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The Bouvia Case Revisited: An Introduction to the Bioethical Topics of Individual Rights, Acts of Conscience, and the Right to Die

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Abstract

After a series of court appeals Elizabeth Bouvia won her right to die in 1986. Twenty-five years after the Bouvia case, issues of individual rights, acts of conscience for health care professionals, and the right to die continually inform health care practice and public policy. This article examines these three vital issues in the context of their relevance today, as well as the progression of health policy in regard to these topics since the Bouvia case. The complexity of the Bouvia case keeps it in the forefront of bioethics and health law studies; it begs one to consider how the Bouvia case will be viewed and discussed in another 25 years, as well as how it will continue to inform issues of individual rights, acts of conscience, and the right to die.

KEYWORDS: bioethics, personal autonomy, conscience, right to die, health policy

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Case Study Overview

The Elizabeth Bouvia case was an early landmark case in the right to die movement. It began in 1983 when Ms. Bouvia voluntarily entered a California hospital with suicidal ideations. Upon hospitalization, she “subsequently disclosed her intent to stop eating, and thereby die by starvation. She requested that hospital staff provide her with pain medication and hygienic care until she died. She stated that she no longer wished to live because of her disability, and that because of her disability, she was physically unable to commit suicide” (Stradley, 1985). Her physical disability included diagnoses of quadriplegia and cerebral palsy; as a result, she was bedridden and dependent on others for support in daily living activities (Liang & Lin, 2005).

Ms. Bouvia, a mentally competent adult, refused nutrition and hydration until hospital policy overruled her wishes and required the insertion of a nasogastric feeding tube since she was not terminally ill. It was at this time in 1983 that Ms. Bouvia took her case to the legal system in the state of California in the case *Elizabeth Bouvia v. Riverside Hospital*. The court ruled in favor of the hospital citing that while she had the right to determine her life, society did not have the obligation to assist her in committing suicide. In addition, the court cited the need to preserve life, support of current legal precedent, protection of the obligations, and interests of the hospital (and its patients), as well as protection for similarly disabled individuals as reasons for ruling against Ms. Bouvia (Stradley, 1985).

Through a series of legal movements, the California appellate court heard her case in 1986 in *Bouvia v. Superior Court*. The Superior Court ruled in Ms. Bouvia’s favor overturning the prior ruling based on the premise that mentally competent patients have the right to refuse treatment and that the state’s interest in preserving life does not outweigh this

right (West's California Reporter, 1986). Despite winning her case in 1986, Ms. Bouvia later explained in an interview with *Los Angeles Times* reporter Beverly Beyette (1992) that by the time the Superior Court ruled in her favor, she had "begun a morphine regimen whose side effects made the process of starvation unbearable." In her interview with the reporter, she expressed continued contempt for her own existence.

Considerations

Cases ripe with ethical dilemma present society with the most complex of considerations. Certainly in the case of Elizabeth Bouvia, her complicated medical history and physical impairments bring forth empathy and concern related to the magnitude of her burden of suffering. Many have argued the legal and/or ethical influence of the Bouvia case in relation to individual rights, acts of conscience, and the right to die. This article examines these three vital issues in the context of their relevance today, as well as the progression of health policy concerning these topics since the Bouvia case.

Individual Rights

Bioethics and legal interpretation have intersected repeatedly at the juncture of individual rights. The celebrated principle of autonomy is a hallmark of bioethics and exemplifies the paramount role of individual rights in determining one's own health care and associated decisions. Beauchamp and Childress (2001) argue that to respect an autonomous agent requires, at a minimum, acknowledgement of that person's right to have viewpoints, make choices, and choose courses of action based on personal values and beliefs. The Bouvia case reminds health care providers that respect for individual autonomy often conflicts with stakeholder interests or norms. It is often easy to defer to individual rights and preferences in the course of health care encounters; however, it is noteworthy that such rights and preferences may bring forth bioethical dilemmas.

The 33rd session of the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the *Universal Declaration on Bioethics and Human Rights*. This declaration addresses the principle of individual rights in the context of bioethics; the declaration notes that human dignity, rights, and freedoms are due full respect and the interests and welfare of individuals have priority over the sole interests of science or society (UNESCO, 2005). This declaration also explains that all bioethical principles are at a minimum complimentary and at most interrelated. In essence, even if individual rights have great weight in bioethical and legal considerations, it is rarely cut and dry.

In the instance of the Bouvia case, considerations were not straightforward because a case of such ethical complexity finds relevance in contexts beyond individual rights. Health care organizations and providers found themselves at the heart of this case, for example. Their organizational policies and institutional ethics, as well as acts of conscience were relevant.

Acts of Conscience, Conscience Clauses and the Health Care Professional

In recent years, there has been increasing debate over the role of conscience clauses in policy and practice within health care. Certainly, in instances like the Bouvia case, conscience considerations are relevant because health care professionals may find themselves asked to perform procedures or withhold life-sustaining treatment in a fashion contradictory with their own morals.

Historically, physicians and nurses have not been required to participate in assisted suicide; even in cases where it is legally sanctioned (Curlin, Lawrence, Chin & Lantos, 2007). Today, every state has a conscience clause law except Alabama, New Hampshire and Vermont. While most conscience clause laws at the state level were enacted after *Roe v. Wade* in 1973, Mississippi did not pass its first such law until 2004 (Robeznieks, 2005). At

the federal level, regulations have protected health care professional's conscience dating back to the 1970s including the Church Amendments, Public Service Health Act, and the Weldon Amendment to 2005 fiscal year appropriations (United States Department of Health and Human Services, 2008).

Published evidence demonstrates that health care professionals believe that they have the moral right to object to certain care and treatment, as well as refusal to participate in such instances (Lawrence & Curlin, 2009; Curlin, Lawrence, Chin & Lantos, 2007). In addition, the American Medical Association has also supported conscience clauses with acknowledgement that this fact does not disregard respect for patient choices; however, there are recent examples of scholars and medical organizations disputing the role the conscience clauses because of their potential negative implications to the patient-provider relationship (Robeznieks, 2005). Conscience clauses remain a topic of policy debate because of their complexity and influential nature.

The Right to Die Movement

The right to die movement in the United States entails a long history dating back to at least the early 20th century when Ohio was the first state to consider euthanasia legislation that failed passage (Death with Dignity National Center, 2011). Media attention surrounding the 1976 Karen Ann Quinlan case in New Jersey gave attention to cases involving the right to die. In Ms. Quinlan's case, the New Jersey Supreme Court granted her parents the legal right to disconnect her respirator based on the premise that this choice aligned with what Ms. Quinlan herself would have elected if she had been capable (Death with Dignity National Center, 2011). Ms. Quinlan (an adult without legal advanced care plans in place) was unable to consent for herself after she became comatose. (Interestingly, Ms. Quinlan lived nearly 10 years following removal of her respirator (Ascension Health, n.d.)) The media has routinely covered these contentious cases after Ms. Quinlan's case because of the public's increased

awareness of and interest in right to die cases. The Bouvia case and many of the right to die cases that followed hers continue to be discussed and debated in bioethics, health care and law forums.

From a policy perspective, nearly 25 years following the Bouvia case, two states - Oregon and Washington - have death with dignity acts. In addition, a host of legislative attempts has included topics such as death with dignity, euthanasia, and assisted suicide/death (Death with Dignity National Center, 2011). Although only limited research is available concerning societal views on the topic of assisted dying, it suggests that at a minimum, trends in public approval of euthanasia and physician assisted suicide are fluid (Duncan & Parmelee, 2006). Public responses to assisted suicide/death legislation are indeed varied; the Washington Death with Dignity Act passed by a slim margin; sixty percent of citizens in Oregon voted to keep their states Death with Dignity Act; and, a similar initiative in Michigan received a 70% to 30% defeat by its citizens (Death with Dignity National Center, 2011). The historical context and timeline of the right to die movement will continue to inform discourse and policy in the future on the topics of euthanasia, assisted suicide/death, death with dignity, and the right to die.

After Bouvia: Concluding Remarks

Nearly 25 years after the Bouvia case some things have changed, but much has stayed the same. Individual rights remain paramount in bioethics and health law, issues of conscience reveal themselves in ethical and moral dilemmas for health care professionals, and the public views on assisted suicide/death and euthanasia are varied.

A significant change since the Bouvia case is that the 24-hour news cycle is intimately involved when cases similar in nature to Ms. Bouvia's arise; in turn, public debate runs rampant and the dichotomy of arguing sides is usually split on the issues of life versus death (and what rights these concepts entail). Another distinction since the Bouvia case is the

passage of death with dignity laws in two states. Prior to these passages, such topics had been presented in legislative sessions and on ballots, but had been largely unsuccessful. It is interesting to consider what scholars in bioethics, health law, and the health sciences will be discussing 50 years after the Bouvia case. The evolution of dialogue related to individual rights of patients, acts of conscience for health care professionals and ethical quandaries related to the right to die cannot be certain. However, the author can only hope that these often-competing topics continue to receive attention and that their influence may be further understood.

Please note that the opinions expressed by the author represent those of the author and do not reflect the opinions of the Online Journal of Health Ethics' editorial staff, editors or reviewers.

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