



Autonomy, pluralism and the refusal of blood transfusion by Jehovah's Witnesses: a philosophical discussion

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Abstract

This paper presents a philosophical discussion about the relationship between the principle of autonomy and pluralism when considering decision making about others' lives. This study considers decisions that are based on personal moral values using the case of Jehovah's Witnesses as an example. Judicial decisions proffered by Brazilian judges who authorize hospitals to conduct medical procedures against these patients' will, even when they are able to make autonomous choices are analyzed. The discussion ponders these uncalled for sentences with the intention of showing that beyond the requirement that a conscious and free decision should be made, a moral evaluation of the decision's content is also made. It concludes that according to the principal of autonomy, the presumption of the existence of a plurality of values leads to different conceptions of good, some of which are widely accepted and others repudiated.

Key words: Autonomy. Cultural diversity. Morale. Jehovah's Witnesses. Judicial power.



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The assumption of existence of plurality of values underlines the autonomy principle that conveys different conceptions of good, which John Rawls denominates as *fact of reasonable pluralism*¹. Some conceptions of good are widely accepted. Others are repudiated. According to Rawls, *a democratic society is not and it cannot be a community, understanding as community a body of individuals united by the same encompassing or partially encompassing doctrine. The fact of reasonable pluralism that characterizes a society with free institutions turns this impossible. This fact consists of deep and irreconcilable differences in religious and philosophical conceptions, reasonable and encompassing, which citizens have of the world, and in idea that they have of moral and aesthetics values to be achieved in human life*². Rawls conceives his theory of justice thinking on a democratic society. Since this is a feature that one intends to attribute to Brazil, at least in this point it is fit to use the concept of fact of reasonable pluralism, as formulated by him.





This paper is a Philosophy article that takes the reaction to the refusal of blood transfusion by Jehovah's Witnesses as exemplary to show the violation of the principle of autonomy at the allegation that a medical procedure must be undertaken against the will of an adult, capable, and lucid patient, that is, of an autonomous human being. The confusion between the right and duty to life is one of the elements contributing to this violation. It discusses the factual difficulties for the recognition of autonomy when there are diverging and significant moral values, as to evidencing that not taking pluralism seriously conveys to non-recognition of human beings as effectively autonomous.

Nietzsche's genealogic method is used to analyze what some take as limits to the principle of autonomy as a consequence of the veiled non-acceptance of the fact of pluralism. Nietzsche's genealogy consists in replacing questionings about what is a concept for questionings on the moral motivation to create concepts. According to Deleuze ³, the question "*what is x?*" is replaced by the question "*who created x?*", in which x equals to a concept. With this, the subject that investigates on a concept, and not the concept itself anymore, becomes the subject of investigation.

Nietzsche ⁴, when analyzing morality as human being's constitutive element, in the meaning later used by Bernard Williams ⁵, replaces questioning on content of concepts by questioning related to motivation for attributing certain values to moral values. In the first chapter of *Morality*, Williams,

instead of acting as many philosophers who intended to prove the possibility of morality, he retakes the forgotten question, according to him, on the possibility of amorality.

Williams presupposes that morality and amorality exhaust the logical space related to moral evaluation of human actions, he evidences the impossibility of amorality and, thus, that morality is constitutive to human being. The two philosophers are taken as starting point for the philosophical reflection. Given the possibility of morality, according to Williams, the question arises regarding intentionality of moral judgments, according to Nietzsche.

In order to contextualize these assumptions, legal decisions expressed by Brazilian judges authorizing health professionals and hospital institutions to undertake therapeutics procedures against patients' will, who are in condition to choose autonomously are analyzed – aiming at showing that, beyond the requirement that a decision should be made in free and conscious way, there is a moral evaluation of its content.

Method

In order to raise pertinent cases to the analysis, jurisprudential research was carried out during August 2010, in Brazil, in the sites of state, regional courts, in the Superior Tribunal of Justice and at the Federal Supreme Court. The coverage period depends on the available material at each site. The oldest decision is dated of June 2003, and the most





recent, of May 2010.

Research was carried out, firstly, with the words *witness and Jehovah*, and next, with the words *transfusion and blood*. After eliminating decisions not dealing with the blood transfusion in Jehovah's Witnesses topic, it were found twenty four decisions originated from nine units of the Federation: Rio Grande do Sul, Parana, Sao Paulo, Rio de Janeiro, Minas Gerais, Mato Grosso, Goia- nia, Para, and Federal District. The case of Jehovah's Witnesses is exemplary, because, despite been Christians, they do not share values related to what should be done to save life that they equally consider sacred.

Arguments used by Brazilian judges to base legal decisions, particularly those that do not recognize patients' right to autonomously decide on their medical treatment are considered exemplary to show that interpretation of provisions of the Brazilian legal ordainment is not neutral, as intended by those that decided as such. On the opposite, it derives from a special morality conception that, given the fact of reasonable pluralism, does not justify, in imposing manner, philosophically or legally.

One should highlight that this work does not consist in advocacy of Jehovah's Witnesses values and beliefs, but in philosophical discussion on the relation between the principle of autonomy, the fact of pluralism, and undue decision making on someone else's life based in own moral values,

which adopts treatment given by Brazilian judges in regard to Jehovah's Witnesses as exemplary. One advocates the exercise of freedom of belief as one of the situations of the exercise of autonomy.

The task of Philosophy

Two tasks are undertaken in this article: presenting the problem and what would be necessary to solve it, and discussing, in philosophical terms, what motivates Law operators and health professionals to consider that some decisions made regarding own life cannot be considered as morally and legally legitimate and that, therefore, it is up to others to decide on such issues. As the majority of the Brazilian population does not share some of the Jehovah's Witnesses beliefs, it seems strange to many that their refusal of allogenic blood transfusion. Understanding what motivates strangeness contributes for a progressive respect regarding what seems strange.

Here is the formulation of the problem: we live in a layman country, where human beings from different beliefs and values socialize. Eventually, we are judged by human beings with beliefs and morally values different from ours. One questions if the recognition of human beings as autonomous, associated to the fact of pluralism and recognition of the necessity of respecting pluralism, it is compatible that moral values singular to judges influence in the decision they made regarding someone else's life.



Cases are legally discussed in Brazil because Brazilian legislation. Brazilian judges use, health professionals' reaction who do not basically, two arguments: one that justifies respect Jehovah's Witnesses patients' will the obligation and the other that justifies the who refuse blood transfusion, for religious possibility of refusal of blood transfusion. reasons. In face of this, often, member of *Prevalence of tutorship of life over their the Judiciary Power confer power to religious convictions* ⁷ because the Federal health professionals in order to make *Constitution preserves, first of all, as primary, decisions on someone else's life based inviolable, and preponderant good the life of in their own moral values. Disrespect in citizens* ⁸ is the main argument used to these circumstances is perceivable in justify that Jehovah's Witnesses may be two ways: when professionals request forced to receive allogenic blood legal authorization to undertake the transfusion. The recognition that *life cannot procedures that patient refuses; and be encompassed only in its biological when they force the patient to request sense, but also, certainly, in the moral legal protection in order to not be sense and that what it is said regarding to submitted to medical procedure against exclusive and intimate relationship of the his will. It should be stressed that individual with himself (...) cannot be medical issues are under discussion, but submitted to state intervention without the rather moral ones. sacrifice of the principle of the dignity of the human being* ⁹ culminates in recognition of

The second task consists in discussing existence of autonomy of human being, given certain alternate procedures to blood transfusion. In this conditions, is the main argument used to point, two distinct questions would need to be made: justify that Jehovah's Witnesses cannot one in relation to procedures existing in the world be forced to receive allogenic blood and the other related to procedures available in the transfusion. country. In case of unavailability of a procedure in

Brazil, despite the fact that it exists in other country The issue of refusal of blood transfusion by or countries, one should ask if the reasons for such Jehovah's Witnesses involves moral values non-existence are technical, economic, or simply so rooted in the Brazilian culture that many due to the fact of not attributing importance to the do not even realize that respect for these problem that affects around 1.1 million people in the values does not have anything of necessary. country ⁶. It is fit to health Professional to clarify on Nietzsche's genealogic method evidences existing and available techniques that Consist in the moral reasons for decision making and alternative to blood transfusion. for the Christian aspect of absolute value that one attributes to life. According to

Next, one should ask jurists which Nietzsche, our moral prejudices, that is, the conditions and limits for recognition and set of moral values that is proper to us, cannot exercise of autonomy established in the be used as basis for decision making related to other people's life. The suitable



formulation of problems to be discussed and the indication of the course for their solution are the tasks of Philosophy. Thus, some questions are formulated and those with competence to provide technical information to answer them, without nevertheless, to intend, effectively, to solve the issue in this article.

Individual's autonomy as limit for health professionals and jurist in a State that recognizes itself as plural

A significant change initiates, in the 1970s, in the physician-patient relationship that ceases to be a subordinate relationship, in which physician, holder of technical knowledge, decides about procedures to be adopted due to the assumption that the technical knowledge is the crucial element for decision making in clinical cases ^{10,11}. The physician-patient linking begins to be understood as a relationship in which it is up to each party to act according to what is his competence.

To physician is fit to guide and provide technical information necessary for patient's decision making about his own life, when he is in condition to do this. It is not anymore to physician to decide. Paternalism is not possible when patient is acknowledged as autonomous being. Issues related to treatment cease to be considered just as technical. There are distinct ways of living, equally possible and legitimate, in the sense of being compatible with reasonable pluralism. It is fit to patient to

decide, based in technical information, how he wishes to continue living.

In Brazil, the discussion takes place not only within the hospital scope, but also in the Judiciary Power. The reading of legal decisions in courts' sites shows that many judges are authorizing, unduly, medical procedures that are contrary to patient's will. The main argument consists in considering the right to life as absolute and unavailable. In this context, physician's duty of treating would correspond to patient's obligation in admitting to be treated. The recognition of autonomy requires that the practice of those in position to judge takes place in accordance to such principle. Patient's autonomy must be acknowledged both by health professionals and by judges.

When Beauchamp and Childress ¹², in the book *Principles of biomedical ethics*, published in the 1970s, replace the *principle of respect to the individual*, as formulated in Belmont's Report ¹³, by the *respect to autonomy* establish a basic change in characterization of subject, who begins to be taken as active. The requirement of respect to the individual regards all of us, who must act with respect in relation to the other. The recognition of autonomy requires that to be autonomous clarifies the terms of his autonomy. E And in order to exist respect to autonomy is necessary to treat those acknowledge as autonomous in accordance with his moral values.

This change of position does not occur in neutral way. On the contrary, it derives from the





concept of human being that consists, partially, in what it is expected from human beings. One expects that human beings give meaning to their lives and, for it, to adopt concepts of good. Paternalism imposes externally a concept of good. Autonomous human beings refuse paternalism. The change in the concept of human being imposes changes in the world.

In the case under issue, it imposes that decision made by others regarding their own lives that, eventually, we would never make in relation to our own.

A judge from the State of Rio Grande do Sul High Court, judging in 2007 the request of a hospital institution to undertake a blood transfusion against patient's will, who is a Jehovah's Witness, states that *the medical professional has the duty to treat the intern, in case of life's risk, independently of his consent* and, in the case under issue, corroborates the hospital institution author of the suit, for which *religious freedom cannot harm the right to life* ¹⁴. The appeal was not judged due to the understanding that *it lacks procedural interest to the hospital in suing a request to get jurisdictional authorization determining the patient to submit herself to blood transfusion*.

Here is the first part of the decision, which states that it is not fit to hospital legal request to undertake a procedure against patient's will. In the continuing, the decision shows, however, a veiled judgment of the merit, by stating

that *there is not necessity of judicial intervention, since the health professional has the duty of, in case of eminent risk of life, to undertake all need diligences for patient's treatment*.

This statement seems absolutely correct. Health is constitutionally assured in its universality and integrality, according to Articles 196 and 198 of the Constitution of the Federative Republic of Brazil (CRFB/1988) ¹⁵. That is, all should be treated of whatever is necessary to treat. However, the final part of the same statement does not reconcile with legal precepts: *independently of hers or her family consent*. In summary, the decision sets that physicians may undertake whatever they want with their patients, without the later been able to disagree with the procedure to be adopted and issues referring to medical procedures cannot be taken to courts, since the physician's duty has as consequence the patient's duty to allow been treated.

One highlights that the other judges voted with the reporter, confirming the understanding in issue. The request of this claim ¹⁴ aims the recognition of the right of the hospital institution to act in accordance with what seems to it as best for the patient.

One of the bases to authorize physicians to undertake procedures against patients' will is the constitutional protection of the *right to life*. Without any justification, *right* is read as *duty* and it goes from assurance to the right to life to the obligation of living, which means that





there is not protection of human beings' life by legally accepted.

the State, but imposition of the duty to life to all. According to such interpretation of the constitutional provision that aims to protect human beings from the others, we are forced to live. However, if there was such obligation, there would not be just homicide, as well as suicide would be typified, that is, describe as crime in the Penal Code.

Similarly, the Ordinance MS/GM 1,820/09¹⁶ would be unconstitutional, at least, in its provisions that assure to every individual *the information related to different therapeutic possibilities in accordance with his clinical condition, based in scientific evidence and in the cost-benefit relation of treatment alternatives, with right to refusal, certified in presence of witnesses; (...) the right to the choice of treatment alternative when there is, and to consideration of refusal of proposed treatment, as foresees Article 4, in items 9 and 11*¹⁵.

If this emphatic determination was not enough, the next article also assures that *every individual must have his values, culture, and rights respected in relation to health services, ensuring him (...) V – the free, voluntary, and clarified consent to any diagnosis procedure, preventive or therapeutic, except in cases that lead to risk to public health, considering that previously given consent may be revoked at any time, by free and clarified decision, without attributing moral, finance, or legal sanctions to the individual.* From what is set in the constitutional text one infers that reading constitutional provisions that assure the right to life as limiting of autonomy is not a neutral attitude and either can be

We must ask ourselves, according with the genealogic method, for the reasons that some have to consider that we cannot dispose of our lives. There are not legal reasons. There are, however, religious reasons. According to Christian orthodoxy, life was given by God and only Him can take it away, that is, life is an untransferable and irrenunciabile good because it does not belong to us, but to God.

Peter Singer discusses the Christian origin of the sacred character of human life, in the chapter "What there is of wrong in killing? In the Ethics practice"¹⁷. If we refuse the statement that life does not belong to each of us and if we do not take life as sacred, that is, if we do not impose Christian values to all inhabitants of a layman country, there are not reason to force anyone considered as autonomous to undertake a procedure that seems to him undesirable, independently of what motivates the refusal. In a layman country, in the legal scope, it is not up to others but to the individual himself the ownership of his body. In this sense, Article 6 of mentioned Ordinance MS/GM 1.820/09 sets forth that *every person has the responsibility in order to his treatment and recovery are suitable and without interruption. Single Paragraph: In order to enforce provision in the text of this article, people shall: (...) V – assume the responsibility for the refusal of procedures, recommended exams or treatments and by the non-compliance to guidance from the health professional or health team.*





We have the right to life in regards to as something dependent of each individual if others in sense that others cannot take our lives. we suppose that different forms of possible life However, there is not anything that establishes are equally moral.

the existence of the same duty for each living human being in relation to himself. The religious There may be lives that are not worth living. For understanding that life belongs to God is valid many, a vegetative life or with few and limited only for those believing in this. Everyone should movements is this kind of life. For others, be respected according to his beliefs. As one carrying out actions that are contrary to reads next, when dealing with moral prejudices, precepts of religion which they follow according to Nietzsche, the judge cannot decide also conveys this situation. To about someone else's life based in his religious recognize that the value of a human beliefs or in his moral prejudices. On reverse, he life, in the sense that each individual must take in consideration the values of those attributes a value to his own life, is a who have their lives decided by other. decisive step for recognition of the human being as autonomous.

If we do not attribute a sacred character to the human life, we realize that it is not a good in Autonomy means not only to be able to dispose over own life, in the biological itself. The understanding that human life, in sense, as, equally, be able to dispose on biological sense, is sacred, it is so the value and meaning that one impregnated in the judging spirit that many attributes to his own life. The next step state that life is higher good tutored by the requires that one rethinks the value attribute Federal Constitution. This does not have any to beliefs which we do not share.

textual basis. Life is among other protected goods by the Constitution and it has an **Jehovah's Witnesses' beliefs and acceptable treatments** instrumental value.

Life is our most valuable instrument because it allows that everything else may be used as instrument. Thus, it is an instrument. Nobody wishes to be alive if he is not able to do something that justifies and gives meaning to his own existence. And it is not up to third parties to establish what gives meaning to others existence. One does not wish to be alive for being but for what one can do being alive. The value that we attribute to what we do derives, inclusively, from our beliefs. It is only fit to speak in attribution of meaning to life

Four biblical passages are mentioned to justify, from religious standpoint, the refusal of blood transfusion by Jehovah' Witnesses:

Everything that moves and has life Will be food for you, all this I give you, as I gave you the greenness of plants. But you shall not eat the flesh with the soul, that is, the blood ¹⁸.

Every man from the House of Israel or every foreigner living among you that eats blood



whichever may be the type of blood, I will turn against this one that ate blood and I will eliminate him from amidst his people ¹⁹.

(...) the life of every flesh is blood, and I said to Israelites: "thou shall not eat blood from any flesh, as the life of every flesh is blood, and everyone Who eat shall be eliminated" ²⁰.

(...) that one prevents from what is contaminated (...) and from blood ²¹.

It is not fit to judge if this is or not a good interpretation of the biblical text. The fact is that it is interpreted in such way by Jehovah's Witnesses, Who refuse allogenic blood transfusions or any of its platelets and plasma. There is no consensus regarding pre-surgical autologous blood collection and storage for later reinfusion, that is, self-transfusion, a procedure refused by some and accepted by others. Both are in accordance with information services on hospitals for Jehovah's Witnesses.

The problem exists, according to several scientific articles ²²⁻²⁹, in fact, just in some emergency situations. In remnant cases, there are alternative treatments to blood use equally or more effective than blood transfusion, been, however, necessary the existence of qualified professionals and availability of material for their adoption. Apparently, just three problems remained.

When blood transfusion is not part of emergency procedure, the problem consists in morality of providing a treatment that has high cost in a developing country, taking into consideration that this may mean that other people will not receive treatment, despite constitutional provisions that assure universality and integrality of health care. If it is emergency procedure, in which there is not another possibility but to undertake blood transfusion, the problem is then related to respect to patient's autonomy and to situations where it should be respected. The third problem, derived from the second, relates to Who can decide regarding a necessary blood transfusion in a child or adolescent: parents? The child? The adolescent? From which age? To allow that children decide against parents' will in an issue involving religious precept, could it not distance children from their parents? One does not discuss the last problem.

Adoption of procedures without use of homologous blood, that is, the blood from someone other than receiver, involves some problems. If adult, i) availability of procedure that does not require homologous blood transfusion; ii) existence of qualified personnel that could carry out such procedure; and iii) cost of procedure. If a child or adolescent, in addition to problems pointed in regard to adults, there is the issue of who could be considered responsible for the child or for the adolescent and, therefore, capable to decide for him.



The refusal of blood transfusion by Jehovah's Witnesses usually is treated as a religious issue, which, for some, presents itself as unacceptable caprice. Medical literature^{28,30-32}, however, is clear at indicating existence of risk for blood transfusion or parts of the blood: virus contamination, immune suppression, infections, inclusively deriving from longer period of internship. Additionally, in many cases, there are alternative procedures to blood transfusion which are equally or more effective and, in relation to many aspects, safer.

To deal refusal of blood transfusion by Jehovah's Witnesses as mere whim reveals ignorance of medical aspects of the issue and disrespect to freedom of belief and freedom to dispose over own life and, what is ethically more serious, it consists in decision making about someone else's life based in own moral values. It is not necessary for us to understand, neither that we agree with choices made by Jehovah's Witnesses, it suffices that we recognize that the choice is rational, in the sense that is in conformity with a conception of good, and reasonable, in the sense that this conception of good is compatible with reasonable pluralism in terms proposed by Rawls.

Just as conclusion: decision making over someone else's life despite moral prejudices

There are religious commandments that prevent use of allogenic blood. The life with allogenic blood seems to Jehovah's Witnesses

a life not worth living. The difficulty for many Law operators and for many health professionals is in understanding that someone evaluates - and what is stronger, that has the right to evaluate - own life in way different from theirs. In charge of determining right and wrong in each concrete case, judges often forget that nor always right or wrong are objective data and that they may not be in agreement with their moral values.

Life is a biological and a moral concept. Under certain conditions, life is not preferable to death. Marco Antonio Lobo Castelo Branco, judge at the Belem 2nd Court of Finance, states in sentence:

*(...) the Medical Code of Ethics is a menu for all tastes. It serves both to justify physician that must act in case of eminent risk and for defense of those who understand that in some cases, as long as defense of patient's conscience and personality is at stake, blood transfusion should be avoided (...) the Medical Code of Ethics does not solve or points to a solution of a real case in view of its finalist contradictions. Corporatively, (...) any defense is possible before the Federal Council of Medicine (...)*³³

The same can be stated about the 1988 Constitution. The judge may give emphasis both to the fact that life be the first good list in the text of Article 5, assuring to Brazilians





and foreigners living in the Country the does not seem so serious because pluralism is
inviolability of the right to life, to freedom not a value so rooted in society as other moral
 (highlights by the author) and the fact that in the values are.
 introduction, in which life is not even mentioned,
 Brazil is understood as being a *Democratic State*, It is a mistake to say that physician's duty
targeted to assure the exercise of social and of caring and treating patients runs from
individual rights, freedom, security, and wellbeing, the obligation of patients to be treated.
development, equality , and justice as supreme The physician, deliberately, cannot avoid
values of a fraternal, pluralist, and without fulfilling his duty. But the patient can free
prejudice society, based in social harmony and the physician of doing it. The genealogic
committed , in internal and international order, method reveals the origin of fallacy: the
with peaceful resolution of controversies moral prejudices. According to Nietzsche:
 (highlights of the authors). *reflection on moral prejudices, if we do not want them*
to be prejudices on prejudices, presupposes a position
outside moral, some point beyond good and evil, until
which we have to go up, to climb, to fly – and in present
case, in any case a beyond our good and evil ^{35,36}.

To choose between giving emphasis to The intended neutrality in regards to
 the right to life, which appears for the knowledge has been recognized long
 first time in the text of Article 5, in ago as chimera. However, this does not
 detriment to recognition of Brazil as imply that moral and epistemological
 a pluralist State, stated in the relativism be a load that we have to
 introduction of the Constitution, reveals carry. The impossibility of neutrality in
 moral prejudices of the judging that relation to knowledge occurs, partially,
 considers inadmissible that others from the fact that we analyze reality from
 attribute to their own lives a distinct a standpoint that is not neutral.
 value than his Additionally, we grow up and live in
 environments in which predominate
 certain values. The way how we see the
 world is forged since the day that we are
 born. As societies start to recognize
 existence of a plurality of values, often
 incompatible, we need to make effort to
 recognize the different as deserving equal
 consideration and respect. However, we do
 not let go our moral prejudices.

In accordance with description of a judge of a
 Higher Courts in his report, the *applicant* Additionally, we grow up and live in
was tied to the hospital bed and forced to environments in which predominate
receive transfusion. The description was certain values. The way how we see the
 made by the Judge Brandao Teixeira ³⁴. This world is forged since the day that we are
 procedure, authorized by a judge, is not the description born. As societies start to recognize
 of what should occur in a *fraternal and pluralist society* existence of a plurality of values, often
(...) funded in social and committed harmony (...) incompatible, we need to make effort to
peaceful resolution of controversies. There is recognize the different as deserving equal
 nothing of fraternal and peaceful in tying an consideration and respect. However, we do
 autonomous human being to bed in not let go our moral prejudices.
 order to be possible undertaking a
 procedure against his Will, due to
 moral divergences. The disrespect
 for the introduction of Constitution



Moral prejudices, in Nietzsche's sense, are moral values that weaken the concept of moral values proper to each of us and autonomy. One should, thus, to enlarge the influence, often without we realize it, the way statement attributed to Voltaire: *I do not agree how we learn reality. Given the impossibility of with what you say, but I will fight to death so a neutral evaluation point, there is not any way you have the right to say it*³⁷. The statement, how to free ourselves from our moral used constantly to advocate freedom of prejudices: they constitute what is essentially expression, reaffirms, equally, the right to human in each of us. autonomy. We do not need to be in agreement with others do with their lives, we do not need

We must make effort to think and to judge to agree with Jehovah's Witnesses reasons to despite our moral prejudices. To impose the refuse blood transfusion, but we need to undertaking of medical treatment to a patient recognize situations in which autonomous taken as autonomous is disrespect to the decisions must be respected. And, in case of principle of autonomy. Not recognizing the disrespect, we must struggle in order to fact of pluralism and to act without respect be (r)established . respecting his distinct

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Resumo

Autonomia, pluralismo e a recusa de transfusão de sangue por Testemunhas de Jeová: uma discussão filosófica

Este trabalho apresenta discussão filosófica sobre a relação entre o princípio da autonomia e o pluralismo, considerando a tomada de decisões sobre a vida alheia com base em valores morais próprios, que tem nas Testemunhas de Jeová um caso exemplar. Analisa decisões judiciais proferidas por juízes brasileiros que autorizam hospitais a realizar procedimentos médicos contra a vontade de pacientes que são Testemunhas de Jeová, mesmo quando estes estejam em condições de realizar escolhas autônomas. A discussão pondera a respeito dessas sentenças indevidas com vistas a mostrar que, para além da exigência de que uma decisão deva ser tomada de modo consciente e livre, ocorre, igualmente, uma avaliação moral de seu conteúdo. Conclui que subjaz ao princípio da autonomia a presunção da existência de uma pluralidade de valores, que acarretam diferentes concepções de bem. Algumas delas amplamente aceitas; outras, repudiadas.

Palavras-chave: Autonomia pessoal. Diversidade cultural. Moral. Testemunhas de Jeová. Poder Judiciário.

Resumen

Autonomía, pluralismo y el rechazo de transfusión sanguínea por Testigos de Jehová: una discusión filosófica

Este trabajo presenta una discusión filosófica sobre la relación entre el principio de la autonomía y el pluralismo, considerando la toma de decisiones sobre la vida ajena con base en valores morales propios, que tienen en los Testigos de Jehová un caso ejemplar. Se analizan decisiones jurídicas postuladas por jueces brasileños que autorizan a hospitales a realizar procedimientos médicos contra la voluntad de pacientes que son Testigos de Jehová, aún cuando estén en condiciones de realizar elecciones autónomas. La discusión pondera a respecto de esas sentencias indevidas con idea de mostrar que, para más allá de la exigencia de que una decisión deba ser tomada de modo consciente y libre, ocurre, igualmente, una evaluación moral del contenido de la decisión. Se concluye que subyace al principio de la autonomía la presunción de la existencia de una pluralidad de valores, que acarrear distintas concepciones del bien. Algunas de ellas son ampliamente aceptadas y, otras, rechazadas.

Palabras-clave: Autonomia. Diversidad cultural. Moral. Testigos de Jehová. Poder judicial.

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