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## Paternalism as a field of bioethical concern

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### ABSTRACT

Paternalism becomes an issue in difficult situations when a physician in some way intentionally affects and limits the decision-making autonomy of the patient. Even though paternalism is literally interpreted as an attitude that appreciates paternal warmth, treating someone who is not a child paternalistically means treating him wrongly. It is reasonable for people to regard the respect of their rights as a protection against subjugation. If doing wrong to another person is contrary to what I would do to myself, then I must admit that nonreversible behaviour is wrong in itself. Whoever engages in nonreversible behaviour is doing wrong, or performing an irrational act. Autonomy and rights belong to the key metaethical concepts because vulnerability of all rational beings to subjugation is universal and our rational capacity to recognize it establishes its primacy over other moral ideals. Vulnerability to subjugation is an intrinsic qualification of human existence because every human being can harm the other. My duty to be accountable for your vulnerability is implied in my power to harm you. In order not to harm each other I must move from the logic of power, to the logic of duty. What makes selfish action unethical is not that the agent has been a self centred paternalist only, yet the fact that selfish interests have served as criteria for action. This paper aims to infer what sorts of virtues are required to direct the physician to meet the interests of the patient as if they were his own, just for the sake of moral reason which requires not to harm the other person. The patient's right to accept or refuse medical care changes the position of the physician's power over the patient because moral principles are those of reciprocity. Bioethical quest for a correct method all moral agents ought to be guided by refers to the conviction that it is rational to come as close as possible to the ideal moral judgment. Since a system of moral rules free of conflicts between principles and exceptions to principles does not exist, physicians are constantly confronted by conflicting demands in their need to decide what kind of consideration is weightier. Since paternalism is against the informed consent, it insists that patients believe in the doctor's conscience and skill and act as the doctor tells them to do. If the physician acts

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beneficently to protect the patient from harm and the patient resists, the physician acts from the perspective of medicine which violates the autonomy model. Bioethics aims to advance human good because it provides a connection between goals of normative ethics and the establishment of principles for handling violations of rationally grounded moral decisions.

**Key words:** paternalism, power, right, beneficence model, autonomy model, moral reason, informed consent

## Introduction

Questions about the ethical justifiability of the behaviour of the physician who deliberately influences a patient and restricts the patient's autonomy<sup>1</sup> are bioethical concerns because new, powerful techniques of intervention are constantly introduced in medicine, which may be contrary to the patient's right to preserve his/her human dignity in every moment. Such context requires the ultimate ethical responsibility of physicians to be redefined with a goal to create high-quality services that are sensitive to the growing vulnerability of patients. Growing vulnerability should not be understood as a weakness; a high level of vulnerability implies moral significance, since precisely because of it "*someone else*" (i.e. physicians and medical staff) must even further deepen their humanity. A person who limits autonomy affects the well-being of a patient because such a person approaches the patient from a strictly clinical perspective, making everything the medical profession requires. But if a medical procedure interferes with -according to the patient's opinion- unacceptable intervention in order to prevent damage, such approach is called paternalistic. If the patient is not provided with care appropriate to his/her autonomy and personal integrity, the procedure should be characterized as morally wrong. Bioethics views such questions from a more general, philosophical perspective and standardizes principles which should be chosen in concrete cases.

## The complexity of the term *Paternalism*

Civil<sup>2</sup> state is committed to the aspiration of treating all citizens as legally and morally equal. According to the mentioned principle, treating someone who is not a child paternalistically, means treating him wrongly. Paternalism implies interference

<sup>1</sup> The term "autonomy" (Croatian: "autonomnost") in this text is used rather than the term "independence" (Croatian: "autonomija") simply to stress the fact that man is a moral subject, so independence (in the sense of freedom, as opposed to self-will) is a primary qualification of his integrity.

<sup>2</sup> Civil state is nominally organized so as to be committed to the aspiration of treating all citizens as individuals who are legally and morally equal. It is contrary to theocratic, class and caste legal structures. The word "civil" is not synonymous with the word "civic" since it does not refer just to the inhabitants to the cities. "Civil" as opposed to "bourgeois" is a political term, which historically emerged in the moment when modern nation was formed, which outgrows the traditional notion of "people". It is related to the specific structure and role of institutions in liberal democracies.

in the freedom of another person's action without having a permission to do so. Therefore, any paternalistic behaviour demands moral justification. Physicians are not supposed to make decisions in their own interest, but in the interest of other persons, defined by the respect of their autonomy. Utilitarians generally claim that any paternalistic behaviour is justified because it allegedly creates more benefits than harms. It is based on a desire of an authority to regulate views and feelings of subordinate society members, i.e. an aspiration to change someone else's personality into a means and in that way to prevent this person to act autonomously. Unlike utilitarians, deontologists do not approve of concrete actions simply because of their beneficial implications, they approve of a certain action only in the name of what is right. They consider some acts wrong regardless of the good consequences that result from them. However, experts warn that deontology and utilitarianism generally do not appear in an entirely pure form; therefore, clear orientation of activity direction (that would qualify a given act either as deontological or utilitarian) may not be visible at a first glance.<sup>3</sup> The problem of paternalism occurs when the understanding of the notion of wellbeing gains a double meaning, i.e. under the circumstances where the understanding of the patient's best interests from the medical perspective begins to differ from the understanding of the same interests from the patient's perspective. Beauchamp states that the first model is called the **beneficence model of moral responsibility in medicine**.<sup>4</sup> The second model defines the best interests from the patient's perspective as understood by the patient, and is called the **autonomy model of moral responsibility in medicine**. Moore states that the most fundamental question of ethics in general is the question of how to define *good* itself. Such research belongs solely to ethics, so if it is not recognized, the rest of ethics from the perspective of systematic knowledge will remain useless.<sup>5</sup> What is right and what is wrong are associated with ethics on the basis of the derivation and by no means on the basis of custom. With a question how to understand a physician's responsibility toward the patient whose autonomy is reduced, it is obvious that custom does not provide a satisfactory answer. As claimed by Macario Alemany, paternalism always implies the need to justify the activity of the stronger side. In his opinion, what is meant by paternalism refers to a collection of criminal norms aimed to protect individuals from themselves.<sup>6</sup> In that respect, it is very important

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<sup>3</sup> Frank Harron, John Burnside & Tom Beauchamp: *Health and Human Values*, Yale University Press, New Haven and London, 1983, p.6

<sup>4</sup> Tom L. Beauchamp & Laurence B. McCullough: *Medical Ethics – The Moral Responsibilities of Physicians*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1984, p.22

<sup>5</sup> George Edward Moore, *Principia Ethica* (From: Andrew G. Oldenquist: *Moral Philosophy – Text and Readings*, Second Edition, Houghton Mifflin Company, Boston, 1987), pp.280-281

<sup>6</sup> Macario Alemany: *Paternalism and Bioethics* [www.giuri.unige.it/phd/paper/alemany.pdf](http://www.giuri.unige.it/phd/paper/alemany.pdf), p.1

to distinguish the violation of moral rules from failure to follow moral ideal. Moral does not only consist of rules but of ideals as well. Ethically, failure is far more negative than the care not to violate moral rules is positive. Moral rules<sup>7</sup> refer to the (negative) acts that we must not do, while moral ideals point to positive acts that should be done so that we may avoid mistakes or damage. Violating of moral rules always requires an adequate justification: if there exists no moral reason to do something, then doing what should not be done is called paternalistic and should be perceived as morally unacceptable. However, according to authors Culver & Gert, failing to follow a moral ideal does not require moral justification, therefore, such failure – although it is incorrect – we do not call paternalistic.<sup>8</sup>

## The context of paternalism

Ethical issues related to the notion of right, i.e. **informed consent** enter into the centre of bioethical attention when we are not sure where to direct further action, or, as stated by Capron, failure to protect the weak condemns the entire society.<sup>9</sup> While considering how to determine the conditions of informed consent, it is important to clarify who should be responsible for vague orders, and who should be held responsible for orders that are clear, but are not followed. As stated by Alistair McAlpine, incomprehensible commands are the fault of the commander, while orders that are clear and still disobeyed are the fault of those commanded.<sup>10</sup> In the past, in medical profession lacked respect for the informed consent within the decision-making procedures. This was considered normal in the same way as it was considered normal not to give antibiotics for severe inflammation (since antibiotics were not in use yet). But, today's paternalistic practice is archaic; it is not only morally wrong, but also illegitimate, especially when carried out because of nostalgia for the past times. Paternalism always implies two goals:

1. Prevent doing wrong to other person.
2. Usurp the other person's decision-making rights.

Therefore, paternalism implies interference with other persons against their will, usurping their right to decide for themselves and thus fulfill their human need to

<sup>7</sup> Bernard Gert: *The Moral Rules*, Harper & Row, New York, 1970, p.63

<sup>8</sup> Charles M. Culver, Bernard Gert: *Philosophy in Medicine – Conceptual and Ethical Issues in Medicine and Psychiatry*, Oxford University Press, New York, 1982, p.132

<sup>9</sup> *Ethics in Biomedical Research – International Perspectives*, Edited by Matti Häyry, Tuija Takala, and Peter Herissonne-Kelly, With a Foreword by Alexander Morgan Capron, Rodopi, Amsterdam, New York, 2007, p.XI

<sup>10</sup> Alistair McAlpine (Publisher): *The Ruthless Leader – Three Classics of Strategy and Power*, John Wiley & Sons, Inc., New York, 2000, p.1

qualify as human beings, i.e. to be moral subjects. Although paternalistic behaviour is justified by an aspiration to protect another person, acting paternalistically still means treating the other person ethically wrong. Beauchamp rightfully points out that philosophers make efforts to show they do not want to confuse personal intuitive attitudes (i.e. non-reflective and non-objective principles) with a reasonable and justified moral position.<sup>11</sup> Namely, doing what is morally wrong is morally unacceptable. No one is allowed to do a morally wrong act just because they want to. To violate a moral rule is justified only if there exists a morally adequate reason for that, which is allowed only under the pressure of a better understanding of ethical ideals.

## The role of society in paternalistic issues

As previously established, the idea of well-being, as it is understood from the medical perspective sometimes differs from the patient's autonomous perspective. According to the views of a number of authors, the perception of bioethics does not only consist of generally accepted and verified knowledge, but is manifested more as a field of acute debates and disagreements.<sup>12</sup> Under such circumstances, physicians are typically conditioned to see the world from the perspective of instrumental knowledge and access problems from a strictly clinically-oriented perspective. The medical decision-making procedure functions as a system of externally imposed prohibitions on a course of action. Since in moral philosophy the idea of personal autonomy belongs to the field of self-control,<sup>13</sup> a medically-oriented approach easily comes into conflict with the needs, values and beliefs of patients. Conflicting groups tend to manifest collective behaviour in striving to reach the right answers. Feldman states that group members have such a strong motivation to reach consensus, so that they lose the ability to critically evaluate alternative positions. Physicians should be considered responsible for the principles that guide them because they do not work in a vacuum; their services are always required in a concrete social environment.<sup>14</sup> The power to make and carry out decisions should be derived from the principles that are good because they are correct, and certainly not just because they have posi-

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<sup>11</sup> Tom L. Beauchamp & Laurence B. McCullough: *Medical Ethics – The Moral Responsibilities of Physicians*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1984, p.11

<sup>12</sup> *Ethics in Biomedical Research – International Perspectives*, Edited by Matti Hayry, Tuija Takala, and Peter Herisson-Kelly, With a Foreword by Alexander Morgan Capron, Rodopi, Amsterdam, New York, 2007, p.125

<sup>13</sup> Moral autonomy does not mean erratic behaviour nor self-will, and the least of all slavery to any instinctive or non-instinctive passions and preferences. The ability to self-control implies actions of a person with built character integrity, balanced with the help of all virtues together. I am not elaborating on the meaning of the term *virtue* here. European civilization roots are abundant with such heritage, particularly elaborated in the world famous Aristotle's writing: *Nicomachean Ethics*.

<sup>14</sup> Robert S. Feldman: *Essentials of Understanding Psychology*, Fourth Edition, McGrawHill, Boston, 2000, p.526

tive results understood only from the medical perspective. If a treatment is not attentive to the patient's needs, patient's will should be a decision-making authority. The same opinions are held by the authors who believe that knowledge is not an absolute value and that progress does not necessarily lead to good.<sup>15</sup> Science should not become self-creating. Instead, the interests of science must be subordinated to the society. Every human being has the intrinsic, unconditional value and, in order to respect human right to dignity, it is not acceptable to reduce people from subjects to objects. Therefore, Alasdair Macintyre reasonably argues that the issues of medical ethics are precisely the **problems of the patients**, and not of the physicians.<sup>16</sup> Patients are persons with acute needs. If services available to them rest on intrinsic values and on moral reason, they will be consistent with their authentic interests. Patients are persons who use a service at its most concrete level, thus their rights should be protected, especially under the circumstances of a controversial medical choice. If a clinical situation of the patient is properly defined, but the patient does not want to be a passive observer in the application of a new medical routine, he/she must be better informed about available options so that the choice would actually be left to the patient. Unfortunately, the application of rights of such type of responsibilities, duties and obligations varies from culture to culture. Each culture generates its own specific pattern by which its members think about the conflict of interest and how to react in controversial situations. People tend to subject themselves to paternalism and acquire authoritarian personality not only because they are raised in a paternalistic environment. Cruel childhood upbringing experiences and suppressed hostility toward authorities in the past do not affect the youth in the sense that they will automatically become oppressors in the future. Those who have suffered from repression in the past are not necessarily predetermined to oppress those who cannot immediately revenge themselves. Many other motives play an important role in understanding cultural influences that are *pro* or *contra* the paternalistic behaviour pattern. Bob Altemeyer, for example, believes that the sources of authoritarianism are much more related to the stereotypes and prejudices of a social environment in which adolescents can see that it is acceptable to express hostility towards the weak.<sup>17</sup>

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<sup>15</sup> *Ethics in Biomedical Research – International Perspectives*, Edited by Matti Häyry, Tuija Takala, and Peter Herissone-Kelly, With a Foreword by Alexander Morgan Capron, Rodopi, Amsterdam, New York, 2007, pp.181-182

<sup>16</sup> *Philosophical Medical Ethics: Its Nature and Significance*, Edited by Stuart F. Spicker and H. Tristram Engelhardt, D. Reidel Publishing Company, Boston, 1977, p.197

<sup>17</sup> Stephen L. Franzoi: *Social Psychology*, Second Edition, McGrawHill, Boston, 2000, p.241

The progress of the western world is equated with various dimensions of modern support to individual so that the normative position of a citizen<sup>18</sup> is consistent with free and *equal individuality*. It is believed that personal autonomy is the same as the *duty to maximize the individual's right to make decisions on his own*.<sup>19</sup> This implies that a reasonable opinion of another person should be accepted.

## The roots of anti-paternalism

Ethical issues related to paternalistic behaviour are becoming increasingly important because paternalism undermines the idea of the legal and moral equality of people. Restrictive ideologies of totalitarian systems use status differences between people as a basis on which the individual is "granted" more or less rights. The human rights in such systems are viewed upon as the rights that belong only to officials or privileged individuals. The idea of the rights of all people as autonomous subjects is neglected. Paternalism appears in medical ethics on the same platform: it manifests as a treatment mediation by the physician who is status-wise, professionally and medically superior to the patient and therefore thinks that he/she can act against the patient's will with the justification that patient will be better protected from worsening. However, the terms rationality and irrationality are not mere designations of right or wrong actions. Culver indicates that rationality is not primarily a designation of actions but rather convictions. Therefore, PERSONS as subjects can act rationally, while ACTIONS can be irrational.<sup>20</sup> Since irrationality is a more fundamental term, discussing a right, i.e. informed consent, is of a very high importance, especially in medicine: patients are more vulnerable than clients in other professions.<sup>21</sup> It is typical that patients know much less about alternative treatments, while their medical condition may also distort their view of reality. All this tells us that the consequences of either proper or improper treatment are very serious. Paternalistic practice does not occur only in medicine; it is present in other professions as well. In all professions, the problem of unrecognised informed consent brings into question the idea of legal and moral equality of people. Regardless of all professions being equally affected by such improper practice, the difference between medicine and other professions varies only in its degree, and not type. If decisions are reached unilaterally, the patients will suffer more brutally than the clients in any other profession. Culver

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<sup>18</sup> It is meant civil identity.

<sup>19</sup> *Normative Ethical Principles and Theories*, <http://www.stedwards.edu/ursey/norm.htm>, pp.2-5

<sup>20</sup> Charles M. Culver, Bernard Gert: *Philosophy in Medicine – Conceptual and Ethical Issues in Medicine and Psychiatry*, Oxford University Press, New York, 1982, pp.22-25

<sup>21</sup> Charles M. Culver, Bernard Gert: *Philosophy in Medicine – Conceptual and Ethical Issues in Medicine and Psychiatry*, Oxford University Press, New York, 1982, p.26

mentions that medicine usually lacks another very relevant determinant of information: the mortality and morbidity rate of a unilaterally imposed treatment procedure in any individual healthcare centre: the physician sometimes is not aware of the *epidemiological data*, i.e. the fact that the need for a recommended surgery in one healthcare centre is suggested far often than in other healthcare centres. Therefore, there is a possibility that the suggested surgery is completely unnecessary.<sup>22</sup> It is obvious that both models (beneficence and autonomy models) constitute together what we call the moral responsibility of physicians toward patients. But, Beauchamp & McCullough warn that a problem arises if we do not clearly define how physicians' responsibility should be understood under the circumstances of reduced patient's autonomy caused by ignorance, fear, or depression, external or internal compulsion.<sup>23</sup> Their answer refers to the attitude that an orientation which, in a situation of opposing principles of moral responsibility, selects only one approach is unacceptable.<sup>24</sup> Namely, humanity, even within the medical framework, is reflected in openness toward a truly ethical purpose, incarnated in actions in compliance with the notion of reciprocity.

## How to turn the cultural roots of paternalism towards ethical principles?

In the past conflicts of interests were resolved by violence. Regardless of whether the violence was in the form of physical strength, hidden compulsion, status, role or professional expertise, the result was always the same: one of the parties was not protected from becoming a loser. Modern liberal societies of developed democracies base the moral identity of citizens on the idea of positive human rights (the rights of the weaker side to every benefit) from which no individual may be excluded. Such rights are considered as a limiting factor that serves to protect from violence.<sup>25</sup> Both in deontological and utilitarian theories, principles and rules were traditionally considered as the principles and rules of obligation. Such views probably derived from history since in the 17<sup>th</sup> and 18<sup>th</sup> centuries ethics was rarely discussed in terms of rights. Political and ethical theories were focused on the issues of duty toward the

<sup>22</sup> Charles M. Culver, Bernard Gert: *Philosophy in Medicine – Conceptual and Ethical Issues in Medicine and Psychiatry*, Oxford University Press, New York, 1982, p.45

<sup>23</sup> Tom L. Beauchamp & Laurence B. McCullough: *Medical Ethics – The Moral Responsibilities of Physicians*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1984, pp.104-112

<sup>24</sup> Tom L. Beauchamp & Laurence B. McCullough: *Medical Ethics – The Moral Responsibilities of Physicians*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1984, p.164

<sup>25</sup> Kenneth Cloke & Joan Goldsmith: *Resolving Conflicts at Work*, Jossey-Bass Publishers, San Francisco, 2000, p.142

master, king, state, church, and God. The transformation of the processes of violence into processes of respecting rights resulted from changes in economic, social, religious, cultural, and political activities that occurred in the history of the liberal, democratic, civil, cultural system of the "West". One of such changes is the maturation of the idea that universal human rights must be universal because we possess them regardless of merits, we have them simply because we are humans.<sup>26</sup> These refer to fair treatment in the matters of justice, freedom, and equality of access to favourable possibilities. Violation of such rights diminishes our human dignity, as well as experience of self-respect. In a developmental sense, legally and morally equal individuals were initially unequal. As members of different groups in small communities, their status was still determined and ranked according to the roles they occupied in the local hierarchical scale of authority. Opposite to such hierarchical models of power, the term of legal and moral equality is determined by an effort to comprise human civil identity.<sup>27</sup> In the social structure of a civil culture, a citizen (as a morally equal individual) is a cultural holder of principles by which the authority of power and government is designed. This level of moral significance of the term citizen becomes analogous to the principles which will be used in a decision-making process and in medical ethics. Universal ideals lead us further to the attitude that rights in the field of nomination are constitutive: human rights belong to humans and only humans. If the same right is considered, it is logical that everyone (including patients) must possess it to the same degree.<sup>28</sup> Rights serve to define, ensure, and protect human well-being from unjustified intervention and objection. If all humans have the same right to well-being, it would be irrational to divide on the basis of the right to realisation of well-being. The principle according to which no one must be treated differently from someone else (unless there is some general and relevant reason for that) is a fundamental principle of morality. Humans have an absolute right to expect everyone to accept such a principle. An individual is a moral subject and that by definition qualifies such individual to have moral rights. Legal rights in modern sense are ethical derivations of moral rights because ethically questionable rights in totalitarian ideologies may adopt a form which is considered legal within the system. In the text *Teaching Medical Ethics – A Philosophical Approach*, Edward Hobbs explores the factors that within the frame of medical education contribute to paternalistic behaviour of physicians. He concludes the follow-

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<sup>26</sup> *Ethical Theory and Business*, Publishers: Tom L. Beauchamp & Norman E. Bowie, Prentice Hall, Englewood Cliffs, New Jersey, 1988, p.46

<sup>27</sup> In order that the moral ideas of small communities acquire civil identity, they must externalize in universal way by starting to consider individual, diverse identities as accidental.

<sup>28</sup> Richard Wasserstrom: *Rights, Human Rights, and Racial Discrimination* (From: *Moral Problems – A Collection of Philosophical Essays*, Edited by James Rachels, Third Edition, Harper & Row, Publishers, New York, 1979), pp.10-12

ing: for the purpose of medical training, a man is not treated as a subject, he is not viewed intersubjectively; a man is considered an object, he is viewed objectively. A specific type of objects varies between the model of a machine and that of an animal, and the role of a physician is implicitly considered to be that of a mechanic or veterinarian.<sup>29</sup> Undoubtedly, such models can be useful for some purposes. However, the philosophical approach to the problem requires commitment to freedom because freedom is constitutive for ethics. Hobbs exclusively asserts that right and wrong have no meaning outside of the parameter of freedom on the side of the subject, which means that ethics depends on choice and choice depends on freedom, even though freedom is limited, or finite.<sup>30</sup>

### Reason – versus moral reason

Culver & Gert state that no one is ever allowed to kill another, cause any spiritual or physical pain, mutilate, deprive of freedom, deprive of a favourable opportunity or disrupt pleasure.<sup>31</sup> But sometimes we seek for reasons to justify those unallowed acts. Since acts do not receive their justification by pure reason, reason remains a morally "inactive" principle. Virtue is not a result of abstract reason; acts are in accordance with virtue only if arising out of moral reason. Moral reasons are not something we find in the world, we bring them into the world by constructing knowledge. As Hare states, value-words (good, right, fair...) have both extra-moral and moral use.<sup>32</sup> Kant also warned about this distinction by explicitly saying that one should distinguish between good as useful, and to WHAT it is useful. If we call good only that which is useful, then there would be nothing which is directly good.<sup>33</sup> Instrumentally right is not equivalent to morally right. Moral reasons represent deductive ethical insights and it is possible to derive them both from virtues and from principles. According to Hare's opinion, the rules of deriving moral reasons from virtues and principles must be proscriptivity and universality because ar-

<sup>29</sup> Edward C. Hobbs: *Teaching Medical Ethics; A Philosophical Approach* (From: Robert M. Veatch, Willard Gaylin, Councilman Morgan (Publishers): *The Teaching of Medical Ethics*, A Hastings Center Publication, New York, 1973), p.88

<sup>30</sup> Edward C. Hobbs: *Teaching Medical Ethics; A Philosophical Approach* (From: Robert M. Veatch, Willard Gaylin, Councilman Morgan (Publishers): *The Teaching of Medical Ethics*, A Hastings Center Publication, New York, 1973), p.89

<sup>31</sup> Charles M. Culver, Bernard Gert: *Philosophy in Medicine – Conceptual and Ethical Issues in Medicine and Psychiatry*, Oxford University Press, New York, 1982, p.131

<sup>32</sup> Richard Hare: *The Language of Morals*, Oxford University Press, London, 1967, p.160

<sup>33</sup> Immanuel Kant: Kant, Immanuel: *Critique of Practical Reason*, Naprijed, Zagreb, 1974, p.97

guments do not start out of nothing.<sup>34</sup> If we disregard the two mentioned rules, we will also have to ignore an important part of the logical mechanism on which arguments are generally based. Korsgaard says that the reason why an action may lack moral value becomes a situation where persons, in the selection of their goals, allow themselves to be guided by their own, subjective desire.<sup>35</sup> On the other hand, if the person, who helps, *sees helping as something that is expected from him/her*, moral reason will be established.

Bambrough identified a procedure of differentiation between moral reason and reason outside of the moral sphere. This differentiation shows that every person should take into account other person's interests and prescribe similar activity to others because doing wrong to another is contrary to reason that I do it to myself.<sup>36</sup> Therefore, whoever engages in nonreversible behaviour, he/she is doing wrong, or performing an irrational act. Baier states it is irrelevant whether the subject is aware of his/her irrational action, or whether his/her society will approve of it. Any nonreversible behaviour is morally wrong, not because someone threatens the doer, but because such definition has been discovered using reason.<sup>37</sup> Richard Hare adds that the human status of a moral subject is inevitable because everyone believes to have the right to act (action is the essence of human). No one acts in accordance with the moral principles at all times, but moral principles are intended to apply to everyone and no one is allowed to make exceptions.<sup>38</sup> According to Martin, even Socrates would have opposed to Sartre's understanding that only God can achieve a perfectly objective moral judgment. Namely, God is not expected to make judgments: God could only acknowledge and approve of such moral thinking that justifies "divine orders".<sup>39</sup> Therefore, only reflected morality helps us to transform selfish thinking into moral reasoning. Paternalism exclusively refers to the idea of well-being and has a very good reason not to consider the emphatic side of principle of respecting autonomy. However, if a physician completely abandons the beneficence model of moral responsibility in medicine, and completely adopts the autonomy model of

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<sup>34</sup> Richard Mervyn Hare, *Freedom and Reason*, (From: Andrew G. Oldenquist: *Moral Philosophy – Text and Readings*, Second Edition, Houghton Mifflin Company, Boston, 1978), p. 34

<sup>35</sup> Introduction by Christine M. Korsgaard (Immanuel Kant: *Groundwork of the Metaphysics of Morals*, Edited by Mary Gregor, Introduction by Christine M. Korsgaard, Cambridge University Press, Cambridge, 2003), p.XIV

<sup>36</sup> Renford Bambrough: *The Roots of Moral Reason* (From: *Gewirth's Ethical Rationalism – Critical Essays with a Reply by Alan Gewirth*, Edited by Edward Regis Jr., The University of Chicago Press, Chicago & London, 1984), p.48

<sup>37</sup> Kurt Baier, *The Moral Point of View* (From: George Sher: *Moral Philosophy – Selected Readings*, Harcourt Brace Jovanovich, Publishers, San Diego, 1987), p.341

<sup>38</sup> Richard Mervyn Hare, *Freedom and Reason* ( From: Andrew G. Oldenquist: *Moral Philosophy – Text and Readings*, Second Edition, Houghton Mifflin Company, Boston, 1978), p.343

<sup>39</sup> Mike W. Martin: *Everyday Morality – An Introduction to Applied Ethics*, Wadsworth Publishing Company, Belmont, California, 1988, p.12

moral responsibility in medicine, this will not be the condition for the ethical justification of the physician's activity. Ethics demands values to be translated into actions; the physician's knowledge and skills are of little value until he/she transforms them into actions. This means that a physician cannot abandon the beneficence model of moral responsibility in medicine because the virtue of the physician's good will cannot rest on incomplete values. It is expected from a physician to make decisions, pursuant to his/her best professional cognitions. But, apart from the purpose of the physician's activity to provide help, his/her actions must also at the same time be determined by moral reason, i.e. by the necessity not to harm the other person.

## Deontological viewpoint on the idea of benefit

The autonomy model of moral responsibility in medicine should be particularly protected because patients and physicians are unequal in terms of the power of monitoring the referring conditions. The rights of the patients are a **corrective to this imbalance** because imbalance typically occurs **in favour of** the physicians. Deontologists are oriented towards the future, i.e. towards a priori value judgement which would be accepted or approved of by any rational and reasonable person. Accordingly, an autonomous, informed patient has the right to decide whether he/she will accept a particular medical intervention or not. Beauchamp<sup>40</sup> claims, that legal rights are a way of restriction of the physician's power since they protect the patients from unauthorized interventions. No one is empowered to unilaterally violate the autonomy of another person. If a single model is accepted to be the only one, the power will be easily abused and it will not be possible to develop a method for resolving difficult cases. Violence should be evaluated in accordance with the attitude that compulsion, if separated from justice and humanity, is unacceptable. The society is obliged to intervene if harm has been done to someone and it must show that there was a better alternative as well as demonstrate the power to support those who are being imposed on an unfavourable choice.<sup>41</sup> Beauchamp very strongly approves of the same idea, and confirms that the only proper principle of intervention in the individual's autonomy is the need to protect the third party.<sup>42</sup> Beauchamp accepts this historical argument of anti-paternalism by claiming that interference which protects autonomous individuals from themselves should be called paternalistic. The universality of moral codes is not absolutely out of the context: an absolute vir-

<sup>40</sup> Tom L. Beauchamp & Laurence B. McCullough: *Medical Ethics – The Moral Responsibilities of Physicians*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1984, p.43

<sup>41</sup> *Ethical Issues relating to Life and Death*, Edited by John Ladd, Oxford, Oxford University Press, 1979, p.204

<sup>42</sup> Tom L. Beauchamp & Laurence B. McCullough: *Medical Ethics – The Moral Responsibilities of Physicians*, Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 1984, p.86

tue may include legitimate exceptions at the moment when duty to protect some other rational value becomes more important than the former. Every reasonable person strives to make an autonomous decision on his/her destiny. To general question: "Who should decide?", there is no single answer, because complicated cases imply risks even when the undertaken procedure is extremely professional, considerate, and skilled. "*May a patient be allowed to make an autonomous decision even when his/her choice implies death?*" In this case, the duty to protect life directly confronts with the duty to protect the autonomy of another person. "*Is it justified to prefer the duty to protect life over the duty to respect the patient's choice when it comes to terminal illnesses?*" "*Is a demand for the respect of autonomy, weightier?*" In ethics it is not acceptable to unreasonably impose a system of moral rules which would be absolutely isolated from the context of judgment in especially complicated cases we have never met before. Such a situation indicates that in ethics it is most important to make accurate judgement in order to cater for better understanding of ethical ideals derived from ethics of character.<sup>43</sup> The respect for autonomy of a moral subject represents one of these ideals not only because it is good by itself but also it serves as a shield from other people's choice. Therefore, in a situation of conflict between the two models of moral responsibility in medicine – it is rational to prefer autonomy model over the beneficence model. Due to the fact that no ethicist has been able to establish a model of moral rules which would be free of conflicts between principles and exceptions to principles, it is obvious that only a reasonable, complete analysis of an individual case may direct us towards an ethical criterion of activity direction. Namely, ethicality is not reactive, it does not exhaust by rationalizing the existing procedures; ethicality is, by definition, proactive, it implies aspiration for moral growth, i.e. advancement of the existing routine, especially when positive human rights should be protected.

## Conclusion

Paternalistic issues in the field of medicine arise from the conflict between two interpretations of the term benefit: model from the perspective of the clinical approach and the model from the autonomous perspective of the patients. Since patients are prone to suffering, humiliation and subjugation, the ideal of their autonomy should be established as primacy over all other moral ideals just because no one can be justified for imposing his/her attitudes (even if these attitudes are right) on other people. The procedure of imposition abolishes the essential qualifi-

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<sup>43</sup> Virtues do not exist regardless of intentional and independent activities of live subjects that rather choose the right thing because they know it is good.

cation of a person, contained in everybody's need to be a moral subject. Being a moral subject is an essential determination, superior to all other human attributes. Paternalism is a key topic which can examine the validity of various moral theories and make judgements how the principles of the rights of moral subjects are respected. Problems resulting from paternalistic behaviour are best seen in complicated cases when patients are not given an appropriate care simply because their well-being is understood only from the medical perspective. Paternalistic procedures should be equalized with instrumental good and by no means with the moral good. Since physicians' virtues cannot be based on incomplete (instrumental) values, the purpose of physicians' action is to provide help and not to do harm. Utilitarians sometimes have no consideration for protecting patients from unnecessary injuries. In contrast to this, deontologists justify principles only if they are compatible with the moral reason. Respect for legal and moral rights is one of the reasons because it limits the physician's superiority. The only justified interference in the free choice of other person is the need to protect a third party. We will not acquire virtue by avoiding complex situations but by the effort to define what should be done in a specific case. Virtues of character reveal that wrong actions are unacceptable not because of fear but for the sake of justice and respect of moral subjectivity, i.e. moral and legal equality of another person. If all people are moral subjects, then it is for all an essential determination. Therefore, it is incorrect to deny another person's essential determination to have the right to free choice.

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