

PRUDENCE AND THE DEBATE ON DEATH AND DYING



In the Catholic Theological Tradition, Temporal Life Is Not the Highest Good



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The Theresa “Terri” Schiavo case in 2005 spawned renewed interest in the Catholic Church regarding end-of-life decision making. Interest in the treatment of patients in a persistent vegetative state (PVS) has remained high. In the past three years, many Catholic theologians, various state Catholic bishops’ conferences, and the late Pope John Paul II have weighed in on the issue of the administration of assisted nutrition and hydration (ANH) to PVS patients. Positions on this issue have been surprisingly mixed. Some writers—for example, Eugene Diamond, MD; Peter Cataldo, PhD; and the late Pope John Paul II—have suggested the existence of a positive duty to provide ANH.* Others have invoked aspects of the Catholic tradition on death and dying to argue against the necessary administration of ANH for PVS patients. This issue has yet to be resolved.

Two interrelated trends have emerged in Catholic approaches to death and dying. First, many Catholic moral theologians, as well as voic-

* The position taken on this issue by Pope John Paul II is difficult to classify. At the beginning of his pontificate, the Sacred Congregation for the Doctrine of the Faith’s “Declaration on Euthanasia” (May 1980) affirmed a contextual, prudential approach to the adjudication of end-of-life cases. In their article, “Assisted Nutrition and Hydration and the Catholic Tradition: The Case of Terri Schiavo” (*Theological Studies*, September 2005), Thomas A. Shannon, PhD, and James J. Walter, PhD, note a methodological shift in the pope’s 1987 encyclical *Evangelium Vitae*. In the course of that encyclical, they argue, the pope changed his emphasis, from a method of “proportionate reason” to a more materially normative approach. In his last years, Pope John Paul II issued two statements on end-of-life ethics. The first was the much-publicized March 2004 allocution in which he continued the deontological shift and maintained that the administration of ANH to PVS patients was “in principle, ordinary and proportionate, and as such, morally obligatory.” The second statement, given in November 2004, received much less attention.

In his article, “A Burden of Means: Interpreting Recent Catholic Magisterial Teaching on End-of Life Issues” (*Journal of the Society of Christian Ethics*, vol. 26, no. 2, 2006), Fr. James T. Bretzche, SJ, argues that the November statement served as a “corrective for the excessive absolutist interpretations of the March statement.” According to Fr. Bretzche, the November statement did not reiterate the deontological content of the March statement but, rather, invoked a method of proportionate reason. Yet, although the March 2004 statement should not be seen as representative of John Paul’s position on the matter, it did galvanize a vocal group of Catholic scholars concerning the obligatory administration of ANH to PVS patients.

es in the magisterium, have turned to a duty-based approach to end-of-life issues.¹ Second, the move to a more concrete duty-based approach is, ironically, partly the outcropping of a revised understanding of the goals or ends of human life.

There is a growing contingent of Catholic commentators—among them John Finnis, PhD, and Germain Grisez, PhD—who maintain that temporal life is a “basic” and incommensurable good.² The Finnis-Grisez school argues against an objective hierarchy of human goods. Life, for these thinkers, takes on the character of a terminal end. Thus temporal life, like the other “basic goods,” is to be protected and promoted for its own sake, and not for the sake of higher spiritual ends, such as love of God and neighbor.³ They argue that temporal life, as an end in itself, always constitutes a benefit, regardless of other goods a person may or may not be capable of enjoying or pursuing. This effectively reduces the analysis to a single basic good—temporal life. Other goods, such as spiritual goods and the common good, do not factor into the moral analysis. Thus, as long as bodily life can exist, the argument goes, it should be actively preserved. There arises from this revised teleology a functional duty, with few exceptions, to preserve bodily life through ANH.⁴

These two developments have led to the marginalization of a fundamental concept in Catholic moral theology: prudential reason. The duty-based medical ethics developed by the Finnis-Grisez school has left little room for the functioning of prudence. In effect, the school has replaced prudential reason with absolutely binding principles requiring only deductive application in concrete cases. As I shall argue below, these two trends are not only problematic for medical-ethical decision making; they are also in conflict with important strands of the Catholic tradition.

The current debate calls us to reflect on the church’s rich tradition on end-of-life care. Of course, 16th century answers will not sufficiently address 21st century questions. Instead, we should examine the tradition in search of methodological insights that may be helpful in the adjudication of these difficult contemporary questions. In what follows, I want to call attention to underutilized methodological resources in the Catholic tradition on death and dying.

THE CATHOLIC TRADITION ON DEATH AND DYING

In his book *Prudence*, Josef Pieper notes that ethics is centrally concerned with understanding and rightly responding, in one’s being and in

action, to reality.⁵ Because reality is sufficiently complex, moral theology can only make statements that remain general and provisional. The situations that confront persons “here and now” cannot be abstractly calculated in advance.⁶ Rather, Pieper concludes, only through the working of right practical reason can the good be concretely realized in an agent’s action.

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Pieper’s insight is especially present in the Catholic tradition on the ethics of death and dying. This tradition, which began as a reflection on the work of Thomas Aquinas (1225-1274), includes the writings of Francisco de Vitoria, Juan de Lugo, Gerald Kelly, Pope Pius XII, and many others. It is a tradition that reserves an important, although often implicit, place for the workings of prudence in directing the agent to his integral good.

Two of Aquinas’s central ethical concepts prove influential in the tradition. The first is the notion that all proximate (or lower) ends are subordinate to the final end. Thus no proximate end is, *in se*, desired for its own sake, but, rather, is always desired because it moves an agent toward attainment of the final end.⁷ The principle of totality codifies this insight insofar as it maintains that all parts of the person are directed and subordinated to the person’s overall good.⁸

Second, Aquinas holds that all acts should be fitting within the desired end, given the attendant circumstances.⁹ Aquinas names *prudence* as the virtue that directs the agent to find actions that are neither excessive nor deficient in the concrete pursuit of the end. Aquinas notes that prudence is needed chiefly because principles and rules cannot sufficiently account for all the relevant circumstances of a given moral situation.¹⁰ Echoing Aristotle, Aquinas defines prudence as “right reason concerning action” when “there is no fixed way of obtaining the end.”¹¹

Whereas the work of Aquinas sets the agenda for the tradition, the work of Francisco de Vitoria (1492-1546) marks the beginning of a sustained

focus on the ethics of death and dying. In his *Relection on Homicide*, Vitoria develops a case approach to these issues.¹² From this approach, Vitoria gleans general insights that he maintains must be accounted for in any moral analysis of dying and declining people. First, he notes that one is not required to preserve life in each and every circumstance. He also finds that one is obliged to employ only common means—means that exhibit a hope of benefit, means that are naturally ordered to life, and, finally, means that are congruent or fitting.

Congruentia is a key concept for Vitoria because he uses it to distinguish excessive treatments (such as “moving to India for its clean air”) from treatments that observe the mean (such as employing commonly available foods).¹³ *Congruentia* concerns following the mean and finding the fitting and appropriate action. It is clear that, for Vitoria, not all means of preserving life are congruent. *Congruentia* is the product of prudential reason, not an abstract principle by which obligatory actions are judged but, rather, a concept that directs the agent to adjudicate the rational means to the desired end on a case-by-case basis.¹⁴

The writings by Juan de Lugo (1583-1660) on end-of-life ethics build on Vitoria’s case method by naming additional circumstances that are ethically relevant. De Lugo, echoing Aquinas, writes that a man is not obligated to use every possible means to preserve his life because the good of temporal life is not the absolute good.¹⁵ Life is not the *summum bonum* of human existence, he argues, and thus one should not attempt to preserve life by “exquisite means as it is escaping away.”¹⁶

De Lugo’s writings also further develop the notion of benefit. He cites the case of a person who is condemned to death by fire, and has, in his possession, a small bucket of water. The bucket is insufficient to save the person from the growing flames. De Lugo writes that the person has no obligation to use the water to put out some of the fire because “the obligation of conserving life by ordinary means is not an obligation of using means for such a brief conservation—which is morally considered nothing at all.”¹⁷ Note that de Lugo neither invokes the duty of self-preservation nor states that means that are otherwise considered ordinary are always obligatory. Instead, he understands that the foreseen consequences of one’s actions play an essential role in the moral analysis. Thus, if no hope of benefit is present, prudential reasoning finds that the action is thereby rendered useless and non-obligatory. The duty to preserve life holds *semper*

but not *pro semper*.

While it would be anachronistic to maintain that either Vitoria or de Lugo employed a prudence-based approach, their casuistry is reliant on right practical reason. Vitoria and de Lugo name the realities that guide, but do not rigidly determine, the moral analysis of a patient’s case. Both men resisted mathematical formulations, or categorical duties, and instead opted to discuss the various conditions and cases in which patients may forgo or withdraw treatment. Both thinkers implicitly argue that prudence, guided by an understanding of the human end, is operative in this reasoning process. Thus, although the language of prudence is absent in the writings of these thinkers, the concept is not. In their attention to how circumstances affect moral conclusions, their reluctance to formulate rigid duties or absolute principles, and their understanding of the many realities that must be accounted for in the moral analysis of these complex issues, these two thinkers, in practice, rely on prudential reasoning.

Although the tradition developed slowly in the intervening years, questions concerning the treatment of declining and dying patients took on new urgency with the invention of the respirator in the 1950s. Again, the virtue of prudence was at the center of Catholic methodology. In his famous article, “The Duty of Using Artificial Means of Preserving Life,” Fr. Gerald Kelly, SJ, defined “extraordinary means” in reference to what a prudent person would consider morally impossible.¹⁸ Notice that the measure for right action is a type of *person*, as opposed to abstract rules or principles. Furthermore, Fr. Kelly’s famous definitions of ordinary and extraordinary means hinge on a reasonable hope of benefit that can be obtained and used without excessive pain or expense.¹⁹ These definitions are essentially a codified call to prudential reasoning. There is no discernible method in the application of this principle outside of a prudential judgment. Fr. Kelly reaffirms this notion when he writes, in his book *Medico-Moral Problems*, that ordinary and extraordinary means are “not computed according to a mathematical formula, but according to the reasonable judgment of prudent and conscientious men.”²⁰

Pope Pius XII continued the Catholic tradition on the treatment of dying and declining patients in his 1958 statement, “The Prolongation of Life.” His method in this letter is instructive. The pope begins by introducing questions concerning the obligation to resuscitate patients. He subsequently introduces three basic principles to guide reflection. The first is the duty to preserve life. The second is the obligation to use ordinary means, “according to the circumstances of persons, places, times and cultures.” And the final principle is the subordination of life

and health to “spiritual ends.”²¹ The remainder of the letter contains the pope’s answers to the opening questions. Here Pope Pius XII refrains from giving categorical answers to the questions he poses. He articulates only a general duty for self-preservation and re-invokes the notion of ordinary means. He thereby chooses to defer to the concrete circumstances patients, families, and medical professionals encounter.²²

THE TRADITION OF PRUDENCE TODAY

Beginning with Aquinas, the Catholic tradition on death and dying has utilized the virtue of prudence in the adjudication of concrete cases. Aquinas, Vitoria, de Lugo, Fr. Kelly, and Pope Pius XII—each eschew the articulation of concrete duties and principles, and instead discuss goods, values, and relevant circumstances that must be accounted for in moral reasoning. The lessons taught by these great thinkers ring true today.

The legacy of prudence in the Catholic tradi-

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tion on death and dying directs contemporary Catholic health care professionals and bioethicists to reconsider its role in end-of-life decision making. Prudence has important, indeed essential, contributions to make to these difficult moral issues. Still, questions of the nature and function of prudence remain. What can we distill from the insights of tradition? More pointedly, what *is* prudence, and how does it function?

Prudence is a virtue, or good habit. Thus prudence is an internal quality of the person. It is a character trait, like honesty or generosity, that can be predicated of a certain type of person. A prudent person is one who uses “right reason concerning things to be done.”²³ In short, a prudent person consistently acts rationally—he or she does not act based solely on emotion or instinct but, rather, deliberates critically on the situation at hand before acting.

To act rationally the prudent person must

know two things: 1) the action’s proper goal or end; and 2) all of its relevant circumstances or surrounding conditions.

The Action’s Goal The first condition requires that the agent have knowledge of the ultimate human good (the Beatific Vision, or union with God) as well as proximate, or lesser, human goods (e.g., bodily health, human relationships, education). Pope Pius XII teaches that physical ends or goods, such as life and health, should be subordinated to spiritual ends, such as love of God and neighbor. An inversion of these ends leads to *imprudent* action.

The Surrounding Circumstances The second condition requires that the agent account for all the relevant realities of the moral situation. The prudent person will typically have much experience and a good memory to draw upon. He or she will have a full understanding of the situation, and to this end, will typically be inclined to ask many questions. The prudent person will be open to the insights of others, as well as to any new information that may arise. Finally, he or she will have a level of foresight regarding the outcome of a given action.

In the case of a physician trying to discern the proper treatment of a patient in natural decline, he or she must know, among other things, the patient’s physical, spiritual, and psychological condition; the patient’s (and/or the patient’s family’s) economic situation; the patient’s relationships; the effects of the patient’s treatment on the society at large; and the prognoses for various treatments. De Lugo’s example of the man on fire reminds us that a circumstantial detail—in this case, the intensity of the fire—can make a significant ethical difference. Thus a prudent person reasons inductively, asking many questions in order to understand the reality of the situation.

Once the agent knows and understands both the goal and the circumstances, he or she must choose an action that “fits” both. It is here, in adjudicating the right means to the good end, that prudence functions. Prudence selects that action which rightly, or rationally, promotes the desired end within the attendant circumstance. For instance, if I wanted to become healthier I might decide to begin weightlifting. Let’s assume, however, that I have a severe heart condition that prevents physical exertion. Given my circumstances, weightlifting would seem imprudent. The means I have chosen (weightlifting) might work against my desired end (of becoming healthier). Thus it would not be fitting—and indeed, irrational—for me to take up weightlifting. A prudent decision, given my desired end (of becoming healthier), would be to begin a walking

program. Walking would “fit” my goal, given my circumstances. It would be rational for me to believe that walking would help me improve my health and, at the same time, not violate my need to avoid exertion. Prudence directs the agent to choose the fitting action, which is to say, the rational action.

The virtue of prudence is elusive because it requires the agent to be continually attentive to changes in circumstances and context. Rules cannot be blindly followed (there is, for example, no single fitness program that everyone should follow). Rather, the moral agent must continually take up anew questions of right action. Accumulated moral wisdom—such as duties, principles, and norms—serves to facilitate prudential discernment. These codified insights attune the agent to values and goods that should be factored into concrete moral reasoning. And yet, neither duties nor principles are a proxy for prudential reasoning.

Many medical professionals implicitly understand this concept. The proper treatment for a metastatic cancer may differ significantly for a 20-year-old, otherwise healthy woman, and a 90-year-old patient with Alzheimer’s. Thus prudence is an abiding character trait that guides the medical professional to find the proper course of action, given the circumstances and the desired end.

Two Suggestions

In closing, I have two suggestions.

Prudential Persons The contemporary heir of the Catholic tradition on death and dying is virtue ethics, and specifically, the virtue of prudence. The virtues—with their attention to circumstances, their rejection of rigid principles, and their reliance on practical reason—explicitly present and employ the insights of the Catholic tradition. The complex nature of contemporary medical ethics, with all its attendant variables, is insufficiently served by either material principles or a rigid duty-based method. A prudence-based approach remedies the reductionism inherent in these approaches by facilitating a full moral analysis of the situation.

Prudential reasoning expands the moral analysis because it enables ethicists to account for key realities such as hope of benefit; burdens to patients, family, and society; economic costs; and the physical, psychological, and spiritual state of the patient. Because they contain much of our tradition’s accumulated moral wisdom, principles, and duties, cases can and should serve as guides for prudential discernment. Yet they can never preclude or subvert the concrete moral discernment provided by prudential reason.

Therefore, Catholic bioethicists, together with the magisterium, should redirect their focus away from the articulation of duties and toward the training of prudential persons capable of discerning the right course of action for patients in a PVS, and indeed all patients in natural decline. The Catholic tradition on death and dying requires that the locus of discernment is the prudential person, because only the prudent person can adequately consider all relevant realities. Principles and duties will surely aid in the training of such people, but their guidance will be provisional, not absolute.

Higher Goods Catholics will be engaged in an interminable debate on this issue until we return to a proper understanding of the good of temporal life. Temporal life must be understood as an important,

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but not “basic,” good. Aquinas, de Lugo, and Pope Pius XII each affirm that life is lived for the sake of higher, spiritual goods. Christians believe that temporal life is but one part of human life.

Therefore, we must avoid the temptation of vitalism, reject absolute duties to promote and prolong life, and instead promote the good of life when prudential reason deems it congruent with the circumstances of the patient and his or her family and community. ■

NOTES

1. See T. A. Shannon and J. J. Walter, “Assisted Nutrition and Hydration and the Catholic Tradition: The Case of Terri Schiavo,” *Theological Studies*, vol. 66, no. 3, September 2005, pp. 651-662. In their article, “Did John Paul’s Allocution on Life-Sustaining Treatments Revise Tradition?” (*Theological Studies*, vol. 67, no. 1, 2006, pp. 99-119), Fr. J. J. Paris, SJ, PhD; Fr. J. Keenan, SJ, STL, STD; and Fr. K. Himes, OFM, PhD, argue, contra Shannon and Walter, that Pope John Paul II did not change the tradition because the March 2004 statement was an occasional speech and was therefore was not able to overturn, in a doctrinal sense, the Catholic Church’s long-standing tradition on forgoing and withdrawing treatment.
2. The work of Grisez and Finnis is foundational for these thinkers. See G. Grisez, *The Way of the Lord Jesus: Christian Moral Principles*, vol. 1, Franciscan Herald Press, Chicago, 1983, chapter 5, question D. M. Latkovic’s article “A Critique of the View of Kevin O’Rourke, OP” (*National Catholic Bioethics Quarterly*, vol. 5, no. 3, Autumn 2005, pp. 503-513), is representative of the Finnis/Grisez revised teleology.

3. The phrase "basic good" is used technically by Grisez, who lists seven basic goods: self-integration, practical reasonableness, friendship, religion, life, knowledge, and play. See Grisez, vol. 1, chapter 5, question D.
4. As Latkovic notes, there are exceptions to this duty. He writes: "Because the feeding of PVS patients by tube is generally neither useless nor overly burdensome, it ought to be done unless, for example, the patient's body is unable to assimilate the food, he or she is imminently dying, or the tube is cause a serious infection." Note that this list, while not professing to be comprehensive, still considers temporal life the lone operative good in the moral analysis of the treatment of PVS patients. See Latkovic, p. 512.
5. J. Pieper, *Prudence*, R. and C. Winston, trans., Faber and Faber, London, England, 1960. See especially Chapter 2.
6. Pieper, pp. 44-45.
7. T. Aquinas, *Summa Theologica*, Fathers of the English Dominicans Province, trans., Benzinger Brothers, New York City, 1948. See I-II 1.5 and 1.6. The hierarchy of goods is unpacked in I-II 94.2. Here Aquinas presents the three levels, or types, of inclinations that human beings have. The lower inclinations (self-preservation and species preservation) are ordered to the higher inclinations (community and knowledge of God). Further evidence of the objective hierarchy of goods is found in I-II 104.3 and 108.4.
8. See Aquinas, I-II 17.5 ad 2 and I-II 65.1.
9. See Aquinas, I-II, 7.2: "*Actus autem proportionantur fini secundum commensurationem quandam, quae fit per debitas circumstantiarum . . .*" See also I-II 9.2, 10.1, 10.3 and 29.1, ad. 1 on "fittingness."
10. Aquinas underscores this theme throughout the *Secunda Pars of the Summa*; see especially I-II 94.4, 95.2 and I-II 47-57.
11. Aquinas, I-II 47.2 ad. 3: "*Sed ad prudentiam non pertinet nisi applicatio rationis rectae et ad ea de quibus est consilium. Et huiusmodi sunt in quibus non sunt viae determinatae.*" Here Aquinas refers to Aristotle's *Nicomachean Ethics*, III, 3.
12. F. de Vitoria, *Reflection on Homicide & Commentary on Summa Theologiae, Ila-IIae Q. 64.*, J. P. Doyle, trans., Marquette University Press, Milwaukee, 1997.
13. Vitoria, p. 103.
14. Vitoria writes: "One is not held to employ all the means to conserve his life, but it is sufficient to employ the means which are of themselves intended for this purpose and fitting" (p. 103).
15. See D. A. Cronin, *Conserving Human Life*, Pope John XXIII Medical-Moral Research and Education Center, Braintree, MA, 1989, p. 53.
16. Cronin.
17. Cronin, p. 54.
18. G. Kelly, "The Duty of Using Artificial Means of Preserving Life," *Theological Studies*, vol. 11, June 1950, p. 204.
19. G. Kelly, "The Duty to Preserve Life," *Theological Studies*, vol. 12, December 1951, p. 550.
20. G. Kelly, *Medico-Moral Problems*, Catholic Hospital Association, St. Louis, 1958. See Part II, p. 308.
21. Pope Pius XII, "The Prolongation of Life," in K. M. Wildes, ed., *Critical Choices and Critical Care*, Kluwer Academic Publishers, Dordrecht, Netherlands, 1995, pp. 189-196.
22. Pope Pius XII writes, "Consequently, if it appears that the attempt at resuscitation constitutes in reality such a burden for the family that one cannot in all conscience impose it upon them, they can lawfully insist that the doctor should discontinue these attempts, and the doctor can lawfully comply" (p. 194).
23. As Aquinas says, "*Et ideo ad prudentiam, quae est recta ratio agibilium . . .*" (I-II, 57.4). See J. Keenan, "Prudence," in S. J. Pope, ed., *The Ethics of Aquinas* (Georgetown University Press, Washington, DC, 2002), for a helpful commentary on Aquinas's work on prudence.

NOTES

1. See T. Shannon and J. Waller, "Assisted
 Suicide and Euthanasia: The Catholic
 Tradition," *Theological Studies*, vol.
 48, no. 2, September 1987, pp. 343-362.
 2. On the Pope's position on the duration
 of life, see *Theological Studies*, vol.
 47, no. 2, September 1986, pp. 343-362.
 3. See J. Keenan, "Prudence," in S. J. Pope,
 ed., *The Ethics of Aquinas* (Georgetown
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 19. See J. Keenan, "Prudence," in S. J. Pope,
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 20. See J. Keenan, "Prudence," in S. J. Pope,
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 21. See J. Keenan, "Prudence," in S. J. Pope,
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 22. See J. Keenan, "Prudence," in S. J. Pope,
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 23. See J. Keenan, "Prudence," in S. J. Pope,
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