

# Dignity and autonomy of patients with mental disorders

Suzana Maria Mendonça

---

## Abstract

This paper briefly discusses the issues that involve the autonomy of patients with mental disorders. The level of mental faculties' impairment may render their autonomy non-viable, since it hinders the conscious process of decision making. This circumstance is especially problematic when it comes to informed consent, since sometimes the ability to weigh the reported facts in order to decide on therapeutic alternatives is impaired due to the patient's health condition.

**Keywords:** Mental health. Bioethics. Informed consent. Personal autonomy. Personhood-Civil rights.

## Resumo

### Dignidade e autonomia do paciente com transtornos mentais

Este trabalho discute brevemente questões que envolvem a autonomia do paciente com transtornos mentais. O nível de comprometimento das faculdades mentais pode inviabilizar sua autonomia, uma vez que dificulta o processo consciente de tomar decisões. Essa circunstância é especialmente problemática quando se trata de consentimento informado, considerando que, por vezes, a habilidade de ponderar fatos informados para a escolha de alternativas terapêuticas encontra-se prejudicada em razão da condição de saúde do paciente.

**Palavras-chave:** Saúde mental. Bioética. Consentimento livre e esclarecido. Autonomia pessoal. Pessoaalidade-Direitos civis.

## Resumen

### Dignidad y autonomía del paciente con trastornos mentales

Este trabajo discute brevemente sobre las cuestiones que involucran la autonomía del paciente con trastornos mentales. El nivel de compromiso de las facultades mentales puede inviabilizar su autonomía, dado que dificulta el proceso consciente de toma de decisiones. Esta circunstancia es especialmente problemática cuando se trata del consentimiento informado, considerando que, a veces, la habilidad de ponderar los hechos informados para la elección de las alternativas terapéuticas se encuentra perjudicada debido a la condición de salud del paciente.

**Palabras clave:** Salud mental. Bioética. Consentimiento informado. Autonomía personal. Personeadad-Derechos civiles.

---

**Mestranda** suzanamfm@gmail.com – Universidade de Lisboa, Lisboa, Portugal.

## Correspondência

SQN 304, bloco A, apt. 209, Asa Norte CEP 70736-010. Brasília/DF, Brasil.

---

Declara não haver conflito de interesse.

The situation of people affected by mental disorders is a subject that has attracted attention both from study groups from different areas and society itself. Continuous learning about mental health issues is essential because of its potential to cause effects of various orders. This theme brings several questions that expose not only its complexity, but also its interdisciplinarity. In this sense, it does not represent an area of interest exclusive to psychiatry, but to other areas as well and, consequently, fertile ground for research, so that it arises reflections in philosophy, bioethics, sociology, law, among others.

The dignity of the human person, a formative element of the axis of essential rights and duties, plays an important role in protecting the life, physical and mental integrity, freedom and personality of the person with mental disorder. Dignity must always be the vector that conducts all medical activity in all phases associated with patient health care, be it research, diagnosis or even treatment.

One of the most discussed points on the health of patients with mental disorders refers to autonomy. Informed consent reflects the person's ability to declare his or her will regarding therapeutic alternatives based on the facts of his or her condition informed by the health professional. However, it is common for the psychotic patient not to have full mental faculties in order to be able to consciously give his or her opinion on the treatment. Thus, the controversy about the possibility of the patient with mental illness to have the autonomy to make conscious decisions regarding the therapeutic alternatives that best suit their interest.

### Definition of mental disorders

Mental illnesses are difficult to diagnose since they require deep observation and investigation in order to accurately determine the patient's condition. The advancement of studies on the subject has favoured people in this situation, since it created new modalities of treatment and improved those already available.

Qualified from a clinical perspective as a relevant cognitive and behavioural disorder as well as a disorder in emotional regulation, mental disorder generates dysfunctions of biological, psychological or developmental nature, as pointed out in the Diagnostic and Statistical Manual of Mental Disorders (DSM-5)<sup>1</sup>. In this sense, such

disruption affects the daily life of the individual, so as to cause harm of various orders.

Therefore, mental disorders are associated with a change in the regular functioning of the mind, whether congenital or degenerative, in a way that impairs the performance of the person affected in several areas - family, social, personal, professional or academic. According to Prata<sup>2</sup>, these diseases modify cognitive aspects, affecting the person's understanding not only of themselves, but also of those around them, altering their relationship of respect for others and tolerance to problems.

Subjects in this condition become cognitive and emotionally vulnerable, because they suffer with the change of their perception of reality. Sometimes the individual does not even notice the change, and it is up to the next person to notice the maladjustment. Its effects, by reaching different areas of the individual's life, create obstacles ranging, for example, from the difficulty in social life to mental suffering. One of the consequences of neuropsychiatric disorders is the reduction or loss of decision-making ability, since the ability of self-control is weakened at various levels, depending on the diagnosis. Considering that health treatment depends on the consent of the patient, the complexity of this situation is evident.

### Mental health and dignity of the human person

The dignity of the human person is a supreme and intrinsic value<sup>3</sup>. In this sense, and because of this value attached to the human quality or even to the meaning of existence<sup>4</sup>, everyone deserves equal treatment based on respect<sup>5</sup>. Dignity is an absolute idea, representing the guarantee to all individuals of the respect for their humanity, reflected by the consideration of their interests, well-being, their life and autonomy, as Novais points out<sup>6</sup>. Moreover, Sarlet<sup>7</sup>, adds that dignity has a double dimension, since is equivalent both to the materialisation of the person's autonomy and to the need or demand for their due protection, especially when their capacity for self-determination is vulnerable.

The idea of human dignity creates a core of rights and duties essential to its concretisation, and the absence of its exercise, according to Paulo Otero<sup>8</sup>, compromises not only the level of quality of life but also the respect for the inherent dignity of each person. It is characterised, as López<sup>3</sup> points out, as a value so high that its content supports many

values, principles and rights. In addition, human dignity does not only guarantee rights to the person, but also reveals a viewpoint that brings recognition of the other as a being with self-determination, which goes beyond the individualist perspective of well-being. According to Di Lorenzo<sup>9</sup>, dignity is relational as it circumscribes all members of society in the same group of legal subjects.

To recognise that each person is granted singular and supreme value, represented by the amplitude of the integrity of the human person, generates respect not only for existence, but also for autonomy equally conferred on all. The supreme value of dignity thus ensures the structure of equality<sup>6</sup>. On the other hand, it implies that individuals are similar in rights but not identical<sup>10</sup>. Differences shape social variety and pluralism, but they are also essential in determining which groups need, for some reason, special attention, such as people with mental disorders.

The patient suffering from a mental disorder has the same fundamental rights that any other member of the community has, but presents particularities regarding the needs inherent in the vulnerability and fragility associated with his or her condition<sup>11</sup>. Thus, equality determines equivalence of fundamental rights for all, even if mental illness makes it difficult for them to exercise their citizenship on a regular basis. Their rights may be exercised by representatives or even by the person with mental disorder, depending on the degree that the person's disorder changes his or her discernment.

To respect the other, represented by the mentally ill, it is not enough to recognise their dignity, say Costa, Anjos and Zaher<sup>12</sup>, but also demands measures to guarantee and actively promote it. Mental health professionals especially highlight this function, since they are responsible for adequately treating people with mental disorders, assessing their condition and collaborating with the evolution of their condition.

Respect for humanity, a condition of dignity, supports autonomy, and implies preventing any situation that might objectify the person<sup>13</sup>. This also applies to the field of mental health, in which the patient with neuropsychiatric disorder should be treated according to his or her dignity, in order to inhibit any behaviour that may objectify the patient.

### Patient autonomy

All are autonomous to act in the way they deem most interesting or convenient to their life

project. Self-determination thus guarantees the freedom of the individual to make his or her own decisions, and is revealed as a consequence of human dignity, intrinsic to each person.

According to Felício and Pessini<sup>14</sup>, this concept is characterised as one of the ethical parameters most valued in health practice. However, its full exercise in the case of patients with mental illness can be compromised, since their ability to understand events that affect them, the acts they practice or will practice or even the ability to analyse and predict effects associated with their decisions is impaired<sup>11</sup>.

According to Costa, Anjos and Zaher<sup>12</sup>, although the mental illness is serious, the person does not stop being fully human. Despite the limitations inherent in their condition, they remain a conscious, free subject with potential and responsibility, within the limits of their mental faculties. However, questions are raised regarding the self-determination of the neuropsychiatric patient, if a mere diagnosis means the loss of the possibility of making decisions. In addition, it would be possible to inquire whether even with only partially reduced capacity the patient would still be able to decide on treatment alternatives, basing themselves on the information that is provided about their condition.

The autonomy in the area of mental health is a very open concept, which culminates in varied questions. However, each patient has his or her peculiarities, and it is up to the professional responsible for the health care to evaluate the conditions associated with the patient's self-determination, in order to establish whether or not the patient is able to exercise his or her decision-making power, especially regarding the therapeutic options that are presented. Thus, the inherent specificities of each patient should be taken into account, particularly in relation to the degree of fragility and vulnerability due to their condition.

As Brendel points out<sup>15</sup>, patients whose rational faculties are undamaged enough are duly apt to make their own decisions, and autonomy is the consequence. From this premise, in medical practice there are some solutions applicable to complex cases of mental disorders, there are requirements that can be fulfilled to establish whether or not the patient can arbitrate about his or her medical situation. This involves the ability to declare some preference, to understand and judge facts relevant to the case, and to weigh all the information received to reach a conclusion<sup>15</sup>. If the requirements are not met satisfactorily, the lack of decision-making power is evident therefore, another individual is summoned to

determine what should be done, according to what that individual himself or herself would do if he or she were not afflicted by mental illness<sup>15</sup>.

### Ethics in the work of mental health professionals

The medical activity does not only presuppose the skills and abilities inherent to the job, but also provides for the practice of ethical values of attention and respect for patients. The treatment of the mentally ill considers the same principles, demanding even higher levels of diligence and caution.

The mental state in which the patients with mental disorders meet requires more active participation of the physician, since in certain circumstances the perception of the life that the person previously had is altered. In other scenarios, it is a different perspective of the reality that is experienced regularly, as are cases of congenital diseases that can impair mental abilities. In this sense, it is up to the health professional to act in a cautious and pertinent way regarding the patient's needs.

### Informed consent and autonomy

The relationship between physician and patient presents informed consent as an essential condition. It is a decision that is strictly voluntary, taken by the patient from his or her capacity and self-determination based on information provided by the health professional, in order to receive specific treatment<sup>16</sup> and to be aware of possible effects and risks of the therapeutic alternative.

In this way, decision-making capacity is the premise of informed consent. The autonomy of the adult patient in the exercise of his or her full capacities regarding the acceptance or not of a certain treatment is recognised<sup>17</sup>, being it necessary for the health professional to deliberate on the conditions of the patient for the decision making. Although the medical act does not constitute a legal act, it can have consequences in this area, so it is important to evaluate informed consent in relation to the patient's ability to exercise his or her autonomy. That is, if the patient is disrespected, the doctor can be held responsible<sup>18</sup>.

When it comes to mental health, substantial precepts do not change. The psychotic patient is also guaranteed the possibility of deciding on therapeutic options appropriate to their condition. However, in this case, the process is sometimes hampered, since

the patient is not in a state of full decision-making ability precisely because of the impairment of his or her mental faculties associated with mental disorder.

The work of the health professional, in this sense, must fill this gap following the guidelines of bioethics, presented by the situation of inability, total or partial, of the due expression of the patient's will. Therefore, it is the expert's responsibility to evaluate the conditions associated with the self-determination of the person with mental illness, in order to determine the feasibility or otherwise of an informed consent.

### Role of the professional in the obstacles to the autonomy of patients with mental disorders

Although it is preferable that medical decisions regarding the patient's mental health are adequately communicated to him or her, it is not always possible that the information given by the health professional is fully understood, due to the condition in which the subject is or by some alternative treatment. It is up to the physician to evaluate, according to ethical parameters, the feasibility of assimilation of what he or she intends to inform.

On the other hand, it is potentially dangerous to allow the decision about the therapeutic option to be made by a person with self-control and weakened judgment, whether due to depression, schizophrenia, anxiety or other disorder. It can even configure negligent professional conduct or omission, since it may endanger the physical and mental integrity or well-being of the patient<sup>14</sup>, considering that the patient does not have full discernment.

Thus, it is essential that the health professional consider whether it is possible to attend to the will expressed by the patient, which will depend on the patient's degree of understanding and interpretation, evidenced in the examination of the mental state. This procedure is essential if a due value judgment is reached, so that the decision is made in an appropriate and sufficiently pondered way.

Psychiatric patients may be clinically prevented from deciding and consenting to treatment alternatives because of the degree of the disturbance affecting them. In such a case, a person in charge will decide in their place, depending on which hypothesis is presented as the most relevant option to the best interest of the patient.

Another obstacle would be, for example, when an incapable patient does not have his or her person responsible at a crucial moment, either because of the time, given the urgency of the patient's clinical

picture or even because of the distance. In such cases, the health professional must act according to his or her medical expertise, defining the alternative that best serves the patient's interest for stabilisation and eventual recovery.

One should also avoid the practice of defensive medicine. This type of professional practice is classified, according to Pithan<sup>20</sup>, as the medical practice loaded with strategic diagnostic procedures and therapeutic options in order to divert the possibility of lawsuits. This behaviour primarily benefits the physician, not the patient's interests.

Medical activity, therefore, must show unconditional attention and respect for the human person<sup>21</sup>. The collaboration of the health professional is essential so that the patient is once again able to exercise, even partially in cases of greater gravity, his or her fundamental rights to freedom, personality, personal integrity, among others.

### *Considering the particularities of the patient*

The specificities of patients with mental disorders require mental health professionals not only to exercise their skills and abilities in the practice of their profession but also to deal with those individuals who need attention, more thorough care and a high level of prudence and caution. Because they are responsible for the health of people with total or partial absence or loss of their mental capacity and of conducting their own lives, mental health professionals must especially watch over the exercise of their activity, as shown by Cohen and Salgado<sup>22</sup>. This occurs not only because they deal with people in a condition of weakened discernment, but also because they have the task of collaborating so that the patient regains his or her self-awareness and self-determination.

The professionals who work in the area of mental health should therefore treat their patients with even more care, taking into account ethical values and the scope of bioethics, performing due treatment without disregarding dignity<sup>12</sup>. The exercise of this activity, therefore, does not depend only on competence and technical skills, but mainly on the understanding and ethical sensibility which, according to Cohen and Salgado<sup>22</sup>, derive from the recognition of the patient's human dignity. In addition, the activity of the health professional should also be based on the defense of the social integration of people with mental illness, in order to promote the due exercise of their rights and duties<sup>23</sup>.

According to Costa, Anjos and Zaher<sup>12</sup>, promoting the autonomy of the mentally ill should

be one of the main aspects worked by health professionals, even as a way to increase the capacity of the patient's sometimes overly weak decision-making ability. In the quest for recovery, even if partial, one should focus on the patient's self-determination, including as a way of restoring possibilities, freedoms and even rights limited by the patient's condition.

Thus, the medical practice observes the specificities of each patient, aiming to increase their quality of life and recover their capacity for full understanding and decision power, considering the conditions in which they are.

### **Final considerations**

Informed consent reflects the patient's ability to make decisions regarding the therapeutic alternatives associated with his or her health status based on information provided by the professional responsible for his or her case. The decision must be consciously expressed once the facts previously communicated have been understood and interpreted, and the patient must possess the necessary tools to determine the most appropriate option for his or her well-being, among those that have been presented to him or her.

Patients suffering from mental illness, on the other hand, suffer from impairment and reduction of their rational abilities at various levels. The impairment of decision-making power directly affects the functional coherence of free and informed consent, since the person would not be able to consciously declare his or her will.

In this way, one can question whether mental disorders would automatically alter the person's capacity and, as a consequence, the patient's own autonomy to choose forms of treatment. The negative response to this questioning is evident, since several factors must be considered before determining the autonomy of the patient in accepting or refusing therapeutic assistance.

It is up to the health professional to assess the patient's condition at the time of decision making. The analysis involves recognising or not the ability to declare preferences, to understand facts that are relevant to their state of health, to demonstrate that they have pondered (or can ponder) the information transmitted to achieve the best possible decision-making result. If the patient is able to decide, the informed consent process should follow as usual. Otherwise, the patient's ability to understand and interpret the facts to make decisions about his or her health will be impaired.



It is up to the health professional, therefore, to weigh the patient's ability to manifest his or her will autonomously. In cases where the person is not in a favourable mental state, a person in responsible should be called to define the alternative that is most pertinent to the psychotic patient's condition.

When the patient does not have a responsible person to decide for himself or herself, the health professional must fulfil his or her duty to choose the treatment that is considered essential to the recovery of the patient. Therapeutic commitment must take place in the sense of rehabilitating, totally or partially, the patient's mental faculties, even as a way of restoring the possibility of exercising his or her rights to life, freedom, integrity and personality. The medical activity, therefore, should not only be based on the skills and abilities associated with the job, but also on the special attention and care, as well as respect for the human dignity of the patient.

Dignity, in this sense, is not limited to its intrinsic value, but also encompasses the recognition by the individual of the dignity of others. In this sense, the health professional has special responsibility, since the treatment of the person with mental disorder

must be differentiated, considering not only the state in which the patient is, but also recognising that the patient's dignity deserves equal respect.

In spite of the obstacles inherent in the job, especially when it comes to mental health, such as the steps to define the diagnosis and delimit therapeutic options, the health professional, when putting his or her technical skills into practice, must also be attentive to the interaction with the patient. The way the practitioner deals with the person with mental disorder is relevant even to generate trust, which can influence the patient's openness to the information passed to him or her.

This kind of dedication in care can also be applied in cases where the condition of the person requires the appointment of relatives or a person responsible for decision making, in which cases information about the state of health and its therapeutic alternatives will be transmitted to the person responsible, not the patient. Thus, in addition to technical skills and knowledge, the patient's treatment with greater attention and care leads the health professional to a true respect for the autonomy and dignity of the patient with mental disorder.

## Referências

1. American Psychiatric Association. Manual diagnóstico e estatístico de transtornos mentais: DSM-5. Porto Alegre: Artmed; 2014.
2. Prata DP. As bases biológicas da esquizofrenia. In: Abreu MV, Leitão JP, Santos ER, coordenadores. Reabilitação psicossocial e inclusão na saúde mental. Coimbra: Imprensa da Universidade de Coimbra; 2014. p. 15-49.
3. López RG. La persona es fin y no medio: el fundamento normativo de la bioética personalista. In: Tomás y Garrido GM, Solana EP, editoras. Bioética personalista: ciencia y controversias. Madrid: Tribuna Siglo XXI; 2007. p. 37-69.
4. Reale M. Filosofia do direito. São Paulo: Saraiva; 2002.
5. Nussbaum MC. Political emotions: why love matters for justice. Cambridge: The Belknap Press; 2013.
6. Reis Novais J. A dignidade da pessoa humana: dignidade e direitos fundamentais. Coimbra: Almedina; 2016. v. 1.
7. Sarlet IW. Dignidade (da pessoa) humana e direitos fundamentais na Constituição Federal de 1988. Porto Alegre: Livraria do Advogado; 2011.
8. Otero P. Instituições políticas e constitucionais. Coimbra: Almedina; 2016. v. 1.
9. Di Lorenzo WG. Teoria do estado de solidariedade. Rio de Janeiro: Elsevier; 2010.
10. Barroso LR. A dignidade da pessoa humana no direito constitucional contemporâneo. Belo Horizonte: Fórum; 2014.
11. Miranda AJA. Bioética e saúde mental: no limiar dos limites: o que o doente mental mantém de homem ético? [dissertação] [Internet]. Porto: Universidade do Porto; 2008 [acesso 14 fev 2019]. Disponível: <https://bit.ly/2tkT71c>.
12. Costa JRE, Anjos MF, Zaher VL. Para compreender a doença mental numa perspectiva de bioética. Bioethikos [Internet]. 2007 [acesso 17 jan 2019];1(2):103-10. Disponível: <https://bit.ly/2HgOzmz>
13. Mahlmann M. The good sense of dignity: six antidotes to dignity fatigue in ethics and law. In: McCrudden C, editor. Understanding human dignity. Oxford: Oxford University Press; 2013. p. 593-614.

14. Felício JL, Pessini L. Bioética da proteção: vulnerabilidade e autonomia dos pacientes com transtornos mentais. *Rev. bioét. (Impr.)* [Internet]. 2009 [acesso 17 jan 2019];17(2):203-20. Disponível: <https://bit.ly/2T22huM>
15. Brendel R. Autonomy and mental health. *Cosmologic* [Internet]. 29 jul 2015 [acesso 10 set 2017]. Disponível: <https://bit.ly/2RvKHml>
16. Clotet J. O consentimento informado nos comitês de ética em pesquisa e na prática médica: conceituação, origens e atualidade. *Bioética* [Internet]. 1995 [acesso 17 jan 2019];3(1):1-7. Disponível: <https://bit.ly/2AQPvbH>
17. Clotet J, Feijó A. Bioética: uma visão panorâmica. In: Clotet J, Feijó A, Oliveira MG, coordenadores. *Bioética: uma visão panorâmica*. Porto Alegre: EdiPUCRS; 2011. p. 9-20.
18. Baú MK. Capacidade jurídica e consentimento informado. *Bioética* [Internet]. 2000 [acesso 17 jan 2019];8(2):285-98. Disponível: <https://bit.ly/2FH9YTC>
19. Almeida EHR. Dignidade, autonomia do paciente e doença mental. *Rev. bioét. (Impr.)* [Internet]. 2010 [acesso 17 jan 2019];18(2):381-95. Disponível: <https://bit.ly/2SD8L6F>
20. Pithan LH. O consentimento informado como exigência ética e jurídica. In: Clotet J, Feijó A, Oliveira MG, coordenadores. *Bioética: uma visão panorâmica*. Porto Alegre: EdiPUCRS; 2011. p. 135-52.
21. França GV. *Direito médico*. 11ª ed. Rio de Janeiro: Forense; 2013.
22. Cohen C, Salgado MTM. Reflexão sobre a autonomia civil das pessoas portadoras de transtornos mentais. *Rev. bioét. (Impr.)* [Internet]. 2009 [acesso 17 jan 2019];17(2):221-35. Disponível: <https://bit.ly/2Ry4EJ7>
23. Ornelas J. Psicologia comunitária: contributos para o desenvolvimento de serviços de base comunitária para pessoas com doença mental. In: Abreu MV, Dos Santos ER, organizadores. *O papel das famílias e das redes de apoio social: actas do primeiro congresso de reabilitação e inclusão na saúde mental*. Coimbra: Almedina; 2008. p. 81-92.

---

Suzana Maria Mendonça  
 0000-0003-4159-6819

---

