

Criminal Law Protection of Human Dignity in The Context of the Right to A Dignified Dying in The Time of Pandemic Restrictions

Magdalena Róża Krysiak

PhD student, Department of Criminal Science, Faculty of Law and Administration, University of Lodz, Poland

Abstract

Human dignity, understood as the value of humanity, to which every human being is entitled, constitutes the supreme concept determining the place of the individual in many legal orders. Some difficulties, however, seem to arise over how far-reaching this protection of dignity entails, while controversy over some of the rights that can be derived from it. For the experience of the pandemic has drawn attention to the moment of man's death, which was previously severely neglected in the context of the issue of the framework for the existence of human dignity, and has made it possible to raise fundamental questions, namely, whether human dignity is also the dignity of dying and whether there is a right to a good, pain-free death.

The author seeks to answer the raised questions from the perspective of their consequences for the criminal law protection of the dignity of the individual with due consideration to differing perspectives. Firstly, she does so by following the jurisprudence of the European Court of Human Rights, on the basis of which it can be proven that there is, in fact, a right to a dignified, pain-free death, from which the right of the individual to dispose of his own life and the moment of its termination can be derived. Subsequently, she will consider Polish domestic legislation, including both state law and ethical norms arising, for example, from the Code of Medical Ethics, in order to answer the question on whether the above ensure sufficient realization of the rights granted on their basis. The analysis of the above will be conducted in light of the experience of the pandemic, which showed the problematic nature of the collision of respecting the dignity, autonomy and right to self-determination of the patient with the obligation to protect his life. Consequently, the following questions will be answered: 1. whether the protection of life should have an absolute dimension and how should such a collision of particular goods be resolved; 2. whether there should be a single standard of protection of the above, and whether it could be expected to be implemented in circumstances such as those observed in the era of the pandemic; 3. how should the criminal law protection of human dignity be shaped and how should it be implemented on the basis of the above situations.

The expected result is the development of *de lege ferenda* proposals for the criminal law protection of patient dignity, with particular attention to epidemiological conditions, while the analysis is primarily carried out based on comparative legal methodologies, submitting for consideration likely scenarios for application the proposed solutions, including, above all, the criminal ones.

Keywords: criminal law, human dignity, human rights, medical law, right to a dignified death