilibrium among rights - a mere expression of autonomy.

This is not the road forward. This is not progress, but a regression, a loss of humanity, a painful crawling backwards in term of human rights. This working paper argues from three different perspectives – legal, philosophical and theological – the reasons we oppose such a move. It shows what is at stake and why we should avoid walking down the road towards the recognizing of a human right to “dignified death”.