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Examining the Case of Samuel Golubchuk

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In late 2007, the case of whether or not life-support should be removed from 84 year-old Orthodox Jew Samuel Golubchuk of Winnipeg, Manitoba was in the Canadian and international media. Some commentators wrote on the Internet that hospital officials wanted to euthanize him, that his health was better than what it turned out to be, and claimed the hospital was unsafe for people with dementia. Such unsubstantiated claims underscore the need to carefully establish the facts in these emotionally-charged cases. This article will attempt to analyze this case in terms of Catholic moral theology.

TIMELINE

October 26, 2007	Samuel Golubchuk was a patient at Deer Lodge Care Facility for several years when he WAS admitted to Winnipeg's Salvation Army General Grace Hospital with pneumonia and pulmonary hypertension.[1] The pneumonia was eventually cured.[2]
November 7, 2007	Samuel Golubchuk was put into the intensive care unit (ICU) and on a ventilator. Later, the physicians complained they "were talked into it."[3]
November 20, 2007	The attending physician met with Golubchuk's adult children and discussed his view that the ventilator and life supports should be withdrawn. He had obtained a plan of action from an ethicist, but there is nothing to suggest that the family members were advised of the ethicist's opinion. Later, Golubchuk's children faxed a letter to the Chief Medical Officer objecting to the physician's plan and made this request: "We would like a copy of the rules in writing on what grounds they [physicians] are doing this, so we can show this to our lawyer to take legal action."[4]
November 29, 2007	The family met twice with the director of the ICU, and once with the Chief Medical Officer. The director later telephoned them. At the request of the family, an emergency physician from another hospital examined Golubchuk and reported his findings to the family and to the director of the ICU.
November 30, 2007	Golubchuk's adult children won an interim emergency court injunction against removing life support—the same day physicians were planning to withdraw life support—on the grounds that it did not benefit their father. The family refused**,** citing their Orthodox Jewish faith as justification.
January 30, 2008	The College of Physicians of Manitoba issued *Statement No 1602 Withholding and Withdrawing Life-Sustaining Treatment.* Doctors must consult family members if they cannot communicate with the patient, but the ultimate decision is up to doctors when to take someone off life support. These guidelines differ considerably from those of other provinces that stress autonomy and patient consent in these decisions, such as in Ontario.
February 13, 2008	Justice Perry Schulman of the Court of Queen's Bench of Manitoba ruled that the final decision would be made in a trial. He set a trial date for December 2008, but this was changed to September 2008 at the request of the Hospital.
June 4, 2008	Attending physician Dr. Anand Kumar resigned from Grace Hospital, because it was "in violation of my medical ethics to continue (treating Golubchuk)." "If we honestly attempt to follow the court mandate to focus on keeping Mr. Golubchuk from his natural death, we will likely have to continue to surgically hack away at his infected flesh [bed sores] at the bedside in order to keep the infection at bay. This is grotesque. To inflict this kind of assault on him without a reasonable hope of benefit is an abomination. I can't do it."[5]
June 17, 2008	Two doctors—ICU director Bojan Paunovic and specialist David Easton—refused shifts at the hospital rather than to allow 84-year-old Samuel Golubchuk to continue to receive nutrition and hydration, claiming that it was unethical to continue providing food and hydration to the severely disabled man.[6]
Jun 18, 2008	The Winnipeg Regional Health Authority announced that three doctors from the regional critical-care program, who do not normally have shifts at Grace Hospital, had come forward and agreed to provide care for Golubchuk.

Jun 24, 2008 Samuel Golubchuk died after seven and half months on life support.

JUSTICE SCHULMAN, COURT OF QUEEN'S BENCH, MANITOBA, DEFINED THE ISSUE[7]

The issue before me on this motion…is not whether, in the circumstances of this case, Jewish law prohibits the disconnecting or Jewish law trumps the decisions reached by the doctors. The issue is whether this court should continue until trial the interim injunction granted to the plaintiffs [family] on an emergency basis, without notice to the defendants, on November 30, 2007…In deciding this question, this court must decide whether it is "just or convenient to do so"…The issue of what is "just or convenient" is rooted in the laws of England going back centuries.

FACTS AGREED TO BY THE PLAINTIFFS AND DEFENDANTS[8]

Samuel Golubchuk is very ill. In 2003, he suffered severe brain damage in a fall, which affected his mental and physical capacities. In 2005, he underwent brain surgery for removal of part of his temporal lobe. Since November 7, 2007, he has been hooked up to a ventilator with a tube that has been surgically inserted into his throat. This assists him to breathe or, if the medical evidence is correct, permits him to breathe. He is fed through a tube that has been surgically inserted into his stomach. His brain is functioning, although the extent to which it is functioning is in dispute. He does not speak; he does not ambulate. He suffers from a cardiac condition, as a result of which his heart does not beat properly. His heart condition cannot be improved by inserting a pacemaker. For several medical reasons, he cannot be given a pacemaker. At one point, his kidneys began to fail, and then plateaued. At several places in their notes, doctors expressed the opinion that he was dying. Between November 20 and 30, the family had discussions initiated by hospital staff about removing the ventilator.

WHAT WAS IN DISPUTE AS REPORTED BY JUSTICE SCHULMAN[9]

There is disagreement between the Hospital physicians and their expert and the family and their out-of-province experts about Golubchuk's level of consciousness and cognitive function.

Hospital records show that the plaintiff had a complete loss of consciousness and rarely opened his eyes. Nurses noted that he is unresponsive to stimuli. "His failure to respond to noxious stimuli means that he is not able to react to pain and this again indicates gross neurologic dysfunction. The family describes him grasping their hands. This is what is described…as reflexive grasp. It is not purposeful and he will grasp any object which is put into his hand in a similar manner." The Director of the ICU noted that he could not follow simple commands. "He is not moving when being suctioned (suctioning excess from lungs via the tracheotostomy and of the oral cavity). A patient with even limited awareness will purposefully attempt to avoid the procedure. He does not." While in hospital his neurological status has not improved.

Members of the family say they have observed a level of cognition on the part of their father, and that their observations have been discounted, or rather denied, by the defendants. They have produced an affidavit of a neurologist who practices in New York who has reviewed the entire hospital record of Grace Hospital. He has noted an absence of any examination of the plaintiff by a neurologist, any brain-imaging such as with CT scan or MRI, other measurement of brain activity. He stated that the plaintiff has not been assessed for aphasia, locked-in syndrome or other treatable neurological illnesses, which could account for his apparent lack of consciousness. He concluded on that point:

"Mr. Golubchuk's condition has demonstrably improved. There is no evidence whatsoever that he is brain dead, close to brain dead, or dying, from a neurological point of view. He has enough higher cognitive function to not only be considered awake but to make frequent, purposeful movements and engage in other purposeful activities."

Counsel for the defendants produced an affidavit of a neurologist who practices in London, Ontario who had reviewed the entire hospital record. He expressed the opinion that a CT scan or MRI are not indicated, that Mr. Golubchuk does not suffer from locked-in syndrome, and that he is "probably best classified as being in a minimally responsive state, barely above the vegetative state."

Summing up: Two physicians reviewed the same record, but arrived at very different conclusions, and the hospital physicians' assessment was effectively opposite to that of the New York doctor.

SOME CONCLUDING REMARKS BY JUSTICE SCHULMAN[10]

- "I conclude that the balance of convenience favours the plaintiff. Further, I think that most reasonably informed members of the public would support my finding on the questions of irreparable harm and balance of convenience."
- "Contrary to the assertion of the defendants [Grace Hospital], it is not settled law that, in the event of disagreement between a physician and his patient as to withdrawal of life supports, the physician has the final say."
- "The treatment does not, in and of itself, raise the same type of ethical problems for the doctor that could be associated with controversial procedures like abortions."
- "It is clear on the evidence that communication broke down between the plaintiff and the physicians…There is no evidence to suggest that mediation was available or, if available, was offered as an option in this case. As mediation has not been considered, adjudication by a judge in this court could be appropriate."

SOME JEWISH TEACHING ON END-OF-LIFE ISSUES-DIFFERENT VIEWS

"If a person's life is dependent on the removal of a ventilator, the decision to take them off the ventilator would be equal to homicide," Rabbi Dr. Edward Reichman, a leading expert in Jewish medical ethics, told the Jewish Star. "Mr. Golubchuk is clearly not brain dead. The overwhelming majority of rabbinic authorities maintain that it would be prohibited to remove the respirator, if that would lead to the individual's death."[11]

Rabbi Chaim David Halevi, the late Sefardi Orthodox Chief Rabbi of Tel Aviv was asked about removing a respirator in the case of irreversible coma. He answered, "In my opinion, doctors are not permitted to continue to prolong life by use of the respirator in such a case. . . It is prohibited to prolong life artificially when there is no longer any hope for the patient. . .in my opinion, not only is it permissible to disconnect the machine, but it is mandatory to do so…By the operation of the machine we are causing the soul (rather than the body) to suffer by preventing it from departing and going to its rest and peace."[12]

CATHOLIC MORAL TEACHING ON END-OF-LIFE ISSUES

At the International Congress on Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas, held in Rome in March 2004, Dr. Gigli (former president of the World Federation of Catholic Medical Associations) stated that the removal of nutrition and hydration from people in a vegetative state who are not otherwise dying is done only to end their lives and is in fact euthanasia. He stated that the removal of nutrition and hydration to intentionally end a life is the Trojan horse to active euthanasia.[13] Some participants at the 2004 Congress disagreed over these views.[14]

Some long-standing principles in Catholic teaching help us make decisions about treatments. First, the Church tells us that we are always bound to use certain life-sustaining measures. These are the basic necessities of life, including food, water, air, rest and warmth.[15]

Pope John Paul II's statement at the conclusion of the 2004 International Congress that artificial provision of food and water counts as basic care reversed a common opinion among theologians that artificial nutrition and hydration is an extraordinary means of preserving life. Moral theologians and physicians are exploring the implications of his teaching. It does not necessarily extend to situations other than persistent vegetative state, although this remains unclear. Some people had regarded artificial nutrition and hydration of a patient in a persistent vegetative state as ineffective, since it does not cure the underlying illness—nothing can—nor does it contribute anything that the patient can experience as personal benefit. The patient has no capacity whatsoever for self-awareness or for interaction with others. Furthermore, he or she has no potential for regaining either of these abilities.[16]

Catholic moral theology uses two criteria to help us make ethical decisions on end-of-life treatment: Is the treatment overly burdensome?; Is the treatment futile? Both of these questions need to be asked in the patient's best interests, and if the answer to either question is "yes," then the treatment is considered to be extraordinary, or disproportionate, and does not have to be continued.

Whether a treatment is overly burdensome or not is subjective, because what is not a burden to someone could be experienced as a burden by another. By acknowledging that only the patient can make that determination, Catholic moral theology respects the autonomy of the person, an idea that is currently built into Canadian law. For example, one cancer patient may feel that an additional round of chemotherapy would be too much of a burden and decides to reject additional treatment, whereas another cancer patient may not see it that way and decides to accept additional treatment. Both decisions would be ethical.[17]

APPLYING THESE CONCEPTS TO THE SAMUEL GOLUBCHUK CASE

As a practising Catholic, I would like to express the opinion that I do not think it was justified to transfer Mr. Golubchuk into the ICU. He was seriously ill with little or no prospect of recovery, and was effectively dying with multiple organ failures. What was achieved by placing him in the ICU? It seems to me that palliative care was the most sensible thing to do. I do not believe that choosing palliative care in this case would have been euthanasia, since Catholic teaching is not vitalist.

It is impossible to state whether the treatment was overly burdensome, because Mr Golubchuk was not able to communicate. It could be argued that the treatment was not a burden because it was likely he did not feel any pain or stimulus. The treatment did, however, appear to be futile, and the fact that he died during treatment in the ICU seems to support that claim.

From a Catholic perspective, what do *you* think the outcome should have been in this case and why? What are the issues in this case and what could be done to avoid these scenarios of serious disagreement?■

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[1] Court of Queen's Bench of Manitoba, Golubchuk v Salvation Army Grace General Hospital et al., Docket CI07-01-54664, Feb. 13, 2007.
[2] http://www.lifesitenews.com/ldn/2008/jun/08062504.html
[3] Ibid
[4] Ibid
[5] http://www.canada.com/cityguides/winnipeg/info/story.html?id=99aa7632-5e19-4cee-addc-bfb7e82d679a
[6] http://www.lifesitenews.com/ldn/2008/jun/08061711.html
[7] Court of Queen's Bench of Manitoba, Golubchuk v Salvation Army Grace General Hospital et al., Docket CI07-01-54664, Feb 13, 2007.
[8] Ibid
[9] Ibid
[10] Ibid
[11] http://www.nrlc.org/news_and_Views/June08/nv062008part2.html
[12] http://hsf.bgu.ac.il/cjt/files/electures/medicalhalakh4.htm
[13] http://www.lifesitenews.com/ldn/2008/jul/08072404.html
[14] Ibid
[15] Moira McQueen, *Bioethics Matters A Guide for Concerned Catholics*, 2008
[16] Ibid
[17] Moira McQueen, *Bioethics Matters A Guide for Concerned Catholics*, 2008