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REVIEW ARTICLE

The autonomy and the respect for the Humanity

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Abstract

The autonomy refers to the ability of the person has to decide what it thinks is the best to himself. Autonomy also should not be understood as absolute right : its boundaries are given by respect for dignity and freedom of others and the community.

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The development of studies on autonomy and of its conceptualization has also raised questions regarding the best conduct in situations of conflict where the analysis of autonomy boundaries is mandatory.

Autonomy is the capacity of a person to decide what is best for oneself. It therefore assumes that the person is free to make personal choices, provided these are informed choices. The person should be free to think and be free from internal and external coercions so as to be able to choose between the presented alternatives. Autonomy cannot be exercised if there is no opportunity to choose or if there is no alternative.

The term "autonomy" comes from the Greek word *autonomia*, which is formed by the adjective *autos* (self, by oneself) and *nomos* (sharing, law, custom), and means the competence to "determine one's own laws".

The exercise of autonomy also involves the protection of dependent or vulnerable individuals against injury or abuse. Moreover, the concept of autonomy implies that respect for human beings is fundamental in any ethical relationship and imperative in the medical practice and physician-patient relationship. The individual has sovereignty over his or her body and mind, and respecting autonomy therefore means valuing the person's judgments and allowing the individual freedom to act based on those judgments. The capacity for self-determination is thus respected through the recognition that freedom and action are essential for the full exercise of autonomy.

The Belmont Report established the ethical principles for research and proposed that individuals should be treated as autonomous agents and that people with diminished autonomy should be protected; two separate moral requirements are thus considered.

DIMINISHED AUTONOMY AND VULNERABLE INDIVIDUALS

Restriction of autonomy can be temporary or permanent.

Temporarily restricted individuals include children, some adolescents, the critically ill, and prisoners because of their incapacity to manifest their will, and it is expected that, once their incapacity is over, they will be able to express themselves unequivocally.

Permanently restricted individuals include people whose state cannot be reversed, such as some cases of severe physical or mental disease.

In both cases of diminished autonomy, the existence of a legal representative who can speak on behalf of the person in all hindrances (autonomy with a tutor) is essential.

Vulnerable individuals are those who, for social, cultural, ethnic, political, educational and health reasons, see the differences that exist between them and society transformed into inequalities, which either suppresses or significantly limits their capacity to freely express their will.

Vulnerability can be individual or collective, whereas autonomy restriction is always individual.

Moreover, autonomy should not be interpreted as an absolute right: its boundaries are defined by the respect for the dignity and freedom of others and the community.

In the imminence of death or in a suicide attempt, individuals lose their autonomy because the penal, civil and ethical laws guarantee the right to life but not over life. Individuals have full autonomy to live but not to die.

The development of studies, concepts and definitions about autonomy has also raised questions regarding the best conduct in situations of conflict where the analysis of autonomy boundaries is mandatory.

The difficulty arises from the fact that, although formal definitions exist, it is still not possible to close the debate on this matter, because that would entail the risk of understating the complex analysis this topic requires.

It is healthy to keep the discussion open, but it is also sensible that the debate is always well-grounded or based on theories that show some indications of rationality and ethical applicability.

In the context of ethics, it is important to discuss the capacity to understand autonomy within the freedom/norms dyad.

This capacity to understand autonomy may result from different interpretations of who is the individual that obeys the laws made by oneself or obeys the rules of one's own reason, or that chooses one's values, has one's own projects, and makes one's own decisions, and of who is this individual that preserves individual freedom but values the utility of the act.

In the practice of bioethics these differences have important consequences because, according to the Kantian conception, to infringe the principle of autonomy is to substantially violate one's own person, whereas according to the utilitarian conception this may be justified by other desirable objectives and thus useful to oneself.

This creates relativity between the principle of autonomy, that of beneficence, and that of no harm. The aim is to always understand and clarify doubts and resolve conflicts within a contextual analysis in which a hierarchy of values, the degree of discernment, and the act's risk/benefit ratio for the person are taken into consideration, whilst it is understood that autonomy should not be exercised when it results in injury or harm to the person or to other people.

The discussion on autonomy also requires a place for the doctor-patient-family relationship. A particular case is when children and adolescents are involved, namely with regard to informed consent from legal representatives and consent of the child or adolescent in situations where there is a developed sense of judgment and of decision-making in conflict with the norms in effect for the individual's age.

The Brazilian Medical Ethics Code provides for this free and informed consent in the area of research; however,

the evolution of medical care has already made this practice justifiable between pediatricians and the community.

The code establishes that:

“Art. 101. The physician is prevented from: Not obtaining from the patient or his/her legal representative the free and informed consent to conduct research involving human beings, after the nature and consequences of said research are duly explained.

Single clause. When the subject of the research is a minor, his/her free and informed consent is required (to the extent of his/her understanding) in addition to the consent from the legal representative”.

In pediatric practice it is important that the person is seen from a holistic point of view, and not only from a chronological perspective. The mere application of the legal mechanism (the Brazilian Civil Code) may lead to the annulment of an already legitimate wish that results from a sense of judgment that the adolescent has most often already developed.

The exercise of autonomy leads to the recognition of the right to the values and the protection that any individual is entitled to. Moreover, the concerns increase when children and adolescents are involved, because a potential disrespect may lead to abuse and generate physical and psychological violence, in both institutional and domestic settings.

AUTONOMY OF CHILDREN AND ADOLESCENTS

According to Leone, the analysis of the respect for a child's or adolescent's autonomy only makes sense if it is conducted based on the knowledge of competence development with age.

The boundaries of autonomy should thus be the object of a contextual assessment that takes into account the child's or adolescent's stage of development, bearing in mind that this is a dynamic and constantly evolving process during which the individual acquires abilities and capacities and incorporates experiences.

Stereotypes should not be defined, because the individuality of the developing person makes everyone unique, even if the person is the same chronological age as others. The growth and development of human beings is affected both by intrinsic (congenital and genetic) and extrinsic (sociocultural) factors, and this reflects on the development of their intelligence and sense of judgment, which enables them to make legitimate decisions, regardless of the legal norms in effect for an individual's age.

During their development, children and adolescents may make decisions that are based on the fear of the unknown, dictated by a whim, or the result of mature reflection. This wide range of triggering factors brings to light the myriad of difficulties involved in the analysis of the competence to decide.

What parents/legal representatives and doctors/the medical team should consider is the application of the law according to the analysis of the child's or adolescent's autonomy, trying to determine whether the individual has already acquired the capacity to understand information and to make choices, as well as the discernment to assess the risk-benefit balance and the harm that might follow from a decision.

Decision making that involves children is a responsibility shared between the doctor/medical team and the parents/legal representative. When there is conflict between the parties regarding the definition of what is best for the child, the search for conciliation through a clarifying discussion becomes mandatory. This discussion should include information that is comprehensible by those responsible, and the disclosure of the risks and benefits of the treatment proposed by the medical team.

When adolescents are involved, it is necessary to acknowledge a state of gradual cognitive maturity that does not depend solely on the chronological age.

The mature minor doctrine postulates that minors who are capable of understanding the risks and benefits of a treatment that is offered to them and who are capable of being responsible for the care received should be deemed mature to accept or reject the procedure. They should therefore be able to make decisions without the agreement of parents/legal representatives, or even together with them.

Therefore, encouraging the involvement of the child or adolescent in giving the informed consent together with the family while respecting the appropriateness of the process to the stage of the individual's biopsychosocial development is extremely important. This involvement, in this particular way, gives moral validation to such action.

In this process, society shows maturity in the resolution of dilemmas or conflicts by seeking to establish a channel of communication to ensure that decisions are made after the individual's stage of development has been characterized and understood.

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