

AUTONOMY AND DIGNITY IN KANT – SUICIDE AS A VIOLATION OF “DUTY FOR DUTY” AND ITS NEW INTERPRETATION IN THE FIELD OF BIOETHICS

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ABSTRACT

The German philosopher Immanuel Kant, who argues that autonomy is the core of human dignity, was categorical in stating that suicide violates an action of "duty for duty", which means, it is not a perfect moral action. Therefore, it cannot be universalized and without any possibility of exceptions. However, this same dignity strongly intertwined with the autonomy has been the target of several studies and interpretations in the field of Bioethics, notably by the “principlism” current. Thus, the main purpose is to analyze, from the hypothetical-deductive method, the validity of those arguments, since Kant, the main theoretical reference, was peremptorily opposed to suicide. The investigations began with the analyses of the concept and relationship between autonomy, self-determination and dignity of the human being. Then, we sought to demonstrate the Kantian interpretation of the proposed theme, as well as reinterpretation of authors such as Rawls, Dworkin, Beauchamp, Childress, Kress, Hufen, McHaman, *et al.*. Finally, it was recognized as a possible harmonization between the principles and fundamental rights in discussion, reaching the conclusion of the plausibility of the existence of a right to die, not indiscriminately, but in a dignified and judicious manner, supported by objective and inalienable standards.

Keywords: Bioethics – Autonomy – Human dignity – Moral action – Right to die

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INTRODUCTION

This essay seeks to understand, based on the hypothetical deductive method, with the help of national and foreign doctrine, how contemporary authors, based on Kantian postulates, came to understand autonomy and dignity as foundations for a possible right to death. There seems to be a clear contradiction in using a thesis to defend a conduct absolutely rejected by its own creator.

The relevance of the debate about the dignity of the human person and the autonomy of the will permeates all areas of human knowledge that, directly or indirectly, seek solutions based on moral and ethical criteria. This is no different with Bioethics³, which, in the search for the establishment of limits and criteria for the performance of medical science, began to investigate the relationship between autonomy and dignity of the human person as principles⁴ guiding in possible conflicts of fundamental rights.

In a very similar way to the evolution of concepts in the area of Law, principlalist Bioethics also appropriated, at least for the most part, the Kantian conceptualization of dignity and autonomy, linking one to the other, always as intrinsic qualities of the human being, independent of any other external factor.

Thus, Bioethics authors and philosophers⁵ have studied autonomy in the contemporary context, taking into account the capacity for rationalization and self-determination as basic presuppositions. They understand that personal choices, as well as the life plan of individuals, must also be respected by physicians.⁶ As defended by Beauchamp and Childress (2001, p. 58), “[...] the autonomous individual acts freely according to his personal plan of choice, similarly to the way an independent government manages its territory and establishes its policies”.

³ At this point, attention is drawn to the principlalist current, whose bases are found in the patient's autonomy, dignity and freedom. The authors Beauchamp and Childress are the greatest exponents of this North American theory.

⁴ For the purposes of this essay, autonomy and dignity are understood as fundamental principles that permeate all fundamental rights and not simply autonomous fundamental rights.

⁵ Some of the authors who defend patient autonomy as the core of human dignity: Beauchamp and Childress, McHaman, Kress, Kraut, Hufen, Jonas, Dworkin, Rawls, Höffe.

⁶ Still, in the same sense defended by the aforementioned scholars, an absolute preponderance of the subjective character of autonomy is not promoted to the detriment of the objective sphere, which should certainly be taken into account in cases of individual decisions that may harm the agent. In point 3 of this paper, the debate regarding the conflict between the subjective and objective dimension of fundamental rights will be deepened, notably in relation to the conflict between autonomy and heteronomy.

However, what would be the limit of the patient's autonomy, even when understood as the foundation of the dignity of the human person? If autonomy and the capacity for self-determination are the determining and promoting characteristics of dignity, what is the limit of autonomy when it flagrantly violates its own dignity?

In order to understand more clearly the possible limits of autonomy in Bioethics, cases of euthanasia, also known as assisted suicide, were elected. It should be noted, from now on, that although some authors conceptualize them in a different way, that, in the present work, assisted suicide, euthanasia and the right to a dignified death will be synonymous.

Suicide is understood to be cases in which people, due to depression and without pre-established objective criteria, decide to end their lives. Euthanasia, assisted suicide or the right to a dignified death refer to cases of patients with incurable diseases (not necessarily terminal), in great suffering, aware of their decision (with the approval of a psychiatrist or psychologist), among other objective criteria⁷.

The choice of this example is due to the fact that Kant, even inspiring authors of principlalist Bioethics to argue in favor of euthanasia, was categorically opposed to any possibility of suicide. It is this interesting debate that we intend to deepen in the following pages, in order to unravel the existence or not of a flagrant contradiction or, if not, a plausible reinterpretation that defends a right to a dignified death based on Kantian assumptions.

1. AUTONOMY OF WILL AND SELF-DETERMINATION AS PREREQUISITES FOR THE DIGNITY OF THE HUMAN PERSON

In spite of the dignity of the human person and autonomy of will being among the most hierarchical principles in the Modern Constitutions, with a clear influence on all fundamental rights, they did not always have such prominence and protection. Autonomy and dignity “[...] are achievements of history. Wars and negotiations and agreements have always been necessary for them to be universally recognized, although not fully implemented (WEBER, 2013, p. 1).”

⁷ Analyzing the laws of countries that allow euthanasia, such as Holland, Belgium and Colombia, it can be concluded that 7 are the minimum criteria for the realization of euthanasia: 1. The clinical status of the patient, regardless of whether it is a terminal disease; 2. That he freely and consciously manifests his intention to bring about his death; 3. Lack of reasonable treatment or care alternatives; 4. Persistence of the request; 5. Evaluation of a psychiatrist regarding the ability to decide; 6. Evaluation of the request by another medical professional, in some cases, by a medical board; 7. Evaluation Integrity.

The process of recognizing autonomy and dignity as intrinsic characteristics of the human being has gone through countless theoretical elaborations, reinterpretation of concepts and, mainly, breaking of paradigms. As much as the creation of the word can be traced back to Ancient Rome, it was only with the Prussian philosopher, Immanuel Kant, that dignity, linked to the idea of autonomy, came to be considered an intrinsic and inalienable characteristic of human beings and no longer to social status or submissive to religious dogmas (KIRSTE, 2009, p. 15-43)⁸.

From the conception of rationality, Kant defines the human being as the only entity capable of defining itself as an end in itself, that is, able to give itself its own law, so that it autonomously understands the fundamental difference between an act of inclination and an act of duty. Autonomy, in turn, according to Kant (2011, p. 74), “[...] is, therefore, the foundation of the dignity of human nature and of all rational nature”. Rawls (2005, p. 19), points out that:

[...] he supposes that what he calls "common human reason" (*gemein Menschvernunft*), which we all share, judges more or less the same way; not even the philosopher can have (moral) principles different from those proper to ordinary human reason.

Such reasoning inspires Kant to elaborate the three statements of the categorical imperative, with emphasis, with regard to this essay, to the second formulation: “[...] act in such a way that you use humanity, both in your person and in the person of any the other, always and at the same time as an end and never simply as a means” (KANT, 2011, p. 97). Respect for autonomy, in other words, is respect for dignity itself. The contemplation of the human being as an end in itself is the basic statement for the protection of his self-determination.

Tugendhat (2012, p. 81) understands that the second formulation of the categorical imperative can be summarized in the imperative “do not instrumentalize anyone”, which can be called the moral of universal respect. It is opportune to emphasize the meaning of this non-instrumentalization of the human being, as stated in the second formula of the categorical imperative. Not treating the other simply as a means means that he must express his consent to a particular intention. However, mere authorization cannot serve as a subterfuge for flagrantly

⁸ As Kirste well asserts: “[...] dignity was applied mainly to a position as its substratum ('dignitates'). [...] This relative character also showed that there could be 'more' or 'less' dignity, which was, again, the basis for an unequal dignity.” (KIRSTE, 2009, p. 15-43) In other words, as described very well by Sarlet, “[...] in the philosophical and political thought of classical antiquity, it appears that dignity (*dignitas*) of the human person said, as a rule, with the social position occupied by the individual and their degree of recognition by other members of the community.” (SARLET, 2009, p. 15-43).

immoral actions, and it is therefore necessary to establish limits in relation to consent itself.

In Bioethics, as argued, for example, by Engelhardt Jr. (1986, p. 90), respect for autonomy is found in informed and informed consent, whose basis is solidified in the dialogue between doctor and patient and in respect for autonomy of the last. Consent would be the document preventing the human being from being treated, in the hospital environment, simply as a means.

Therefore, according to Kant (2011, p. 72), a rational being, who can define his own interests and understand himself as self-determinable, capable of making value judgments about his own existential choices, is an entity that cannot be priced, an entity holder of an intrinsic dignity, of equal value for all, without any possibility of distinction.⁹

The Kantian interpretation of the concept of dignity is extremely important for the historical evolution of the term and, consequently, for its legal-constitutional understanding. Sarlet (2011, p. 42) argues that it is in Kantian thought that both national and foreign doctrine, even today, “[...] seems to be identifying the bases of a foundation and, in a way, of a conceptualization of the dignity of the person human,” so that “[...] the core element of the notion of dignity continues to be brought back, primarily, to the Kantian matrix, focusing, therefore, on the person's autonomy and right to self-determination.” It is about the idea of the autonomous human being and consequently the universal legislator.

Bioethics, the branch of study responsible for investigating the human relationship with new technologies in the health area, also seems to have appropriated the Kantian concepts of autonomy and dignity. Authors of the principlalist current understand autonomy as one of the three principles that regulate the doctor-patient relationship. The reference document regarding this field is the Belmont Report, published in 1978, presenting the three basic ethical principles, namely: 1. Respect for people; 2. Charity and 3. Justice. The principle of respect for people, according to the report, embodies at least two ethical convictions: first, individuals should be treated as autonomous beings, endowed with self-determination; second, people whose autonomy is attenuated must be subjected to protection (APEL, 2017, p. 16).

⁹ Quoting Kant's own lesson, “[...] in the realm of ends everything has either a price or a dignity. When one thing has a price, something else can be put in its place as an equivalent; but when a thing is above all price, and therefore allows no equivalent, then it has dignity. [emphasis added] (KANT, 2011, p. 82).

Following the trend exposed by the report, principlalist authors¹⁰ develop the principle of patient autonomy with a clear link to the autonomy and rationality of the Kantian matrix. They defend the maximum protection of both, including in cases of euthanasia, where an important discussion must certainly be established, since Kant is against any possibility of suicide. How, then, from a reinterpretation of Kantian postulates, could argue in favor of the possibility of euthanasia? We will first analyze the Kantian arguments against the possibility of suicide, and then investigate the favorable (re)interpretations of cases of euthanasia.

2. SUICIDE - THE VIOLATION OF A DUTY OF VIRTUE AND THE REINTERPRETATION OF KANTIAN POSTULATES

For Kant, the reasons that lead someone to commit suicide are irrational, that is, linked to feelings and passions that did not pass through the scrutiny of rationalization and, consequently, do not have content capable of universalization. Thus, it is an attitude that goes against the unconditional moral action of duty for duty¹¹, no exception being allowed, as well elucidated by Schneewind (2005, p. 572),

[...] a distinction between perfect and imperfect duty holds an important place in the domain of Kantian ethics. There are negative duties of virtue that are needed, and positive duties that are not. Thus, the moral law prohibits us from committing suicide, or refusing to use our possessions for our own well-being.

Engelhardt (1986, p. 90), concerned with a greater reach of the patient's autonomy, understands that a principlalist Bioethics, based on Kantian postulates, may, in cases of euthanasia, limit this autonomy, since there is a violation of a conduct from duty to duty, and only these have moral merit (value).

The author clarifies that

[...] a bioethics based on Kant's assertions would lead someone not to respect

¹⁰ Bioethics authors who work on the concept of autonomy developed by Kant: Beauchamp, Childress; Hartmut Kress; Jeff McHaman; Wolfgang Putz and Beate Steldinger; Friedhelm Hufen; Ronald Dworkin; John Rawls; et al.

¹¹ In the same sense, Letícia Möller (2007, p. 78-79), when dealing with the possibility of a terminal patient requesting the interruption of treatment or even help with suicide, argues that: "[...] it is likely that the terminal patient it is no longer able to contribute to society by playing the role it used to play, or even no longer able to give any kind of contribution: in any case, it is certain that within a short time it will no longer be able to. However, Kant could consider that even this individual has a moral duty (to others and to himself) to treat himself as an end, and not just as a means to reach a certain goal (a more serene and painless death, for example); moreover, he would be adopting for himself a maxim that cannot be elevated to universal law."

the patient's choices, unless he asserted a principle of content autonomy. Patients would not be free to choose in ways that did not ensure freedom as a value. (such as, for example, in cases of suicide) (ENGELHARDT, 1986, p. 69, our translation).¹²

Kant understands that the person who commits suicide is not being considered, in itself, as an end, but simply as a means, instrumentalizing himself for a cause that goes against his own nature. The philosopher considers suicide an absolutely irrational attitude, considering it even an indication of serious misconduct,

for whoever has gone so far as to want to dispose of his life will also do so on the lives of everyone else, to him the doors of all vices are open, because before we can seize him, he is ready to get rid of him. of this world (KANT *apud* HECK, 2005).

At the very least, the assumption that Kant considered possible cases of suicide were those of incurable patients under exhausting and unreasonable treatments. It seems clear that the suicide analyzed by Kant (2011, p. 28) deals with the traditional concept of the term, related to people with depression, who, for this reason, deserve family and state tutelage, and not with the concept of therapeutic obstinacy. In any case, whether it is people who are depressed or not, he understands that life must always be preserved, despite the disgust and setbacks that someone may be experiencing. for the philosopher,

[...] when the unfortunate, with strength of soul, more bored than discouraged or dejected, desires death, and yet preserves life without loving it, not out of inclination or fear, but out of duty, then his maxim has moral content.

Kantian formalism imposes barriers to any exception. So, how would it be possible to reinterpret the Kantian postulates to the point where aid to suicide is understood? Wouldn't there be the possibility of an exception becoming universal from the categorical imperative itself?

At this point, a brief reference is made to one of the most debated Kantian examples, namely, the universal duty never to lie. Kant understands that any action that manipulates the facts, making them untrue, regardless of the circumstances, violates the moral principle of always telling the truth. In this sense, the question is: even if telling the truth should be valid aprioristically, would it not be possible for us to make an exception, to lie to save an innocent,

¹² “[...] A bioethics based on Kant's assertions would lead one not to respect the choices of patients unless they affirmed a contentful principle of autonomy. Patients would not be free to choose in ways that did not affirm freedom as value (e.g., by committing suicide.)” (ENGELHARDT, 1986, p. 90).

for example, according to the rules of duty by duty? According to Kant in¹³ (2018, p. 188). However, as will be analyzed below, some authors argue that exceptions can be universalized, without a necessary contradiction.

In case the maxim is the protection of an innocent, it is easy to see that it passes the universalization test, applying the first formulation of the categorical imperative. Everyone is allowed to break the truth to protect an innocent.

Redirecting the debate to the center of Bioethics, it is necessary to understand its emergence as a response to the rapid evolution of medical science, and Bioethics is responsible for establishing limits and criteria in relation to everything that concerns human beings and Medicine, since the study with stem cells to ethical issues involving the beginning and end of life.

From this rapid evolution, several paradigm shifts emerged, with emphasis on the end of the paternalistic relationship between doctor and patient, enabling the latter to have greater decision-making power in relation to the treatments to which they would like to be submitted. Beauchamp and Childress (2001, p. 64, our translation) address the principles of autonomy and dignity in Bioethics with clear reference to Kantian postulates:

Kant argued that respect for autonomy stems from the recognition that all people have unconditional value, each with the ability to determine their own moral destiny. Violating a person's autonomy is treating that person only as a means, that is, in accordance with the goals of others without taking into account the person's own goals.

The same authors understand that,

As some contemporary Kantians assert, the requirement that we treat others as ends in themselves requires that we help people achieve their ends and promote their capabilities as agents, not just that we avoid treating them as a means to our ends.

Rawls and Dworkin, equally the aforementioned authors, defend the protection of dignity and autonomy from the Kantian conception. On the passage in which Kant argues that he is against the idea of suicide¹⁴, Rawls (2005, p. 222-223) presents the significant

¹³ “Whoever, therefore, lies, however kind his disposition may be, must answer for the consequences, even before a civil court, and for it to be punished, however unforeseen those consequences may also be; because truthfulness is a duty that has to be considered as the basis of all duties to be based on a contract and whose law, when allowed for the slightest exception, becomes vacillating and useless.” (KANT, p. 190).

¹⁴ According to Kant (2011, p. 28), “man cannot renounce his personality as long as he is a subject of duty and, therefore, as long as he lives. It is a contradiction that he has the moral title to withdraw from all obligation, that is, to act freely as if he did not need any moral title for that action. To destroy the subject of morality in his own person is to eradicate from the world the existence of morality itself, to the extent of its power; and yet

interpretation:

[...] I don't think this passage asserts that suicide is always wrong. It asserts rather that a moral title is always necessary for this, which cannot be conferred for the ends intended by the natural inclination. From the casuistic issues that Kant enumerates in this section, it is inferred that this title can be conferred on conflicting grounds of obligation; for they can sometimes be stronger than the foundations on which we do not take our lives. [...]. Although Kant's doctrine excludes suicide whose reasons are based exclusively on our natural inclinations, it does not forbid it independently of the reasons. What is required are very strong reasons based on mandatory ends, which can be conflicting under certain circumstances. [...]. What we can say, however, is that, given this argument, it would be true that suicide corresponds to the negative interpretation. It would mean that the humanity in us – our moral sensibility and faculties of pure practical reason – could not endorse our suicidal action if it were driven by our natural inclinations.

Like Rawls (2005), it is understood that other moral values may conflict with the duty not to commit suicide. A patient with an incurable disease and under severe physical and psychological suffering may understand that their condition is not suitable, in view of the aforementioned objective criteria, with a minimally dignified life. Cases of unreasonable obstinacy, likewise, can oppose an idea of protecting dignity, actually having the opposite effect. As proposed by Dworkin (2006, p. 234), it is believed that “[...] forcing a person to live in a way that pleases others, but which, in his view, contradicts his own dignity, is a serious form, unjustified and unnecessary tyranny.”

Autonomy, as an integral part of dignity, promotes the need to at least listen to the person in question. The starting point in a doctor-patient relationship should be broad respect for the latter's personal interests, as “[...] the fact of understanding that dignity means recognizing a person's critical interests, as something distinct from fostering those interests , provides us with a useful reading of the Kantian principle (Dworkin 2009, p. 339).”

Kress (2008, p. 30), in a very similar line of argument, argues that “[...] an idea of freedom supported by Kant and the Enlightenment philosophy plays a fundamental role in the new medical ethics.” And complements:

It belongs to human dignity that everyone who has the conditions – therefore, each adult individual with the faculty of judgment – can determine for himself his actions and his destiny. The right to freedom and personal self-determination is an expression of the human dignity that every human being has (KRESS, 2008, p. 30).

morality is an end in itself. Thus, to dispose of oneself as a mere means to an arbitrary end (an end of the natural inclination) is to debase humanity in its own person (homo noumenon), which, however, has been entrusted to man as a being in the world of nature (homo phenomenon) to be preserved.”

The rupture of medical paternalism, widening the scope of influence of the patient's autonomy, changed what was understood by medical beneficence. Previously, the best for the patient was linked to what the physician understood as the best treatment. However, from the moment the patient's autonomy assumes the central role, beneficence starts to be understood as the best for the patient, according to their own interest. Hufen (2010, p. 90, our translation) argues that "the right to self-determination over one's own body belongs to the essential core of human dignity and freedom, both protected jointly in arts. 1 2 and of the Basic Law"

In this sense, respecting the patient's will became respect for one's own dignity. Tiedemann (2006, p. 101, our translation) understands that a patient with an incurable disease can have their wish for assisted death respected, as long as they are voluntary. According to the author, "[...] dignity is an absolute value that the person receives, given that he has the fundamental ability to determine his own will, based on his personal considerations".¹⁵

Paton (1971, p. 154, our translation), when interpreting Kant's work, asserts that the argumentative basis to substantiate the inexistence of a right to suicide is his weakest argument".¹⁶ The author argues that Kant, when dealing with suicide, already assumes that it is an invariably immoral action, since the idea of self-love, linked to reason, would prevent the individual from promoting such an intention. However, Kant ignores situations in which the individual may find himself in an irreversible state of suffering, in which the same idea of self-love could support the right to death. Paton (1971, p. 154) still questions why the same Providence, which gave us self-love as an intrinsic characteristic, would not allow us a merciful death in the face of a condition of continuous suffering?¹⁷

Noticing the evolution and the new concept of conformation between autonomy and dignity proposed by Kant, McHaman (2011, p. 500), after analyzing the possibility of suicide based on the categorical imperative, asks: "[...] is Kant's opinion is the best version of Kantianism?" The author argues that patients in advanced stages of illness, or even terminal patients, who are under great physical and psychological suffering, have the right to define the time and form of their death. Thus, the author (2022, p. 500) proposes a new version of the

¹⁵ „Menschenwürde ist der absolute Wert, der ein Person im Hinblick darauf zukommt, dass sie die grundsätzliche Fähigkeit hat, sich aufgrund eigener Überlegungen selbst in ihrem Willen zu bestimmen und sich so als Urheber ihres Willens mit sich selbst zu identifizieren.“ (TIEDEMANN, 2006, p. 101).

¹⁶ "this is the weakest of Kant's arguments" (PATON, 1971, p. 154).

¹⁷ "why should it not be a merciful dispensation of Providence that the same instinct which ordinarily leads to life might lead to death when life offered nothing but continuous pain?" (PATON, 1971, p. 154).

Kantian propositions, in which the right to death, based on the conceptions of the Prussian philosopher himself, would be possible:

[...] there is, however, an alternative understanding of respect for a person's dignity. Respecting a person, according to this understanding, would be a matter of respect both for his good and for the determinations of his autonomous will. It would be accepting that the good of a good person is as important as the good of anyone else, and that that person's autonomous will has authority over how his life should be handled. According to this understanding, the reason why killing a person would normally be a violation of the requirement to respect their dignity is that such an act would be contrary to both their good and their will.

As noted, with the analysis of the interpretation of the aforementioned authors, it would not be immoral conduct to help someone to commit suicide, as long as this conduct would be beneficial to the one who requests it, according to their own convictions, that is, respecting their autonomy and especially their self-determination. It is not, however, an incentive to commit suicide or uncommitted interpretations with objective criteria.

Thus, as proposed by Kant, it is understood that there is no rationality intrinsic to human nature that promotes a possible right to suicide. There is no, a priori, a rational foundation that pervades the categorical imperative to the point of making an exception for a right to death. However, the advancement of medical technology, combined with countless ways of maintaining life, possibly never imagined by Kant, present a new scenario, requiring a reinterpretation or even a new version of Kantianism with regard to conflicts and harmonization of dignity and autonomy in Bioethics. Forcing a person to survive, under a condition that in his view is unworthy, in which there is evidence of objective criteria such as: irreversibility of the disease, constant and acute pain, physical and consequently psychological suffering, seems to reduce individual autonomy, demeaning dignity and Not the other way around. In this sense, the assertion that a person's dignity would be confirmed or affirmed by their mere persistence in suffering seems inconsistent (MCHAMAN, 2011, p. 506).

Therefore, if there is a right to euthanasia, what would be its limits? It is interesting to note that, even considering autonomy as a highly relevant principle in the decision-making process, it should be clarified that it does not prevail over other bioethical principles, and it is even possible that its conflict with the dignity of the human person (BEAUCHAMP;

CHILDRESS, 2001, p. 57).¹⁸

Thus, it is reiterated that the promotion of autonomy does not mean removing any form of limitation. Limiting autonomy is seeking ethical assumptions for decision-making, something absolutely necessary, especially in relation to such a delicate topic. The patient's decision-making power, therefore, is not absolute. As general conditions of autonomy, two postulates can be cited: 1) Freedom; 2) Capacity. The first concerns not having their own decisions interrupted or inhibited by a third party, while the second deals with the agent's ethical competence, that is, however much he, from an exercise of rationalization, intends to take a certain attitude, this must present publicly justifiable ethical content.

The concept of autonomy as an intrinsic characteristic of dignity, widely used by authors to support the legalization of euthanasia, is also used by those who disagree. For them, in the same line of argument as Kant, the agent who asks to be killed is not acting rationally, as human nature has survival as a basic instinct, and not the opposite, so that suicide would be a linked attitude. to a cognitive failure, as Martínez's opinion denotes (2008, p. 168):

The prohibition of euthanasia (as a limit to the autonomy of the subject) could be justified in a paternalistic way, in that a subject that is not authentically competent (self-destructive behavior occurs in a high number of cases in critical mental and/or emotional circumstances who have the autonomy of the individual).

The factual analysis regarding the rational aptitudes of the patient, the inexistence of any form of coercion, including in relation to their state of vulnerability or not, are essential elements for processing the request. The incidence of any of these categories of psychic and emotional state must be a barrier to the request, since they contradict the basic foundation of euthanasia, autonomy. There is a need to differentiate autonomy (potential ability to self-determine) from the ability to self-govern (practical aptitude for making choices)¹⁹ (Beauchamp e Childress 2001, p. 58, our translation). In this sense, the participation of a psychiatrist is one of the mandatory criteria in all legislation that deals with the possibility of euthanasia. This professional will be responsible for verifying the patient's free and clear request, which has been proven to be free of any form of coercion.

¹⁸ “Although we begin our discussion of principles of biomedical ethics with respect for autonomy, our order of presentation does not imply that this principle has priority over all other principles.” (BEAUCHAMP; CHILDRESS, 2001, p. 57).

¹⁹ “[...] even autonomous persons with self-governing capacities sometimes fail to govern themselves in particular choices because of temporary constraints caused by illness or depression, or because of ignorance, coercion, or other conditions that restrict their options.” (BEAUCHAMP; CHILDRESS, 2001, p. 58).

It seems, therefore, that the fundamental issue lies within the limits of autonomy, since an ethical foundation is necessary for decision making and for its medical and legal support. In the following point, the study regarding the concepts of autonomy and dignity will be deepened, especially in relation to the debate between dignity as autonomy and dignity as heteronomy, seeking to establish clearer boundaries between the classical and modern conceptions of the Kantian postulates.

3. THE CONFLICT BETWEEN AUTONOMY AND HETERONOMY - OBJECTIVE AND SUBJECTIVE DIMENSION OF HUMAN DIGNITY

It was demonstrated in the previous point, from the study of the reinterpretation of Kantian postulates, the possibility of a certain individual having his right to a dignified death assured. However, this does not mean that there is an indiscriminate right to death based on the subjective dimension of the autonomy of the will and dignity of the human person, that is, there is no prevalence of the subjective dimension to the detriment of the objective dimension, and there may be conflict between different fundamental rights with regard to the criteria of compliance with euthanasia.

In the same way that dignity cannot be considered a principle that is invariably superior to others, it should be noted that, although autonomy plays a fundamental role in modern Bioethics, it is not in an axiological position of overlapping in relation to others. fundamental principles and rights. What is certain is that, in several cases, autonomy may be mitigated. When in conflict with dignity, for example, autonomy may suffer certain restrictions and limits.²⁰ Therefore, from this relationship that promotes and strengthens both principles, conflicts also arise, since dignity can be considered as the very limit of the exercise of autonomy²¹, whereas this cannot be exercised without a minimum of ethical competence (WEBER, 2013, p. 12).

²⁰ For greater depth regarding the debate on the limits of autonomy, including in relation to Jehovah's Witness patients, see: (LIMA, 2018, p. 88)

²¹ In the town of Morsang-sur-Orge it was common, in a commercial establishment, "dwarf throwing championships". The activity consisted of throwing dwarfs, so that the competitor who threw the dwarf farthest would be the winner. The mayor of the city ordered the ban on the establishment. However, on their own initiative, the dwarfs sued the Administrative Court against the decision, which annulled the measure taken by the local executive branch. Finally, the process reached the Council of State of France, which reformed the decision of the Administrative Court with the fulcrum that these dwarf championships could not be tolerated, as they constitute an offense to the dignity of the human person, considering this as an integral element of the order public, the voluntary participation of dwarves in the spectacle being irrelevant, since dignity constitutes a non-commercial and inalienable good. (SARLET, 2011, p. 129).

It is necessary to clarify, therefore, the existing conflict between autonomy and heteronomy or, in other words, between the objective dimension and the subjective dimension of dignity (TIEDEMANN, 2006, p. 39, our translation)²², especially in relation to the limits of autonomy and dignity in Bioethics. As explained very well by Teifke (2010, p. 163, our translation), it is understood that “[...] every legal norm implies, as an external obligation, a form of heteronomy”.²³ And complements

Law is spoken of as "heteronomy", because as an external will, it implies an obligation for subordinates, and of law as moral "autonomy", because its law will only be for its own moral personality.²⁴

Thus, dignity and autonomy are presented as two fundamental principles with double dimension effectiveness, since dignity, even if intrinsically linked to autonomy, presents itself not only as a principle aimed at the subjective dimension of fundamental rights, but also as a "social and material program, which comprises an objective meaning (TEIFKE, 2010, p. 160, our translation).²⁵

Regarding the double dimension of dignity, it is worth clarifying by Tiedemann (2006, p. 39, our translation),

[...] the heteronomous interpretation establishes the dignity of man in his capacity for self-determination, provided that this ability is used to design and live his life in accordance with the normative requirements that will be externally imposed on the individual. [...] contrary to the heteronomous interpretation of human dignity, the conception of autonomy does not depend decisively on man's position in the demands placed on him by external authorities (God, community, creation), but on man's ability to understand the law and develop your own actions.²⁶

²² „This concept of human dignity was developed by influential constitutional law teachers in the 1950s, has been emphatically advocated ever since and is particularly mobilized today in the bioethics debate. " (TIEDEMANN, Paul. **Was ist Menschenwürde?** Darmstadt: WBG, 2006, p. 39).

²³ “Every legal norm implies a form of heteronomy as an external obligation.” (TEIFKE, 2010, p. 163).

²⁴ "One speaks of the right 'heteronomy' because it comes from outside as a foreign will that is binding on those subject to the law, of morality 'autonomy' because their law is only given to everyone through their own moral personality." (TEIFKE, 2010, p. 163).

²⁵ „[...] human dignity as a legal concept remains linked to autonomy through a double relationship. On the one hand, human dignity is founded on autonomy and, on the other hand, autonomy gives dignity an excessive content that needs to be optimized.” (TEIFKE, 2010, p. 160).

²⁶ „[...] In contrast to the heteronomic interpretation of human dignity, the autonomous conception does not focus on the position of people in relation to the demands placed on them by external authorities (God, community, creation), but on the ability of people to conform to the law to give of his own actions.” (TIEDEMANN, 2006, p. 39).

The heteronomous dimension of dignity links self-determination to standards and normative requirements externally imposed on the citizen, that is, to act in accordance with objectively imposed criteria, limiting, to a certain extent, autonomy. While the subjective dimension of dignity (autonomy) is linked to the scope of self-reflection and the possibility of understanding the law, based on cognitive exercise.

Thus, in the case of a conflict between autonomy and heteronomy or the subjective and objective dimension of a given fundamental right, it could be questioned whether there would be an a priori supremacy of the public interest over the private, especially in cases of protection of life. A proposition that, in the understanding of this essay, should not prosper, while the opposite is also not true. It is believed that only with a careful and case-by-case analysis it will be possible to determine the prevalence of one over the other.

How beautifully exposed by Sarlet (2012, p. 382),

[...] the conflict that is established between human dignity as personal autonomy and dignity as heteronomy, that is, between what each person understands to correspond to their own dignity and what to do or not do in relation to the development and protection of their life and personality, and what the state and its agents (or even third parties) understand to be a requirement of the dignity of others, is also particularly acute in this context, demanding an equation that cannot be resolved based on the logic of "all or nothing" and, therefore, it cannot lead to an annulment of the scope of individual autonomy.

The subjective dimension, as a sphere of defense of the individual before the State, is an integral and essential part of the development of self-determination based on the autonomy of the will, prevailing in relations between private entities, which does not mean to say that fundamental rights can be restricted, renounced or violated in the name of autonomy, especially those recognized as personality rights, when, in case of violation, the State may intervene. Still, the objective dimension of dignity may support a state action in the sense of protecting the person against himself. Sarlet (2011, p. 135) asserts “[...] that the State is authorized and obliged to intervene in the face of acts of people who, even voluntarily, violate their own dignity.”

There is, therefore, a limit to the freedom of individual choices, even when they do not interfere with the rights of others. For example, an individual with suicidal tendencies caused by depression and who, therefore, does not fit the assumptions of euthanasia, must undergo State intervention in order to protect his life, protecting his dignity, however much it may be

understood as an interference in its autonomy.

Even Tiedemann (2006, p. 41), who is in favor of an absolute value of the autonomy of the will as an essential core of dignity, asserts that requests for euthanasia cannot be carried out in cases of patients with depression or who do not meet the prerequisites for the application.

Dignity as heteronomy imposes certain limits on the exercise of subjective rights (SARLET, 2011, p. 136).²⁷ It is worth saying that the concept of dignity, as a characteristic not only intrinsic to each individual, but also as a fundamental right reciprocally recognized by the entire community, plays a central role in contemporary times. The moral value of an action cannot be reduced to the idea of not harming others, as if every act that concerns only a certain agent was always morally acceptable. Moral action must presuppose both personal and social reflection.

Thus, in the scope of the discussion of the autonomy of the will linked to human dignity, whether from a subjective or intersubjective conception, one must take into account the objective dimension of this same constitutional principle to establish limits that do not exceed the essential core of the) right(s) in question. Such limits lend themselves to protecting the person from himself as well as from third parties or the State. It is clarified, therefore, that there is a duty of protection and that not every state interference in private conduct hurts or harms this fundamental right.

In the case of euthanasia, there is a glaring clash between those who understand that when it comes to the right to life there is a need for limits to autonomy promoting dignity and those who understand that limiting autonomy automatically violates dignity, even if the autonomous act be the request for suicide assistance.

On the other hand, if the State prohibits a person, who is in a situation of serious suffering and incurable disease, from ending his life in a way, in his view, dignified, it would not be suppressing the essential core of the right to life, but respecting the ultimate will of this patient who perceives euthanasia as a form of dignified death. Hufen (2010, p. 90, our translation), when questioning whether life or dignity should prevail, responds “in dubio, pro dignitate”.

Forcing a certain person to (over) live painfully in the name of an objective conception of a certain fundamental right (direct to life) may, instead of protecting him, penalize him.

²⁷ [...] dignity also implies, ultimately by virtue of an intersubjective dimension, the existence of a general duty of respect on the part of all (and each one separately) the members of the community of people towards others [...]. (SARLET, 2011, p. 136).

FINAL CONSIDERATIONS

Although the new interpretations of the possibility of suicide based on human dignity and the autonomy of the Kantian matrix, the philosopher himself being adamantly opposed to the conduct, immediately raise the appearance of a great contradiction, it is believed that there is not, in fact, an incongruity of ideas.

As an attempt was made to clarify throughout the study, even those authors who understand as legal the possibility of a terminal patient requesting death, he/she cannot have his right fulfilled if it is proven, from a psychological report, that he is not in full enjoyment of their cognitive faculties, that is, they are not acting in a fully rational way. The depressive suicide is excluded, as Kant asserts, from any possibility of help in his endeavor, and a third party or even the State must intervene in the person's harmful conduct against him or herself.

Conflicts may also arise from the imbricated relationship between autonomy and dignity, not remaining a priori a relationship of overlapping one in relation to the other, requiring an examination on a case-by-case basis. In the case of a terminal patient, with no possibility of cure, under great suffering and under full enjoyment of their cognitive abilities, it is understood that respect for their autonomy in the sense of denying treatment and even abbreviating death, does not constitute an immoral conduct .

Kantian rigor ends up penalizing certain people who no longer wish to bear the pain and suffering of an incurable disease, but who, thanks to advances in technology, can survive for months or even years. It is up to the patient (and the family or legal representative when they are no longer able to express themselves) to decide if they want to live with the help of machines and even under great suffering or if they want to let death follow its natural flow, and may even , in these cases, abbreviate it.

One could, therefore, justify an absolute removal of the Kantian assumptions from the debate, seeking a Bioethics devoid of any influence from the philosopher, as proposed by Engelhardt Jr. However, this total exclusion does not seem necessary, as well as it does not seem contradictory to elaboration of interpretations that are molded to new social needs from the Kantian matrix.

As much as autonomy has a prominent role in contemporary Bioethics, it is reiterated that the objective dimension of fundamental principles and rights is not denied, since limits and criteria must be established for this autonomy. Still, it is considered of paramount importance

to recognize the objective dimension of one's own dignity, so that autonomy, in cases of euthanasia, is limited to clear criteria. In short, the consideration of dignity as heteronomy must participate in the debate.

From the conflict between the objective and subjective dimension of human dignity, the State may intervene in private autonomy, denying a requirement for euthanasia, as long as it does not meet the minimum requirements.

It is believed, therefore, that contemporary authors who reinterpret Kant and understand that euthanasia is possible, in a way, do not stray completely from the categorical imperative and the moral of duty for duty. There is, in fact, a procedure with strict and clear criteria, which in certain circumstances allows a person to end a life that, due to an illness, has become a burden. As suggested by Rawls, other values with an end in themselves may conflict and life at any cost will not always overlap. This does not hurt the Kantian categorical imperative, since the circumstances referred to to justify the abbreviation of life are universalizable. Soon, no more exceptions.

Finally, it is understood that “being an end in itself”, must also include the idea of a dignified death. Human instrumentalization for the unreasonable maintenance of a patient's life can “reify him”, keeping him alive against his own will. The end in itself presupposes autonomy and respect for dignity, with man being the master of his destiny and, why not, within clear and pre-established criteria, of his own death.

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