

Why Does China Need Dignity Law

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ABSTRACT

Advances in medical technology in the modern era have extended people's lives, while at the same time raising questions about end-of-life quality and the protection of human dignity due to ineffective treatment. [1] As of May 11, 2021, the latest census data have been released those Chinese citizens over 60 years old account for 18.7% of the total, which brings pressure from high and tight medical resources brought by age-related diseases. [2] In 1979, Professor Qiu Renzong introduced the concept of euthanasia until now, but no consensus has been achieved after a long dispute. [3] "civil code" in the "natural life dignity is protected by law" dignity to death into the public eye, [4] on February 9, 2022, national WeiJianWei reply "about accelerating dignity death legislation suggestion", are still controversial, to really meet the legislative conditions of our country the lack of more comprehensive and objective research. This paper focuses on exploring the meaning of "dignified death", denying dignified death is just giving up the practice of emergency treatment, redefining the modern meaning of "dignified death" combined with China's national conditions, and differentiating it from the concept of euthanasia. This paper analyzes the legislative basis of our country and points out that the taboo of talking about life and death in the traditional Confucian concept is a cultural obstacle to the legislation of a dignified death. Coupled with the example of the current legislation of some countries to analyze its impact on China.

Keywords: Patient autonomy; Euthanasia; Dignity; Hospice care system

1. INTRODUCTION

The ancients often said. "Life is not a stone, how can you live a long life?" In modern times, "flowers are similar year after year, but people are different year after year" and now, "flowers will bloom again, and people will never be young again" all express how helpless and weak human beings are to the passage of time. Life and death naturally become an unavoidable topic. Death is everyone must face the fact but along with the progress of modern medical science but a lot of people who should have died to extend their life broke a natural continuation of life and death, but God is always fair, it is in giving the patient of the extension of life at the same time also reduces their quality of life also means increased the degree of pain patients. Hospital has quite part of dying patients in the intensive care unit may not wake up hope was kept alive only by drugs and instruments, the continuation just delayed the time then? What is the meaning of death, from another aspect, the patients at this moment do not have a right to decide on their life and death whether to propaganda "protecting rights. Respect patients" meet? Family members' giving up treatment will be considered to have already unfair, and doctors'

giving up will not only be regarded as contrary to professional ethics but also may face relevant legal accountability. Therefore, whether from the perspective of respecting the quality of life or protecting the human rights of patients, it is worth thinking about and studying how to let oneself go to the end of life. Variable factors too much at the same time in the absence of legislation is difficult to distinguish between "physician-assisted suicide" distinction "closure" self "attempted murder", so to his patients, doctors, and their families bring a lot of uncertain factors, then relevant laws can good specifications related process and responsibility for determining and better regulate doctor-patient relationship.

At present, few such articles are searched on the can with the keyword of "death with dignity". There is only 148 relevant literatures, and the domestic research scope is very small, lacking exposure and professional advice. So this article is based on the realization of patient autonomy is imminent and needs to have written the legal protection of the realization of the legitimate rights and interests at the same time because various kinds of patients with incurable diseases appearance have brought

a lot of patients and their families on the material and spiritual double attack more and more people want dignity death can legislation in order to relieve the suffering of the patient and family, It is an important part of the process of modern rule of law.

This article mainly from legal principles, social foundation, economic foundation, the rule of law process need four aspects of the necessity of all-round, multi-level dignity death legislation, as well as the problems, encountered rationally, reference, absorbs the legislative experience of other countries and regions, and case analysis for China's legislation in the late relatively perfect advice and to lay the basis of later scholars study.

2. LITERATURE REVIEW

With the continuous development and progress of modern society, people's subjectivity has been highlighted, and the most concerning nature are that their willingness to treat has been fully respected. At present, with the progress of human medicine, we can treat some diseases that must die before, but with the deepening of the treatment process, the pain felt by patients is also deepening. So far, it is worth considering whether to leave the world with dignity or continue to live a painful life, From Wang Zhijie's research on the theoretical basis of patient autonomy -- Also on the Enlightenment of patient autonomy to China's hospice and palliative medical regulations, and Hu Kailing's outlet for the dignified death of vegetative people -- centered on the legislative direction of pre-advice before death Liu Jianli's works such as the right to self-determination and social decision of death - a comparative study of euthanasia between China and Japan expound the necessity of legislation on dignified death from different angles. Among them, the "pre-life order system" is helpful to control the abuse of dignified death. The pre-life order system is made in the presence of lawyers and doctors, which can not only avoid unexpected arrival and unable to express their wishes, but also prevent the real intention from being replaced by family members, [5]Wei Bopping believes that the "pre-life order" can effectively protect the autonomy of patients and reduce the number of patients' families The interference of medical staff and other external factors can also help reduce the probability of disagreement between family members and medical team, and can also avoid medical disputes with a high probability, which provides a basis for whether the medical staff is suspected of crimes. Before death with dignity was legislated, hospice care was only a transitional option that could be considered, Su Yonggang said, "Hospice care affirms the meaning of life and recognizes the natural process of death. The significance of the existence of medical teams is to help patients reduce their physical pain and provide psychological support and care to them and their families, so that patients can leave the world with dignity and

dignity and their families can spend their grief period smoothly" (analysis of the current situation of British hospice care and Its Enlightenment to China, 2012)[6] 。 If we want to deeply discuss the necessity of dignified death, we should grasp "dignity" from the level of philosophy and constitutional law. The "dignity of human nature" is the power basis of dignified death. Its representative meanings are as follows: 1 Professor Li Zhenshan believes that "there are two core connotations of human dignity: first, people have a high degree of autonomy and self-determination within the scope of their own free rights; second, they cannot be pure objects, and people cannot be materialized, commercialized and instrumentalized, whether according to free will or other intentions." (Human dignity and protection, 2001) [7]. Moreover, the protection of "human dignity" is usually guaranteed by the fundamental law - the constitution. Paragraph 1 of Article 1 of the German Basic Law stipulates: "human dignity is inviolable and respecting and protecting human dignity is the obligation of all state powers." As a basic principle, this article is placed in the first article of the whole constitution and is regarded as the most fundamental norm in the German constitutional order. According to Article 38 of the constitution of the people's Republic of China, "the human dignity of citizens of the people's Republic of China is inviolable. Insult, slander, false accusation and frame-up of citizens by any means are prohibited." In 2004, the state incorporated "China respects and protects human rights" into the constitution. "Natural human rights" of the school of modern natural sciences "the declaration of independence of the United States in 1789. Since the 20th century, the Universal Declaration of human rights, the European Convention on human rights, the International Covenant on Civil and political rights, and the Universal Declaration on Bioethics and human rights have been extended to the medical context "Natural human rights" of the school of modern natural sciences "the declaration of independence of the United States in 1789. Since the 20th century, the Universal Declaration of human rights, the European Convention on human rights, the International Covenant on Civil and political rights, and the Universal Declaration on Bioethics and human rights have been extended to the medical context I will discuss the necessity of dignity death in China's legislation from both foreign and domestic levels.

2.1International level

China is not deeply involved in the topic of dignity death, but it started early abroad, so it can be roughly divided into two periods; In the early stage, she was committed to the definition of relevant concepts and the promotion of the legislative process. For example, in the book disclosing a value system in a living will court be in your best interests, Susan Farrell stated the principle of medical students, patients have the right to choose

treatment It is valuable to discuss dignified death from the significance of the pre-order system before death; Cantor believes that the individual's pre-treatment plan should be consistent with the plan selected in the treatment process in a legal sense. This paper puts forward the expression of medical autonomy, and further believes that the medical instruction system is a manifestation of death with dignity; In the later stage, many countries and regions had corresponding practices. At this time, scholars focused more on the confusion of other concepts in judicial practice. For example, Ferdinando, Mirarchi, and Lucia coati summarized the problems in the implementation of pre-life orders in the United States. They believed that there was conceptual confusion in the formulation and implementation of pre-life orders in the United States, Most Americans believe that pre-advice is the same as do not resuscitate (DNR). In South Korea, 2008 "prior medical instruction" recognized the legality and rationality of dignified death or interruption of life extension treatment the life-sustaining medical treatment law ("death with dignity" law) launched in 2018 has improved the concept of a considerable part of death with dignity. This Law stipulates the decisions of hospice care (palliative) medical treatment, life prolongation medical treatment, and interruption of life prolongation medical treatment for dying patients, as well as the main matters required for their performance while protecting the best interests of patients and respecting their own decisions, Protect human dignity. This is a law with comprehensive provisions on all aspects of the legislative process of death with dignity, and it is also progressing in the legislative process of death with dignity.

2.2domestic level

The research on it in China is not in-depth and is in its infancy. For example, Professor Zhang Mingkai, an expert in criminal law, and Professor Wang Yue, a humanist, once again limited the scope of Professor Zhang Mingkai's concept to "vegetative patients in an irreversible terminal coma"; More scholars believe that this is the power to dominate their own life in a broad sense, which can be applied to everyone at the end of their life, not just vegetable people. In addition, there is Zhu Hailin's research summary on domestic moral rights, Liu Zuoxiang's several legal issues of rights conflict, Wu Shumei's on the autonomy of tranquility and palliative medicine, Zheng Yunpeng's discussion on euthanasia from the perspective of ethics and law, and Yu Baihua's normative theory of legal rights. LV Jiangao's works on the basic legal philosophy of the right to death are roughly divided into two categories. The first is a complete denial and the second part is recognition. In the first category, Li Hui wrote about the right to life and euthanasia (2011) "the right to life is the foundation of all rights, and the loss of the right to life will affect the realization of other rights. What about autonomy." In the

second kind, Wu Shumei believes that "the autonomy of dignified death is just that patients are unwilling to accept medical treatment. It is the autonomy of whether they continue to receive treatment, and it does not impose specific obligations on doctors." The ethical relationship between doctors and patients' autonomy (2010) is a kind of ethical relationship between doctors' autonomy and patients' autonomy (2010) In the above literature, from the legal level, the reasons, and analysis that death with dignity can be transformed from morality to rights prove the feasibility and necessity of the legislation of death with dignity.

To sum up, the realization of patient autonomy is extremely urgent, so the research on the topic of a dignified death is of great significance. Safeguarding human dignity and respecting the free development of personality are the core values of free and democratic constitutional order. Knowing personal medical conditions and making medical decisions based on them are an indispensable part of personal rights and cannot be disturbed by others. Therefore, the problem behind this is the protection of patient's autonomy and the value of life. After a fairly full understanding and discussion of dignified death, whether it is feasible still depends on the feasibility of implementation and whether it is consistent with China's national conditions. The so-called consistency is how to make dignified death legally recognized in the normative design of the system and accepted by most people in ethics and morality. Now it is left to people to think about whether to pursue the quality of life or the length of life. If the continuation of life is the deepening of the patient's acceptance of pain, then he must continue to bear the pain. Article 20 of the code of ethics for Chinese doctors in 2014: "treat patients' choices of life-sustaining treatment carefully. Respect the wishes expressed by disabled patients before their incapacity and maximize the rights and interests of patients through living wills, replacing consent and other means". This is the transformation of Chinese medical philosophy, which began to focus on the quality of life rather than the length of life. The basic standards, management norms, practice guidelines, and other documents of hospice care centers issued by the National Health Administration in 2017 not only indicate that China is gradually promoting the standardization of hospice care and hospice care, but also mean that the government and society have realized the importance of hospice dignity. So far, death with dignity has a legal basis and a legislative basis. Through the combing of domestic and foreign literature and judicial practice, although some progress has been made, there are still deficiencies; (1) The definition is vague, which cannot be universal in different situations, and the provisions required at the legislative level are too cumbersome; (2) The definition boundary cannot relate to other countries or regions, and it is easy to fall into self-talk. (3) the localization degree of a dignified death is too low, and the public cannot fully understand it only by

stating the relevant foreign systems. Although it is not enough to be implemented quickly, it can be combined with the current situation of our country according to the experience of other practices, which provides a thinking method for how to establish an efficient and complete dignified death system. Therefore, under the title of "the necessity of legislation on death with dignity", this paper introduces its concept, discriminates against other concepts, expounds and enlightens the current legislative practice, and makes a preliminary study on how to turn it from morality to jurisprudence.

3. DEFINE "DEATH WITH DIGNITY"

Many people will equate euthanasia with death with dignity, but this is a wrong concept. From the definition, in *Morden Chinese Dictionary*, euthanasia means discontinuing treatment or medication for patients who couldn't be saved and letting the patient die painlessly. The word "euthanasia" comes from the Greek word meaning to die "happily". It includes two meanings: one is the painless death of peace and happiness; The second is painless lethal surgery. Euthanasia is more about a way or a specific measure; Death with dignity refers more to the living will system. When patients in a vegetative state or with mental problems can't confirm their real intention, to prevent the occurrence of crime, the living wills system has become a very good choice, you can conclude by lawyers, doctors in the presence of living wills that willingness to effectively avoid cannot express themselves the real meaning of family, so most of today's talk about death with dignity is about living wills. Euthanasia can be regarded as a way of dying with dignity. [8] The concept of "death with dignity" was first introduced in 1976 in the case of Karen Quinlan of New Jersey, who was kept alive by a ventilator and other AIDS for several months after being trapped in a vegetative state. Karen's parents expressed their reluctance to prolong her life artificially and repeatedly asked doctors to take her off the ventilator, but the hospital deemed it a violation of the Hippocratic Oath, so Karen's parents filed a lawsuit in New Jersey state court to take her off the ventilator and allow her to die with dignity. After the second trial, Karen allowed her life support to be withdrawn with the approval of the hospital ethics committee by communicating to the outside world that she did not want to prolong her life through artificial intervention and that her family complied with her wishes. This was her choice and definition of her dignity. It is also the first time that the law has declared "death with dignity." Article 20 of the 2014 Code of Ethics for Chinese Doctors: "Treat patients' choice of life-sustaining treatment with caution. By respecting the wishes expressed by the incapacitation patient before the incapacitation, the rights and interests of the patient can be protected to the maximum extent through living wills and alternative consent." This is a shift in Chinese medical philosophy from focusing on the length of life to

focusing on the quality of life. In 1789, the declaration of independence in the 20th century in the United States since the universal declaration of human rights, the European convention on human rights, the international covenant on civil and political rights, the life ethic, and the universal declaration of human rights of the world, in 2004 China will "state respects and safeguards human rights" into the constitution, into a medical context can be thought of as "enjoy life". To sum up, the dignity of death of modern learning definition: at the end of life, not to be using public resources and increase the economic burden and the individual should be taken as the final medical mode decision, it should be fully based on fully independent consciousness, made after the doctor evaluation and self-life evaluation can reflect their dignity.

4. THE LEGISLATIVE BASIS OF CHINA

4.1 Legal basis

[9] According to Article 33 of the regulations on the Administration of Medical Institutions of the People's Republic of China (2005 edition), "Medical institutions shall obtain the consent of patients when performing operations, special examinations or special treatments, and shall obtain the consent and signature of their family members or related persons; If the patient's opinion cannot be obtained, the consent and signature of the patient's family member or related party shall be obtained; In case the patient's opinion cannot be obtained and no family member or related person is present, or in other special circumstances, the treating physician shall propose a medical treatment plan and implement it after obtaining the approval of the head of the medical institution or the person authorized to be in charge." This is the first time that patients' right to know about their condition, diagnosis, and treatment has been confirmed by combining the right with the obligation. It also stipulates those hospitals should make necessary explanations to patients when performing operations, special examinations, and special treatment. The Regulations of the People's Republic of China on the Administration of Medical Institutions (2005 edition) are the first to reflect the protection of patients' right to know and treatment. On December 18, 2019, China promulgated the Law of the People's Republic of China on Basic Medical and Health Care and Health Promotion. Article 32 of the Law stipulates that "Citizens shall receive medical and health services and have the right to informed consent concerning their medical conditions, diagnosis and treatment plans, medical risks and medical expenses. If surgery, special examination, or special treatment is needed, the medical and health personnel shall promptly explain the medical risks and alternative medical plans to the patients and obtain their consent; If it is impossible or inappropriate to explain to the patient, it shall explain to the patient's near relatives and obtain

their consent. If any law provides otherwise, such provisions shall prevail. Clinical trials of drugs and medical devices and other medical research should be conducted by medical ethics, pass ethical review by the law, and obtain informed consent." The introduction of this law formally and completely regulates the patient's right to know and the obligation of the doctor to inform and obtain the consent of the patient. [8] So far, China has gradually improved the right to know in medical care and formed a patient's right-to-know system with the constitution as the overall plan, "Basic Law" as the core, and various medical regulations as the specific content.

4.2 Social foundation

This paper collects the questionnaire or relevant literature on dignified death and concludes on the two aspects of patients and their families. In terms of patients [10], in the article "Attitudes of patients with advanced cancer towards dignified death" (hereinafter referred to as questionnaire 1), a total of 116 end-of-life patients were surveyed, of which 82.8% agreed and 17.2% disagreed. Similarly, in [11] "survey on the attitude of 50 patients with advanced cancer and their families towards euthanasia", it can be concluded that 74% of patients agree and 26% disagree; In terms of family members, after investigating 239 family members of 116 cancer patients, 69% of the family members of patients recognized and 31% disagreed. Among the reasons for disagreement, 43.2% thought it was "unfilial" and 47.3% did not understand. In the first article, 55% of the patients did not know about dignified death Alain Delon, a famous French actor, has opted for euthanasia in Switzerland to allow him to die with dignity. Such an influential public figure has publicly expressed his willingness to carry out euthanasia and won the support of his family and public opinion. Many netizens have expressed their opinion that this is a good way. To some extent, he represents the attitude of most people towards the end of life -- they want to die with dignity.; Most of the reasons for unwillingness are due to their ignorance and the influence of traditional "filial piety". It can be seen that there is no popularization and Research on the concept of dignified death in China, and it is deeply imprisoned by traditional thought. To sum up, when the concept of death with dignity is not well known to most people, there is still a high proportion of people who agree with "death with dignity". At present, the topic of death is still taboo in China, which is considered unlucky; Confucius admonished people [12] "to strive for self-improvement"; Lao Tzu's concept of health preservation is "quiet and inaction"; The concept of "saving the dying and healing the wounded" in medicine deeply affects people. These deep-rooted concepts and lack of knowledge and low popularity hinder the legislative process of the dignity of death in China

4.3 Culture basis

In questionnaire 1, 75.8% of the patients wished to die with dignity to reduce the financial burden on their families. 84.4% of family members also believe that doing so can reduce the financial burden on their families. At present, although China has implemented universal medical insurance, there are still limitations on the reimbursement ratio and amount of some drugs and diseases. Not a few people choose to give up treatment because they have no money to treat diseases, which can be found from the data. [13] During the COVID-19 epidemic in 2020, a pregnant woman living in rural areas spent more than 200,000 yuan in ICU one week. Her family could not afford the follow-up treatment and chose to give up treatment. The next day, the government announced that the treatment cost would be covered by the government. According to the doctor, his condition has improved and there is a full possibility of recovery, but he chose to give up due to financial problems. What we can learn from this case is that it is because of financial constraints that people choose to give up treatment. Therefore, it can be concluded that if the economy is highly developed, the number of people who give up treatment for financial reasons will be greatly reduced. Patients can care more about their feelings than their dignity, and can more effectively guarantee the implementation of a dignified death. So is it because of economic reasons that most of the treatment was abandoned after death with dignity legislation? The answer, of course, is no. Under the current medical system, once a patient loses his sense of autonomy, his rights will be replaced by family members, which is easy to abuse the power of attorney and violate or tamper with the patient's will. Such behavior has nothing to do with the death with dignity legislation. From the perspective of the current implementation of dignified death in South Korea, the enactment of the living will system of dignified death allows people to express their true will in a sober state with the witness of doctors and lawyers. This behavior is protected by law, which greatly reduces the abuse of family rights and better protects the will and dignity of patients. Among patients with advanced cancer, many have no chance to be treated. However, under the condition that China has not legislated death with dignity, palliative care is particularly important. [14] By 2019, the cancer incidence rate in China has been rising at an average rate of 3.9% per year, and the mortality rate has also been rising. Facing such a large number of patients, the improvement of hospice care is an inevitable trend in the development of today's society. These need the guidance and support of the state to ensure the quality of life.

4.4 The need for the rule of law process

The legalized countries of euthanasia are Holland, Switzerland, Belgium, Canada, and the United States,

Oregon, Washington, Montana, and Vermont, all of which have been legalized in many states, including Germany, France, South Korea, and Taiwan, China. At the same time, South Korea recognized the rationality of dignified death or interruption of treatment in the prior medical instruction in 2008. Ten years later, South Korea began to implement the life maintenance medical decision law (also known as the dignified death law) in 2018. The law stipulates that dying patients have the right to decide whether to continue to accept life maintenance. This law establishes the legitimacy of interruption of life maintenance, Protects the implementation of patients' independent rights at the end of life, respects their wishes, and retains their dignity and value as human beings. In 2006, Luo Diandian established the first website to introduce death with dignity in China; In 2013, he founded the Beijing Association for the promotion of pre-advice during his lifetime. At the same time, some experts in the medical field have publicly said that the process of "death with dignity" legislation should be promoted. For example [15] Professor Luoyang, member of the CPPCC National Committee and cardiology department of Peking University Hospital, once said: I am in favor of "natural death"; Ling Feng, member of the National Committee of the Chinese people's Political Consultative Conference and director of Neurosurgery of Xuanwu Hospital of Capital Medical University, suggested that China should formulate a "natural death bill" and include the "pre-life advice" into the agenda of medical reform, so that hopeless patient can voluntarily choose the way of death when they are conscious.; Huang Jiefu, member of the National Committee of the Chinese people's Political Consultative Conference and vice minister of the Ministry of Health, said: "I agree with Professor Ling Feng's view on 'natural death'. Therefore, the legislation of" death with dignity "is an issue that needs to be considered by the society and the world, and it is an inevitable topic to improve the modern legal system.

5. CONCLUSION

After considering the legal theory, culture, society, and the process of rule of law, this paper explains the legislative basis and reasons of our country, and when combined with the current national conditions, we can draw the following conclusions:

Disadvantages: the implementation of dignified death cannot be recognized by Chinese law in a short time. Its implementation still needs further research on social ethics, legal basis, and so on. At present, there has been a dispute about whether euthanasia constitutes intentional homicide or innocence. At the same time, the traditional Chinese feudal thought has influenced generations, and the lack of a hospice medical palliative system still needs to be discussed by all sectors of society.

Advantages: Dying with dignity is based on the patient's full realization of medical autonomy in a sober

state, which can show respect and dignity for life at the end of life. Although China has a big gap in this respect, we can choose to learn from the experience of other countries and regions to improve our death system, for example, California passed the Natural Death Act in 1976, and Taiwan introduced the Regulations on Palliative Care, Principles of Palliative Care, patient Autonomy Act and other regulations from 2006 to 2016 to ensure patients' autonomy. Therefore [16] in 1988, Tianjin Medical College established the first hospice care research Center in Mainland China. [17] In the same year, Nanhui Nursing Home, the first hospice care hospital, was established in Shanghai. In 1992, Song tang Hospital, the first private hospice care hospital, was established in Beijing. In 2015, the Chinese Nursing Association established the first hospice nursing group. Basic standards, management norms, and practice guidelines for hospice care centers were issued by the National Health administration department in 2017. It can be seen that China's efforts in this area mark the gradual improvement of the standards of hospice care in China. It also means that the country begins to pay attention to the life of terminal patients and try its best to reduce their suffering when death with dignity is not legal.

To sum up, this topic has attracted the attention of the state and society in China. From the analysis of the questionnaire survey results and relevant literature, it is generally believed that dignified death is a behavior beneficial to the family and the patients themselves; Due to the lack of relevant laws, it is difficult for doctors to decide whether to maintain the life of dying patients; Family members may feel guilty and remorse for "filial piety". Therefore, the emergence of law can better protect the realization of the wishes of patients, ensure the rights and interests of doctors to the greatest extent, and reduce the psychological burden of family members. In the future, the legislation of dignified death will be realized sooner or later, and people will have more opportunities to leave with dignity.

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