



D66 Ethical and Legal Issues of End of Life Between Past and Future in the “Globalized” European Mediterranean Culture: The Italian Experience

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After attending this presentation, attendees will gain knowledge of Italian issues relating to the consent/dissent expressed by the patients (it will briefly explained the judiciary cases of Piergiorgio Welby and Eluana Englaro) or by their relatives. It will also present the legal obligations to act of the medical doctor and the obligation respecting the good life of the patient in the wider context of multi-ethnic society (still in search of true integration) which is now situated on the Mediterranean European basin.

This presentation will impact the forensic science community by exploring the question of the patient consent, which often falls in the understanding or misunderstanding in the case of foreigners.

In the multi-ethnic context that has recently affected the role of the medical doctors has become particularly complex, because they have to make decisions using professional resources in the best possible way and, in particular, because called upon to perform the role of mediator transforming the social needs of citizens in request for services.

The protection of health is, in fact, the primary objective of any form of welfare but feelings of suspicion, disappointment, and anger begin to arise between medical doctors and patients. The immigration of the last decade into Italy, a traditional cross-road of culture between Europe and Central Asia and between Europe and Africa, has created problems of communication between medical doctor and patient, generating misunderstandings, distrust and error, with consequent increase of denunciations relating to professional liability.

As well known by Italian jurisprudence and doctrine, the lawfulness of the medical act comes from the consensus, defined as a final act of a process that requires adequate information and it is achieved through a good relationship between health professionals and patients, including the relatives. In Italy, the legal basis of the request for informed consent for the patient is governed by Acts 13 and 32 of the Constitution. The lack of explicit consent prevents any type of health care activities and determines very serious consequences especially in the Criminal Code, which states the patient's consent as a precondition to any medical action (art 50 of the Criminal Code). The contemporary age, with its globalization, has made inevitable the need to deal with the major ethical issues raised by contemporary medicine – especially those regarding the end of life – combining with the fundamental truths valid for all religious communities (especially Catholicism, Islam, and Jehovah's Witnesses), which are strongly present in Italy. Therefore, the statement of informed consent as a theory and rule of law appears troubled in these different communities. From the doctrinal point of view, Catholicism has always regarded the medical doctor as a “ministry of life,” called to help the living, cure disease, relieve pain. Human life is understood as a gift from God and the patient is seen as a child of God and personification of Christ himself. For these reasons, the crimes against life, such as abortion, homicide, suicide, abandonment of minors, and all forms of violence were ever convicted.

On the contrary, today's Islamic world has a strong heterogeneity of its population, due to movements, currents, and trends that, in the ultra-millennarian history of Islam, have crossed the entire Islamic world. This has influenced the thinking and behavior of Muslims, leaving behind traces more or less sustained, being currently in continuous tension between the acceptance of instances and models from the West and the need to safeguard the tradition.

A Muslim doctor is traditionally awarded a paternalistic role in the relationship with the patient and also has the freedom to make the determination if the patient is incapacitated in cases of serious or terminal illness, because the patient is considered severely physically and mortally ill and unable to deliberately end his own life.

The phenomenon of migration from North African countries continues to create problems of communication that tend to weaken the relationship between doctor and patient generating misunderstandings, distrust and consequent medical malpractice.

In conclusion, the authors hope that a policy of full integration between different cultural matrixes is processed in order to achieve a peaceful coexistence between Italian public health and patients, respecting each other's freedom.

Informed Consent, End of Life, Religious Communities