Wisdom at the verge of life and death
— The ethics of dignified death and related legal issues

Professor Hsiao-Chih Sun of the Department of Philosophy at National Taiwan University (NTU) has engaged in the study of ethics and life education for many years and has served as the director of the NTU Life Education Center since 2008, striving to interweave “the lessons of life” into the educational system and the teacher education system. When his wife Yu-Hsin Yang became a legislator in 2012, Hsiao-Chih Sun started getting involved in the issues of the disadvantaged and dignified death, promoting the third revision of the Hospice Palliative Care Act (the “Hospice Act”) and passage of the Patient Right to Autonomy Act (the “Patient Autonomy Act”) into law. At the end of 2015, the Patient Autonomy Act passed after the third reading by the Legislative Yuan, making it the first law in Asia to fully protect the rights of patients to be informed, to make choices, and to make decisions. Hsiao-Chih Sun was the drafter of this law, and he continues to study end-of-life ethics and legal issues on an international scope, doing everything in his power to assist the government in drawing up a more complete set of coordinated measures.

When talking about how he first became interested in the subject of dignified death, Hsiao-Chih Sun thinks back to how he was always very acutely aware of the issue of life and death from an early age and how he always wished to explore the true nature and mystery of life. He lost his mother when he was 22 years old and buried his first wife when he was 44, while his current wife suffers from a rare disease of muscular dystrophy. For Hsiao-Chih Sun, death has always been profound and ever-present part of his life.
In his academic and pedagogic work, the subject that Hsiao-Chih Sun most closely focuses on is life education. It is his belief that everyone should be exploring the most basic issues of life and constantly self-reflect in order to deepen their outlooks on life, internalize their values and beliefs, and integrate their knowledge, emotions, will, and actions. This is precisely the essence and meaning of life education. Life education should not be oversimplified as just being suicide prevention education.

What do people live for? How should people live? Finally, what should the end point of life be like? Hsiao-Chih Sun wrote an article for Scientific American entitled "Without Understanding Death, There Can Be No Understanding of Life," in which he brings up the question, "Is death really a door or a wall after all?" From the perspective of science and experienced fact, death is the conclusion of life, and it is also the sudden stop of all relationships. When looking at it this way, death is like a wall, uncompromisingly turning one's existence and all the meaning inherent in one's existence into dust. However, when looking at it from a religious perspective, religions of the East and of the West all affirm that death is like a door and that death represents a metamorphosis and transformation of life instead of the absolute end of life.

Difficulties encountered in the application of the results of research concerning the right of refusing treatments in the legislative process

Hsiao-Chih Sun is also interested in studying issues of death and dignified death in terms of real-life situations and the law. With the progresses that have been made in health care and public health, he especially focuses on two themes related to dignified death: The first is the life-and-death matter of the right to refuse treatment, and the other is the issue of assisted suicide and euthanasia.

While helping Legislator Yu-Hsin Yang in the work of crafting legislation, the first law he pays attention to is the Hospice Palliative Act. He drafts the third revision of the Act because the conditions for allowing patients to execute their Do Not Resuscitate (DNR) form are too strict. the Hospice Palliative Act of the second version stipulated that if a patient loses consciousness and has not signed a DNR form and if artificial life-support equipment is already being used, then the removal from life-support requires four generations of immediate family members (spouse, adult children and grandchildren, and parents) to jointly sign a consent form requesting the approval of the medical ethics committee before the patient's cardiopulmonary resuscitation or life-support can be terminated or withdrawn. If any family member cannot be found, then the patient would just have to continue their suffering in a state between life and death. To solve this problem, Hsiao-Chih Sun held dozens of symposiums and public hearings and collected opinions from all corners of society. He provided an analysis and summary of these opinions to promote the passing of the third revision of the Hospice Act in 2013.

However, the Hospice Act only allowed for terminally ill patients to refuse cardiopulmonary resuscitation in critical situations and life-support after emergency rescue. It did not provide full legal standing for the right to refuse treatment for non-terminally ill patients or other patients who have unbearable suffering with no hope of cure and for whom there are no suitable alternatives. Therefore, on the basis of the revised Hospice Act, Hsiao-Chih Sun took a new approach by using a patient-centered legal structure to draft of a new bill concerning patient autonomy.

The legislative procedure of the Patient Autonomy Act was more complicated than that of the Hospice Palliative Act. On the one hand, the insistence of the traditional laws on the absolute protection of life doctrine had to be softened, which involves the questions of ethics, law, and the Constitution. On the other hand, the process of legislation involved not only professional dialogues but also irrational opposition due to populism, fear-based ignorance, and ideology. Due to the possible impacts of the legislation on health care personnel, Hsiao-Chih Sun remembers that representatives from the field of health care often angrily made accusations during symposiums and public hearings. They said that medical disputes are frequent and that doctors already practice medicine while shouldering the burden of many "penal provisions." They asked, why would you add to this situation a new law for patient autonomy? Hsiao-Chih Sun could only keep his patience and calmly and rationally communicate with them. In countless meetings, visits, and conversations, he gained an understanding of the needs of different sectors and overcame many difficulties to finally bring this law into this world.
The Patient Autonomy Act is one of a small number of bills in the history of the Legislative Yuan that have been proposed by the legislative branch instead of the executive branch. The Patient Autonomy Act could only be successfully legislated in such a highly politicized atmosphere thanks to the persevering spirit of Professor Hsiao-Chih Sun and Legislator Yu-Hsin Yang.

The controversy of assisted suicide and euthanasia

In the process of getting these laws passed, Hsiao-Chih Sun not only researched the legal basis for the right to refuse treatment in various Western countries, but also did in-depth investigation of the ethical and legal questions surrounding “euthanasia” and “assisted suicide.” He points out that there are only a handful of countries that have legalized euthanasia or assisted suicide, and the related issues are of a high level of controversy in any society around the world no matter whether they are legalized or not.

The mass media in Taiwan usually cannot tell the difference between “euthanasia” and “assisted suicide.” Many media outlets reported, for example, that euthanasia was legalized in seven states in the USA and that Fu Da-ren went to Switzerland to seek euthanasia. However, the USA and Switzerland actually only permit assisted suicide. Hsiao-Chih Sun states that there are two important differences: The person providing assistance in assisted suicide provides the means for committing suicide, such as fatal drugs, but the patient must be the one to take their own life. In euthanasia, a third party shortens the life of the patient with a drug injection at the request of the patient. Therefore, the former is self-killing, while the latter is a homicide. The number of countries that currently allow euthanasia is very small. The homicidal nature of euthanasia makes it much more controversial than assisted suicide. That is why all countries that accept euthanasia simultaneously accept assisted suicide, but not all countries or regions that accept assisted suicide will necessarily also accept euthanasia.

The ethical controversy of assisted suicide and euthanasia mainly revolves around the conflicting views of the positions of “pro-life” and “pro-choice.” In terms of the laws of Taiwan, both assisted suicide and eutha-
nasia go against Article 275 of the Criminal Code. The basis for their prohibition in the Criminal Code is the absolute protection of life doctrine. Although the right to life and the right of autonomy are both important basic rights granted in the Constitution, the protection of life should be given priority. On the one hand, people need to have life before you can even talk about anything else. Without life, there is no basis for autonomy. On the other hand, autonomy is naturally the manifestation of the humn dignity of an individual. However, people will abuse their own autonomy in many cases, such as when psychological disorders related to extreme despair, transitory impulsiveness, and severe depression undermine a person's ability to take autonomous action. In addition, the explicit or implicit pressures of the surrounding environment can also affect one's autonomous functioning. Therefore, based on the absolute protection of life doctrine and the principle of proportionality, it is certainly inappropriate and infeasible to just categorically accept it whenever someone wants to take their own life of their own accord. A high degree of social consensus must be formed for such issues, and the balance of legal interests between life and autonomy must be ensured based on the strict requirements for legal conditions and procedures in order for it to be fully appropriate. Neither the Criminal Code nor the Constitution of this country currently acknowledges the rights of citizens to autonomously end their own lives. Under the condition that even informed and rational discourse of assisted suicide and euthanasia in the public sphere is still hard to find, the time seems not yet ripe to boldly legalize assisted suicide or euthanasia.

Hsiao-Chih Sun described the most typical cases in the USA regarding the ethical arguments surrounding assisted suicide. There have been two decisions by the US Supreme Court that invalidated the claim that assisted suicide is a right protected by the US Constitution (Washington v. Glucksberg and Vacco v. Quill). In contrast to this are the philosophical arguments advanced by six authoritative moralists and philosophers who support assisted suicide. When carefully examining the related arguments, Hsiao-Chih Sun came to believe that if individual cases of assisted suicide conform to the rule of proportionality, then it should be ethically acceptable if it is indeed a necessary means for ending unbearable suffering. As for euthanasia, its ethical correctness should also not be ruled out for patients in the same situation but without the ability to take their own lives. However, the question becomes: Can the seal of ethical approval for individual cases directly translate to legality in terms of the law? Speaking of legislation, its universal impacts must then be taken into account. For example, if assisted suicide and euthanasia were legalized, what kind of impact would this have on vulnerable patients who still wish to live? Could the averseion shown by a caregiver for the patient become implicit pressure on the patient that changes the right to die into the obligation to die?

The current state of attitudes toward assisted suicide and euthanasia in Western countries

The countries around the world that accept euthanasia mainly include the Netherlands, Belgium, Luxembourg, and Canada as well as the state of Victoria in Australia. The countries that accept assisted suicide include Germany and Switzerland as well as seven states and the District of Columbia of the USA. When speaking of the development contexts and status quo of related issues in Western countries, Hsiao-Chih Sun shares the situations of different countries as if lovingly enumerating family treasures.

In the latest developments regarding assisted suicide and euthanasia in Western countries, the Netherlands reported that case numbers are showing a trend of growing year after year, with 6,585 people exercising their rights in 2017. The Dutch government has started to investigate the cause of the increase in the number of cases. There were 2,309 such cases in Belgium in 2017, with the region with the most requests being the Dutch-speaking region of that country. There were very few such cases reported in Luxembourg, with cases reported in single digits each year, not reaching 10 until 2016.

Germany decriminalized assisted suicide in about 1870. The reason for this was not to protect the right of patients to have a dignified death but because suicide itself was decriminalized in Germany's first federal criminal code. Legal scholars determined that if the principal was not penalized, then the accessory should not be penalized either, which meant that assisted suicide should be decriminalized as well. Although assisted suicide has not been a crime in the German criminal code for more than a century, the medical associations of Germany banned physician-assisted suicide after the painful experiences of the Second World War which led to the unsparing efforts of many to protect the right to life.

The context of Switzerland's acceptance of assisted suicide was also unrelated to protecting a patient's right to a dignified end. In the old Swiss criminal code of 1898, assisted suicide
was considered to be an “act of a friend” (“freundestat”). Meanwhile, the new criminal code that went into effect in 1942 carrying on the spirit of the old criminal code that allowed assisted suicide in principle, only penalizing assisted suicide for selfish motives.

As advances in medical technology made the situation of “a dignified death being preferable to a wretched life” more and more common, assisted suicide groups and non-profit organizations started to spring up like mushrooms after a spring rain in Switzerland. Hsiao-Chih Sun personally paid a visit to the famous “dignified death” organization Dignitas, and he found that Dignitas did not see its primary mission to be assisted suicide. They discuss with their members and try to see whether or not they can find an alternative solution or provide other resources. If they finally determine that there is no other way and that assisted suicide is the last resort, then they do not rule out providing assisted suicide. Hsiao-Chih Sun believes that from a certain perspective, they are more like a suicide prevention organization. They keep an open attitude when accompanying their members on life’s final journey and assist them in making life’s most important choices.

Large numbers of Germans have been journeying to Switzerland in recent years seeking to commit suicide, making suicide tourism into a real trend. Dignitas understands that Germans have this kind of need, so they have helped establish assisted suicide organizations in Germany. However, this has become a cause for concern by the conservative faction in Germany. Accordingly, Germany amended the law in 2015 to prohibit assisted suicide of a professional nature (“geschäftsmaßig”). However, the Federal Administrative Court issued an opposite decision in March 2017 stating that the government should provide suicide drugs to assist people in committing suicide in extreme situations. The two cases are currently both mired in controversy about whether or not they go against the Constitution, and future judicial developments in Germany are certainly worth watching closely.

Additionally, Canada passed an amendment to the criminal code that legalized assisted suicide and euthanasia in 2016, but the new criminal code only allows terminally ill patients for whom “natural death has become reasonably foreseeable” to exercise these rights. This has led to controversy about its constitutionality due to the complaint that the conditions for allowing assisted suicide and euthanasia are too narrow.

What kind of impact will the ethical and legal issues behind the constitutionality controversies in Germany and Canada have for the global discourse on assisted suicide and euthanasia? Hsiao-Chih Sun indicates that this will be a topic that he will continue to watch and study in the future.

Seeking to improve the well-being of the society while holding the belief that “life is impermanent; only love is forever”

As an ethicist and an educator who cares deeply about life education, Hsiao-Chih Sun injects vibrancy into the nation’s politics and society using his academic specialty as the platform to turn around the dilemma of patients not having autonomy and not being allowed to have a dignified end to life. From the revision of the Hospice Palliative Act to the birth of the Patient Autonomy Act, the law has grown to become more than just rigid rules strictly applied by the state but now also has a certain flexibility that reaches to all parts of society. When the law directly imbues the citizens with new values and practices from the top down, then it has the potential of starting a trend and changing the traditional habits of society. In coordination with education and social advocacy, the Patient Autonomy Act will be able to gradually change the way the society respects and views the rights of “patients,” thereby reflecting the values of “a good death” and “dignity.”

“Contributing what one has learned to improve people’s well-being is the way that an intellectual can express concern for society and love for country.”

This is the belief that Hsiao-Chih Sun firmly stands by. No one can avoid the process of birth, aging, sickness, and death. Facing the constant changes of life, he deeply ponders the sadness and joy and the farewells and reunions that occur every day in the health care world while he persists in meticulous ethical studies from the perspectives of philosophy, ethics, and life education. He never stops putting his heart and soul into work on the ethics of dignified death and related legal issues. From the life-and-death wisdom contained in the words of the Patient Autonomy Act, the joy and preciousness of life will finally be able to be embraced by everyone, and everyone will be able to possess the dignity and calm that should be theirs when they approach the ending moments of their own life.

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