

Who Makes the Decision? Patient's Autonomy vs Paternalism in a Confucian Society

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Through the ages health professionals have depended on patients' co-operation and obedience as essential aspects of cure. *The Code of Ethics* of the American Medical Association in 1848, section 6, stated that "the obedience of a patient to the prescription of his physician should be prompt and implicit..." But *A Patient's Bill of Rights* published by the American Hospital Association in 1973 said that "the patient has the right to refuse treatment to the extent permitted by law..." At a quick glance, these two statements seem to put these two parties in conflict. The situation could even be more complicated when cultural elements are added to the consideration of who makes the final decision. A survey taken in the summer of 2002 in Taiwan showed that in a Confucian society, the family element often determines the course of decision and the patient's autonomy is overlooked. The head of the family, not the patient himself or herself, usually makes the decision, especially when the medical decision has something to do with a life or death situation.

Key words: ethics, medical; family; paternalism; personal autonomy; Taiwan

The four principles of medical ethics advocated by Beauchamp and Childress in their book *The Principles of Medical Ethics* published in 1977 (1) have emerged as the universally accepted norms of medical ethics today. Which principle among these four – non-maleficence, beneficence, autonomy, and justice – should be prioritized when a conflict occurs (2)? It is a hard question because these four principles are equally important. Beneficence and non-maleficence are universally expected and have unquestionably blended into the spirit of medicine since the time of Hippocrates. Justice is concerned with the equal distribution of medical resources. Autonomy respects the right of patient's medical decision-making. The latter has a direct impact on the patient-physician relationship. It has also emerged as a more emphasized principle in clinical settings in today's consumer's society, where individual rights are ultimately stressed (3,4). Thus, autonomy has generally been promoted as the way to go in regard to the question of who makes a decision.

Autonomy and Confucian Way of Decision-making

Autonomy was originally used to indicate the independence of Greek city-states from outside control, perhaps from a conqueror, and their own determination of their own laws. It asserts the right to self-rule and self-determination. Applying this concept to medical settings means that a patient, after being told of his/her condition, decides on the course of treatments

independently and freely. To act freely is to be outside the control of others. One of the indispensable elements of exercise of this right to autonomy is the patient's voluntariness. The patient should be free from any coercion, duress, undue influence, and manipulation in choosing the course of treatment. Moral theories are committed to the idea that people are by their nature uniquely qualified to decide what is in their own best interest. The most common way to support this principle is to appeal to Kant's requirement of respect for persons (5) or to John Mill's requirement of the freedom of individuals to act (5). This, however, is not quite the case in Taiwan. Although the concept of an individual right has been introduced, the traditional family values remains the most influential when an important decision is to be made (6). In a Confucian society, the head of the family is the one who makes decisions on behalf of his family members. He may discuss the issues with the family members but the final decision rests in his hands (7). Applying this practice to the medical setting, the head of the family, not the patient himself or herself, becomes the person whom a physician consults with respect to the course of treatment. A recent survey confirmed this Confucian way of decision-making.

Survey and Results

The survey investigating who makes decisions for a family member receiving medical treatment was carried out in the summer of 2002. The sample in-

Table 1. Survey of 250 Taiwan citizens regarding their opinion on who should make decisions regarding person's health

Question	Answer (%)
In your experience or by your opinion, if a patient's illness has been proven to be cancerous, who should be informed about it?	
patient	32.1
father or husband	67.9
In your experience or by your opinion, who usually makes the decision in terms of the course of treatments?	
patient	43.0
father or husband	57.1
In your experience or by your opinion, who makes the decision whether or not the patient undergoes operation to remove a tumor?	
patient	7.4
father or husband	33.3
family and physician	51.9
physician	7.4
When there is no hope of recovery and death is approaching, should the patient be told gently that he/she is dying?	
yes	66.2
no	33.8

cluded 250 people, aged from 20 to 55 years, who were randomly selected from people awaiting treatments at the Chungshan Medical University Hospital in Taichung, Taiwan. The questionnaires were distributed to the participants and explanation given about the purpose, method, and content of the survey. The response rate was 74.4% (186 questionnaires were filled out and valid for inclusion in the analysis). The data were presented descriptively.

According to the survey results, even today people still think the head of the family deserves the right to make decision on behalf of his family members (Table 1), despite the fact that Taiwan's gross national product (GNP) has reached US\$14,600 and the literacy rate is among the highest in the world (8,9). Also, it was revealed that patients usually did not make decisions by themselves with respect to the treatment of their major physical problems. For instance, when the diagnosis of cancer was confirmed, more than two-thirds of the participants said it should be revealed to the head of the family. When deciding on the course of the treatment, more than half of the answers (57.1%) indicated that the decision should be made either by the father or the husband of the patient. When deciding on a major operation, only 7.4% said that decision should be made by the patient.

Confucian Values

Obviously, an individual autonomy in medical decision-making is missing in Taiwan society. This finding is not surprising, as in a Confucian society, father deserves the right to make decisions on behalf of his family members. As the head, he is also responsible to bring happiness and well-being to the people under his care. Why does this ethos continue to prevail in Confucian society? Two concepts can be attributed to it – rectification of names and filial piety.

Rectification of Names

The first is the Confucian concept of "Rectification of Names", which means that words ("names") should always bear the same meaning. Thus, every name denoting one's position and function in social relations, e.g., father, implies certain responsibilities and duties constituting the essence of that name (10). For instance, the father has the obligation to make sure that the family members are well provided for, their physical well-being cared for, and spiritual

up-bringing nurtured. If the father fails to fulfill these obligations toward his children, he is not a good father, thus his name and actuality of the name are not in accordance. Children also have obligation to obey their father. He who does not listen to his superior is not a good son. When facing major decisions in life, such as health problems, the father as the head of the family must act on behalf of his children. Since the father's life experience is richer than his children's, his decision is deemed as most beneficial. Once a disciple asked the master what is the Rectification of Names? Confucius answered: "Let the ruler be ruler, the minister minister, the father father, and the son son" (11), meaning that a ruler must bring happiness, prosperity, and peace to his subjects, a minister should be loyal to his superior, a father must take care of his family, and a son must have filial devotion to his father.

Filial Piety

Filial piety is another concept that determines the course of social life in a Confucian society. Filial piety refers to the obligation children have toward their superiors. The utmost meaning of filial piety is that children are required to show respect and gratitude toward their parents (12). When parents become senile, children must support and treat parents with respect. Children, usually the oldest son, assume the duty to take care of the parents. Although the father has become senile, he is still regarded as the head of the family and deserves due respect. When the parents die, children must bury them reverently, according to the customary rituals.

Three Goals

Along with this concept of filial piety, there are also three goals which people pursue – longevity, prosperity, and posterity (7,13). A filial son is expected to try all he can and insists that all measures are taken to prolong his parents' life when they grow old. Here the notion of filial piety motivates the course of decision-making. For instance, when a father has been diagnosed with a terminal cancer, his son insists all measures be attempted to prolong the father's life. When the father dies, for instance, at the age of 70, the obituary says he has died at the age of 71, so that it appears that the dead has enjoyed a longer life. Why do people hold such a view? The reason is that filial piety is socially expected and a person's longevity implies that his family has properly and fil-

ially taken care of him (14). This is a view that life is stronger than death and people prefer to live than to die. John Harris' (15) words well explain this mentality: "An irreplaceable part of what it is to value life must be a belief that it is better that people live rather than die, and die later rather than earlier." Human life is intrinsically valuable and, therefore, our moral duty is to promote and prolong the life of a person. Filial piety sees providing the elderly with an environment where they can live a long life, enjoy comfortable living, and have many offspring as blessings (16). It is society that judges if a person is filial or not.

The bottom line of meaninglessly prolonging a terminally-ill patient's life is simply because the decision-maker wants to appear and prove that he cares for the life of the sick very much. Thus, he is absolutely filial. Obviously, this pattern of decision-making is paternalistic. When applying this concept to the medical setting, the person the physician consults is not the patient but the head of the family, who then makes decision for the patient. When children are young, it is the father who makes the decision and when the father becomes incompetent, the oldest son assumes the role of the head of the family.

Who Should Make the Decision?

According to the principle promoted by the Georgetown scholars, there is no one else but the patient himself or herself who makes decisions on all medical procedures concerning his or her health, providing that he or she is competent. This notion is held as a social norm in an individualistic society (17). But in a Confucian society, this may not apply. Family rather than individual is the center of social fabric. The survey we conducted indicated that when a patient has been diagnosed with terminal cancer, the first person to be notified is often not the patient himself or herself but the head of the family, the father or the husband (18). He then confers with other family members to see what course must be taken. After the decision is made, the patient may be advised, in a disguised way to ease his anxiety, that as long as he follows the course of treatment and has a plenty of rest, he will be all right. Furthermore, when considering different treatment options, the family members, especially the husband or father, are again the first to be consulted by the physician. When the patient is a father or a husband, the eldest son will be the one the physician informs. In other words, paternalism plays an important part of decision-making in Confucian society.

Paternalism refers to the fact that someone can better protect or advance the interests of others, thus depriving others their autonomous rights by making decision for them. It is based on the value that "father knows what is best" (19) for his children. In a clinical setting, the physician is believed to know what is best for patients and thus makes decisions for them. The following tree different models of paternalism prevail in Taiwan.

Physician Making Paternal Decision

The physician makes a decision without consulting his patient or the family. Here, a traditional type of active-passive relationship prevails, based on the belief that good healing requires patient's obedience to the physician's prescribed order. This is typical "clinical paternalism".

Physician Being Given the Power to Make the Decision

The patient is incompetent and the father or husband is uncertain about what is best for the patient; thus, the father or husband gives the power of decision-making to the attending physician (18). The physician will explain to the patient or his family the diagnosis implications and the treatment he has chosen for the patient. The patient or his family play a passive role and simply obey the decision made by the physician. The only difference between this form of paternalism and the former one is that here the patient or family are at least informed of the course of treatments, although no consent is sought.

Physician Consulting the Family to Make the Decision

The physician bypasses the patient to consult directly the head of the family, such as the father, husband, or elder son, revealing to them the findings of medical examinations. Often the head of the family, who was informed by the physician about the diagnosis, will request that the condition of the patient, if it is cancer, be concealed from the patient and he, as the father or husband, makes all the decisions for the patient (19). There is an informed consent, but it is not given by the patient but rather by the father or the husband of the patient because the patient is regarded as too vulnerable to take the news. The result is that many patients do not know that they are actually dying.

All these three models of paternalistic approach deprive the patient from his or her right to decide on his or her own life. The first model unquestionably violates the principle of autonomy and must not be tolerated. In the second model, physician is aware that the patient and his family need to be notified of his treatment decision. However, since they are not in a position to make any decision due to ignorance or uncertainty of what is best for the patient, the physician assumes the position of power although he is aware an informed consent should be obtained. This kind of paternalism still exists in Taiwan and is tolerated quite often. To many doctors, the obedient and co-operative patient is a good patient.

The third model deserves more attention and discussion. If the physician has fulfilled his duty of informing the family of the patient's condition, yet conceals the fact from patient, has the physician violated the principle of autonomy? From a bioethical point of view, as long as informed consent is not sought from the patient, autonomy is not respected. But in a Confucian society, the physician understands that he has the obligation to discuss the matter with the head of the family. In so doing, is it still a violation of the patient's autonomy? The Confucian understanding is

that a patient is a member of a family and his or her well-being affects not only him- or herself, but the whole family. Therefore, any decision-making, especially when it has something to do with life and death, must not exclude the person it concerns. A person is not only a person, but also an extension of the family. Whether the individual lives or dies affects not only that individual, but also the whole family. Therefore, the matter regarding the end of life needs to be decided by the whole family. A society, where the basic unit is the family rather than the individual, practices autonomy collectively. In the West, autonomy is identified with individual rights and any medical decision cannot be made without the participation and consent of the patient (20). A physician and a patient are a team (21). The patient is respected as an equal partner participating in any decision-making affecting his/her own life (22). But in a Confucian society, the center of each person's life is the family, the most basic unit in society, and an individual is an extension of that family. Thus, an individual is a small self, compared with a larger self of the family, and is regarded as a part of a larger self (23). A decision must be made within the context of this larger, rather than smaller, self. When we understand this cultural ethos, the result of the survey becomes comprehensible as it reflects the traditional way of decision making.

In conclusion, we may say that, in a Confucian society where family is regarded as the basic social unit, the head of a household bears the responsibility to make decision for the family members under his care. Strictly speaking, the patient's autonomy is violated. If this conflict is to be alleviated, perhaps a new approach to these issues should be recommended, such as mutual participation where the individual patient, family members, and physician all join together in making decision. It may be a compromise to Confucian value but is better than the decision made without consulting the patient or a decision made by the patient without informing the family. In other words, the patient's right should be respected but the family's participation in the process should also be encouraged. The physician must not inform only the head of the family; the patient's right to know needs to be protected. An art of telling and informing has to be developed, so that the patient who is not strong enough to hear the bad news can be psychologically prepared. The physician and family must work together to find a way to inform the patient. Here patient's right to know is respected with a participation and assistance of the family. The old style that the head of the family is informed and makes the decision must be modified. The patient's impending death must be artistically made known, so that his or her unfinished business can be taken care of.

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