

# *Euthanasia and the Right to Die*

Darren Sylvester looks at the legality of ending the life of someone who is suffering

## **Introduction**

When, for compassionate motives, a person brings about the death of someone else that is suffering from an incurable disease, or is in an irreversible coma, it is called “euthanasia” or “mercy killing”. The law, however, does not distinguish such an act from Murder, and discounts the defence that the deceased asked to have their life ended.

If a person dies as a result of a carer’s inattention or failure to care and provide, then the carer may face a charge of Manslaughter. The obligation to look after another person can arise from a contractual relationship, as that between a doctor and their patient; from a family relationship, as between a parent and a child; or via a voluntary relationship, as between neighbours.

## **When a patient declines medical treatment**

A person of sound mind who understands the possible consequences has the right to refuse medical treatment. The doctor(s) must abide by the patient’s decision, even if it results in the patient’s death. In such an event, a Murder charge could not be brought against a/the doctor(s) as they did not intend the patient’s death. However, treating a patient in such circumstances could lead to a doctor facing a charge of battery.

A doctor or anyone else who assist a patient in their wish to die could be charged with aiding, abetting, counselling or procuring a suicide – an offence carrying a maximum prison sentence of 14 years. Providing that medical treatment is in the patient’s best interests, then it may be administered to patients who are incapable to make a rational, coherent decision about whether or not to accept it – irrespective of their wishes. Relatives have no legal right to insist that treatment be stopped, although their views may be taken into account.

## **Patients who cannot communicate their wishes**

There is no absolute obligation upon doctors to prolong a patient’s life regardless of the circumstances, as long as any decisions about treatment are made in the patient’s best interests. There are indeed instances when bringing about a patient’s death by withholding or withdrawing medical treatment may not amount to a criminal offence.

Withholding artificial feeding or drugs from an unconscious patient who has no hope of recovery, in the full knowledge that death will rapidly ensue, could be lawful, providing that reasonable and competent medical opinion indicate that

the continuance of treatment would confer no benefit upon the patient; and that the necessary Court consent has been obtained.

In the case of a patient who is suffering from brain death (irreversible brain damage causing an inability to function without life-support systems) it would be legal for the doctor, in conjunction with the family, to decide to withdraw treatment, as the patient is already 'clinically' dead. However, in the instance of a patient who is not classified as brain dead, prior Court approval must be obtained before life-support systems may be switched off. The latter includes patients in a Persistent Vegetative State (PVS) – that is, unconscious and without prospect of improvement, although the patient is breathing independently and without any artificial support.

### **Parent's win Court's consent to let their son die**

When Anthony Bland was crushed in the Hillsborough football stadium disaster in 1989, he was left in a PVS. Three years later, his parent's gave their support to the hospital's decision to seek a Court declaration to make it lawful to discontinue artificial feeding, hydration and medical treatment in order to allow Anthony to 'die with dignity'.

### **Decision**

The House of Lords decided that feeding and hydration counted as a form of treatment. Consequently, and with the Court's express prior consent, doctors in this case were allowed to make a lawful decision to discontinue such treatment where no resulting benefit is conferred upon the patient. Anthony Bland died in March 1993.

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