



Review

Assisted suicide in the care of mentally ill patients: The Lucio Magri's case



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ARTICLE INFO

Article history:

Received 30 March 2013

Received in revised form

15 October 2013

Accepted 27 October 2013

Available online 4 November 2013

Keywords:

End-of-life decisions

Assisted suicide

Suicide

Right to die

Mental illness

Neurological disorders

ABSTRACT

A year after Mario Monicelli's suicide, the death of another famous person in Italy, Lucio Magri, reawakened the Italian debate on social, ethical and juridical issues in end-of-life decisions. Unlike Monicelli, Lucio Magri decided to end his own life in Switzerland with the help of a physician because his mental illness rendered his life unbearable. Both Monicelli and Magri suffered from a severe depression. The authors analyze the ethical issues regarding the right to die for mentally ill patients and neurological disabled patients, discussing the decision-making autonomy in persons suffering from severe depression. The role of the psychiatry in the management of end-of-life decision requests is considered along with pros and cons of suicide prevention and rationale suicide.

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1. Introduction

On November 29th, 2010 Mario Monicelli, a world-renowned film director, ended his own life tragically by jumping from a window of the hospital in which he was bedridden. Exactly one year later, another important representative of Italian history, Lucio Magri, also decided to put end his own life, but this time with the help of a physician. Lucio Magri was a well-known, left-wing intellectual who had, after belonging to the leading Catholic party in the aftermath of the Second World War, joined the Communist Party, only to distance himself from it 1968, when the Soviet Union invaded Czechoslovakia. He founded the newspaper "Il Manifesto",

a critical voice of left-wing supporters. Both Monicelli and Magri are likely to have been suffering from severe depression.¹

Lucio Magri's death was yet another occasion for Italians to embark upon a heated debate encompassing social, political and religious issues. Magri suffered from severe depression after his wife's death and died from assisted suicide in Switzerland. His case raises the issue of voluntarily ending one's own life because psychiatric illness has rendered it unbearable and one cannot see any prospects for improvement. The ethical issues related to the ending of human life are characterized by complex questions that reflect the very deep meaning of life and death as a sign of human finitude, and the power wielded over life by the subject him/herself as well as by others. This raises, on scientific, moral and legal levels, the question of the lawfulness of "rational" suicide and the true meaning of the prohibition of killing. The patient's right to decide when to die has emerged as a new position that falls between the doctor's desire to preserve life and the patient's right to decide autonomously.^{2–5} Taking into consideration the importance to evaluate whether the decision making process is supported by a valid and conscious will, mental health professionals assume a

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fundamental role in the care of assisted suicide requests advanced by mental ill patients and neurological disabled patients.

2. The Italian legal context

Assisted suicide is prohibited by the Italian law, falling under the crime of incited or assisted suicide provided by article 580 of penal code. According to this article, anyone who determines others to commit suicide or strengthens in others mind the intention to commit suicide or supports, in every way, the execution of the suicide, shall be punished by imprisonment from 5 to 12 years, if suicide occurs.^{f 24} The rule does not distinguish if the assisted suicide is requested on the basis of psychiatry illness or terminally illness. Italian legal system refuses to accept in general the idea that medical performance can be aimed to end a human life. Generally, in the care of situation involving end-of-life decisions, no protection in terms of case law is given to the so-called *right to die*, but only to the *right to die with dignity*, regarded as an expression of the same right to live that accompanies a person in every stage of his/her life from birth to death. The so-called “help/support” to die provided by *failing to do* holds a special place within this context. Comparing to the assisted suicide, withdrawing and withholding life-sustaining therapies raises less legal and ethical conflict if the patients give their consent.^{21,23} Defining the concept of mental capacity to make end-of-life decision is an old issue.⁶ Indeed, on an ethical level, most physicians tend to accept passive euthanasia, justifying it by stating that it spares the patient futile treatment, while active euthanasia is a far more delicate issue. Moreover, common opinion tends to judge the ethical aspects of the issue largely on the basis of voluntariness, it being less interested in how it was implemented.⁷

The prevailing attitude is that the doctor has no obligation to keep the patient alive against his/her will because a doctor's duty is not to prevent death at all costs, but rather to care for and assist the patient. Moreover, according to the Italian Constitution (article 32), treatment must be imposed upon the patient only if a law to this effect exists and if such treatment is in the best interests of the community. In Italian law, active euthanasia is considered an illegal act, and is punished as murder by consent (penal code art. 579) or as voluntary murder (penal code art. 575) with mitigation of punishment for reasons of piety. Matters related to end-of-life decisions (ELD) are not, however, specifically dealt with by the Law. The same rules apply to passive euthanasia cases, though the negative aspects of this issue are perceived as being ethically less serious. To this purpose, the Eurispes data for 2011 reveal that 66.2% of Italians are in favor of euthanasia, with younger patients displaying the highest approval rate (75.3% between 18 and 24 years of age, 70.9% between 25 and 34 years of age, 67.5% between 35 and 44 years of age, 67.7% between 45 and 65 years of age and 53.7% over 65 years of age), while 77.2% of Italians would like a law to be passed on the living will.⁸

An empirical study involving 336 GPs in Italy answered the Euthanasia Questionnaire, designed to assess attitudes toward euthanasia and/or assisted suicide, and the Maslach Burnout Inventory, designed to examine burnout symptoms, has shown that relatively few physicians receive requests for euthanasia or assisted

suicide (11% and 4.5%, respectively), and only a minority of physicians endorse euthanasia and/or assisted suicide. As the public debate about euthanasia and assisted suicide has always been less pronounced in Italy than in other countries, data regarding this issue are somewhat scarce.

3. The case of Magri: the mentally ill and the request to end life

As assisted suicide is a punishable offence according to the Italian penal code, Magri decided to end his life in Switzerland, where organizations that help people who want to commit assisted suicide exist. Magri was a 79 years old person, suffering from a severe depression, in good physical health, not suffering from any painful disease neither from neurological disease. Through the help of a friend physician, Magri chose to die in a private clinic. He was fully conscious, with clear mind and had given informed consent to the procedure, as required by the Switzerland law. The main Italian newspapers reported that Magri tried to end his life two times before his death though with no success, going privately in Switzerland.²⁵ According to the Swiss penal code (art. 115), assisted suicide is only punishable if driven by a selfish motive.⁸ Although the assisted suicide offered by Swiss associations was initially only provided for terminally-ill patients,^h it has in recent years been extended to people who are ill or mentally ill.⁹ Magri's case is particularly worthy of note because it falls within a topic of national and international legal-scientific interest regarding what possibilities a mentally-ill person has to request and obtain assistance to commit suicide. In other words, is there any difference between the desire to die expressed by a person with a mental disorder or serious depression and the right to self-determination expressed by a person who is fully capable of understanding?

Particularly illuminating is a recent case, which mirrors that of Magri, decided by the European Court of Human Rights.¹⁰ Ernst Haas, a Swiss citizen suffering from a severe bipolar disorder, took his case to court alleging a violation by the Swiss authorities, on both a medical and judicial level, of his right to decide how and when to die, and consequently of the right of respect for private life enshrined in Article 8 of the European Convention on Human Rights (ECHR). He appealed, in particular, against the refusal of psychiatrists to issue the prescription for the lethal drugs he needed to commit assisted suicide. His main complaint was the authorities' failure to respect the right to privacy, which includes the right to self-determination, according to article 8 of the ECHR. Indeed, he claimed that the need to obtain a medical prescription obliged him to adopt a more painful, useless procedure to execute his plans, which prevented the person wishing to commit assisted suicide from obtaining all the means necessary to do so from the public authority.

The Court stated that a person's right to decide how to die is based on a freely formulated and expressed wish. While the will to decide one's own death derives from the right to live and personal

^f Article 580 of Penal Code: “Anyone who causes others to commit suicide or strengthens in others mind the intention to commit suicide or reinforces another's intent to commit suicide, or felicitates it in anyway, shall be punished, if the suicide occurs, by imprisonment ranging from five to twelve years. If the suicide does not occur, he shall be punished by imprisonment ranging from one the conditions indicated in paragraph 1 and 2 of the previous article. Nevertheless, if the above person is younger than fourteen years old or lacks the ability to provide consent, the provisions related to murder apply” (Negri S., 2011).

^g Widely debated in Switzerland is the possibility for foreigners to take advantage of the opportunities provided by local law to commit suicide with the assistance of organizations. With regard to the Swiss regulatory regime, on July 7, 2009 the prosecutor of the canton of Zurich and EXIT Deutsche Schweiz signed an agreement on organized assisted suicide, which provides some rules to prevent professional abuse. Also note the opinion n. 13/2006 “Criteria of care in cases of assisted suicide”, approved by the CNE October 27, 2006, a number of recommendations concerning the investigations to be carried out prior to assisted suicide.

^h In the years 2001–2004 the percentage of people accompanied by EXIT Deutsche Schweiz to commit suicide who were not suffering from terminal illnesses is 34%. The results of this study are published in: S. Fischer, AC supply Huber, L. Imhof, R. Mahrer Imhof, M. Furter, S.J. Ziegler, G. Bosshard, “Suicide assisted by two Swiss right-to-day Organisations”, in Journal of Medical Ethics, 2008, 810–814.

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