

The concept of palliative care for incurable patients in jurisprudential analysis

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Introduction:

In the science of jurisprudence, identifying the problem is of particular importance; which is followed by the Sharia ruling (Fatwa). Therefore understanding the issue is one of the main concerns of jurists. One of the emerging problems in medical jurisprudence is "palliative care". It is a new approach in medical care to improve the quality of life for incurable patients. Jurists need to understand its domain and scope correctly to determine its legitimacy. This article discusses the palliative care from the Imamieh jurisprudential view, to determine if there is any conflict between palliative care and "jurisprudential laws".

Materials and Methods:

Data were collected by searching in the web and real libraries; and analyzed by descriptive-analytical method. Thus, palliative care activities were explained; and its difference with euthanasia was pointed out. In jurisprudential understanding issue of palliative care, the authority of decision-making was mentioned with the rule of "self-sovereignty". Besides palliative care position toward interrelated jurisprudential rules such as "self-preservation", "no harm" and "Denial of hardship" was analyzed. Then the priorities between palliative care and life-prolonging care were rationalized with jurisprudential rules.

Conclusion:

Palliative care isn't in conflict with any of rules of jurisprudence. The main purpose in euthanasia is to hasten death, which is an act against self-preservation; but it is excluded in palliative care. According to the rule of the sovereignty over the soul, the decision-maker of palliative care is the patient. Life-prolonging care is more compatible with the rule of "self-preservation" while palliative care is more apprehensible with the rules of "No-harm" and "Denial-of-hardship". patients may choose the type of care based on the importance of life expectancy or life quality.

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Introduction

Identifying the subject in jurisprudence is of special importance, because it is the basis of the inference of the ruling. In the language of logic, the subject is the orelope of the verdict and its cause. Therefore, an accurate cognition of subject is necessary for the jurist.

The present paper has dealt with one of the new progresses in medical science, palliative care. One of the innovations of the current research is that, it points out palliative care difference with euthanasia and life-prolonging care. The efficiency rate of palliative care according to multiple jurisprudence rules is explained too.

Explaining the difference between palliative care and euthanasia from the point of view of jurisprudence is the very innovations of the current research. Previous researches related in euthanasia have mainly dealt with its ethical and jurisprudential aspects. The current research considers euthanasia as an optional act with the intention of premature death. Because of this optional act, the causation of its agent is ascertained; while the goal of palliative care, even in patients close to death, is to observe the patient's condition and reduce annoying symptoms. Therefore, even if death occurs, the causality of the decision maker and his caretakers is not verified.

Another innovation in this research is the explanation of palliative care from the perspective of multiple jurisprudential rules that are related to human health. In previous research, jurisprudential examination of palliative care has been done only from the perspective of the rule of self-preservation. This rule has been discussed in this article too. But the current research also analyzes palliative care from the perspective of the jurisprudential rules of "no-harm" and "Denial-of-hardship".

The comparison of palliative care and life-prolonging care is also done with regard to the triple jurisprudence rules of self-preservation, "No-harm" and "Denial-of-hardship". The article "The right to choose between life-sustaining treatments and palliative care from the point of view of Shia jurisprudence" gives the patient the right to choose palliative care, by pointing out that life-sustaining treatments are examples of harm. Articles and books which dissent

stopping treatment at the end of life have been mainly devoted to ethical issues. "Ethical challenge about palliative care in pediatric" is one of these articles. Although moral issues are essential for society; However, it is also necessary to discuss jurisprudential issues related to the issue of incurable disease and the care of the patient who is close to death.

An incurable disease is an advanced and progressive one which is expected to lead the patient to the death at any age. The length of life of an incurable patient cannot be estimated exactly; but medical science has been able to increase longevity with various surgical procedures and special care. These procedures include supportive surgeries such as gastrectomy, gastrostomy, tracheostomy, artificial respiration devices, dialysis, etc.

Most of these measures are low-result cares and they prolong life merely.

In medical advance if the treatments does not make any change in the patient's recovery situation or has not a significant benefit, it is called futile care (1). Since futile care cannot release the patient from the state of dependence on medical care and in most cases this dependence increases, it is recommended to use a palliative care program instead (2). Changing the treatment process from maintenance to palliative may create jurisprudential challenges.

Sometimes the meaning of palliative care is expressed in such a way that misapprehends euthanasia (at least its passive type). Since euthanasia is often suggested to release the patient from additional pain and suffering too, sometimes palliative care makes an elution to be in conflict with the rule of self-preservation. Understanding the goals of palliative care and its field of activity will clarify the difference between this type of care and euthanasia.

One of the other significant problems in this field is to explain the legal considerations of palliative care. In this research, palliative care is discussed in terms of jurisprudential rules of "sovereignty over the soul", "self-preservation", "No-harm" and "Denial-of-hardship".

The comparison between palliative and life-prolonging care in terms of jurisprudence will be presented in the final part of the research.

Based on library sources, this research explains and describes palliative care from different points of view. Initially, the concept of palliative care will be elucidated. Then, the difference between palliative care and euthanasia will be clarified. Finally, the authenticity of decision-maker in choosing palliative care will be explicated, considering the jurisprudential rule of "the sovereignty over the soul".

In the next stage, palliative care is analyzed in terms of the appropriateness and observance of the jurisprudential rules of "self-preservation", "No-Harm" and "Denial-of-hardship". Consequently, it will be answered to this question "Is there a conflict between jurisprudence and palliative care?"

In the last stage, palliative care and life-prolonging care are examined in terms of compliance with the rules of "self-preservation", "No-Harm" and "Denial-of-hardship". At the end, the selectivity between palliative or life-prolonging care is explained according to the jurisprudential rule of "important vs the most important" (priority).

Findings

1. The decision-maker for palliative care is the patient based on the rule of sovereignty over the

Soul. In case where the patient wants, he can use the rule of "permission" to allow the doctor or other people to intervene. The permission for palliative care does not conflict with the jurisprudential rules of "Self-preservation" and "No-Harm."

For a better analysis of the issue, first, the concept of palliative care from the point of view of medical science will be explained; then its basic difference with euthanasia will be analyzed. After that, the palliative care will be discussed based on the rules of jurisprudence, and finally the differences between palliative care and life-sustaining cares are examined.

1. The concept of palliative care

The World Health Organization has introduced palliative care as an active and complete approach to reduce the pain and suffering of patients to improve their quality of life (3). Palliative care is a set of measures to prevent the patient's pain and suffering as much as possible. One of the main measures of palliative care is to remove, reduce or control annoying symptoms of the disease

such as pain, nausea, shortness of breath, low consciousness, sleep disorders, etc. As soon as the palliative care team identifies a problem in different approaches (physical, mental, spiritual or...), they try to solve it. The distinguishing feature of palliative care is that it is able to improve the patient's quality of life with comprehensive management of problems (3). Therefore, angina pains may be alleviated by prescribing nitrates; General pains can be relieved by prescription of strong narcotics, or acupuncture. Exercise and music can be used too.

This type of care is used in all patients as soon as patient needs, and it may be provided together with other medical treatments or alone. But in incurable patients, palliative care may become challenging due to conflict with life-prolonging care.

In palliative care, futile treatments may be stopped because of their painful or annoying entity and having no improvement in the patient's condition. For instance, beta-blockers (beta-receptor blockers) and angiotensin-converting enzyme inhibitors are sometimes used in cardiac patients to prevent the reduction of cardiac output. But these drugs have side effects such as fatigue and lowering blood pressure. Therefore these drugs may be stopped in the palliative care program. On the other side, the use of diuretics (diuretic drugs) may continue throughout the disease process due to the improvement of the patient's symptoms (5). The use of inotropes (cardiovascular stimulants) is also increased in order to improve the patient's condition for communicating with family members (6).

The variety of services in palliative care requires different medical, therapeutic and rehabilitation specialties such as physical medicine, anesthesia, psychology, social work, radiology, etc participation.

Counseling measures are one of the most significant palliative care activities. Amid important consultations is to improve the patient's knowledge and provide a correct understanding of his disease and his physical condition in order to choose a medical treatment method. The emotional-spiritual-cultural support of the patient and improving his functional status are in the category of palliative care consulting services (7, 8). For instance, religious-spiritual counseling is

sometimes included in the palliative care system for patients who have to endure hardship and uncontrollable pain, so that the patient can be helped by the functionality of religion and spirituality.

Psychological preparation of the patient to admit death is also one of the most important palliative care consultations (9). Most patients at the end of life need special counseling to go through the dying process and reduce its stress. Matters that the patient prefers to be taken care of before death, such as meeting with special people, preparing a will, etc., take place in the palliative care service.

Therefore, palliative care is very important in medical science. Some studies show palliative care has reduced disease symptoms and increased patient satisfaction (10). Reducing the costs of care and hospitalization of the patient is another advantage of palliative care (11). moreover, despite the fact that palliative care is not planned to increase the life expectancy of patients; Research shows that it has a positive effect on longevity (12).

The main point is that palliative care is not against any treatment (13); rather it just targets futile treatments to be omitted. Futile treatments are probably applicable even in the very nearest patients to death; but palliative care suggests interrupting these kinds of futile efforts in incurable patients.

The problem in palliative care in incurable patients is that it does not take action to delay death; even if no attempt is made to accelerate the patient's death (14).

Therefore, it seems necessary to explain palliative care in terms of jurisprudential rules; whether palliative care has a conflict with self-preservation? In other words, we should emphasize that the rule of self-preservation does not include emergency delay in death. It will lead the jurist to issue a verdict; in addition it may help patients choose or reject palliative care.

2. Palliative care and its main difference with euthanasia

In palliative care sometimes at the end of life, when there is no progress in the patient's condition, the main treatment is stopped to control painful symptoms. Since stopping the treatment may lead the patient to death, some theoreticians consider palliative care as a

reconstruction for euthanasia. On the other hand, because euthanasia is often performed with the aim of ending the patient's annoying symptoms; this theory is discussed that palliative care is a kind of euthanasia.

Euthanasia is a recently proposed method for suffering patients (15) to end their life through active or passive measures. Euthanasia proponents believe that human life should be continued as far as it has a beautiful meaning and the person feels self consent. In other words, they believe that euthanasia is a way to preserve the patient's dignity and ends his unbearable suffering. Thus euthanasia should be applied due to a disease with long duration or its severe condition. This group believe that when life loses its real meaning for the patient, it is more desirable to help his/her death actively or passively (16).

The main implying justification for euthanasia proceeding is "the sovereignty over the soul". Euthanasia advocates believe since people have the right to determine their own destiny, they also have the right to choose how to die.

But from the point of view of the opponents, the goal of human life is to become perfect and sane; and because pain and suffering before death is a stage of man's brought up. perhaps the more severe or prolonged pain, the more constructive it is. According to this group, euthanasia is an irrational work and validating it with rule of the "sovereignty over the soul" cannot be a good confirmation. In other words "sovereignty over the soul" is a rational right; But it cannot break the rule "preserving life" which is the golden rule in human life..

The proponents recommend euthanasia when the patient's suffering is unbearable. but opponents respond the entity and the extent of a pain and suffering is definitively proven after it occurs. While euthanasia decision is made before it (pain and suffering) occurs. Therefore the decision making in euthanasia is applied before the occurrence of disturbing symptoms, that means a prejudged decision.

The fundamental difference between palliative care and euthanasia appears in the "Decision making". In euthanasia, actions are accomplished with the intention of ending life, and due to this purpose, the subjectivity

of the determinant is emphasized; In the meantime, if an action is taken to improve the quality of patient's life, it is not with the intention of treatment. Rather, it is done to prepare the patient for death. In other words, euthanasia in its active type with various interventions, causes a forced death for the patient, and in the passive type takes place only with the intention of speeding up death, regardless of the patient's annoying symptoms.

What about palliative care? In this method, on suggestion about accelerating the death is naturalized the only intention of taking measures, even in patients who are close to death, is to respect the patient's condition and reduce annoying symptoms. Therefore, even if the patient dies as a result of palliative care, the subjectivity of the decision-maker and his caretakers is not established. Improving the quality of life in palliative care can even strengthen the treatment process and increase the patient's life span.

from the point of view of jurisprudence, what is the difference between stopping treatment in palliative care and euthanasia? To answer this question, it should be clarified that whether the sanctity of stopping treatment is an absolute ruling or conditional one. If it is an absolute rule, any interruption of treatment, including palliative care, will be forbidden; But if it is a conditional rule, stopping the treatment in certain circumstances will be obligatory, permissible or recommended up to the subject's intention. According to this fundamental difference, it seems that continuing palliative care in incurable patients is a kind of changing the treatment process and not stopping it. In other words' in palliative care just futile treatments are stopped. This change in attitude makes it easier to accept palliative care.

Basically we should pay attention to what is presented to the patient. If the treatment is an effective one, even withdrawal efforts mean a kind of murder absolutely. It makes no difference it would be active or passive. In futile treatment cases again active efforts toward death are forbidden. But changing treatments toward palliative cares in incurable cases while all of remedial opportunities mean futile treatment, is the punctual case is discussed in this article.

3. Palliative care according to the rules of Shiite jurisprudence

Choosing the method of treatment and care for patient is one of the most important issues in the medical profession. According to Shiite jurisprudence and based on the rule of "sovereignty over the soul", the right to make decisions in medical matters, including palliative care, is the responsibility of each person.

However, the acceptance or rejection of palliative care by religious practitioners depends on its compatibility with the rules of jurisprudence; Therefore, its legitimacy or illegitimacy is necessary from the perspective of the jurisprudence rules of "self-preservation", "No-Harm" and "Denial- of -hardship".

3.1. The rule of sovereignty over the soul or self-ownership:

According to the "rule of sovereignty", a person has the authority of the body (17). This rule is derived from the similar narrations that express: "People have sovereignty over their properties" or "people have sovereignty over their properties and their souls" (18) or "People have sovereignty over their properties and their affairs and rights" (19).

In the mentioned narration, it is asserted that man has sovereignty over his properties, and jurists have generalized the meaning of "sovereignty" to "the sovereignty over the soul". In fact man's sovereignty over his body takes precedence over his ownership of properties. Ayatollah Khoei considers man's sovereignty over the body as essential existential sovereignty which does not require an external cause and it is not conventional that is given by anyone else.

With this explanation, Khoei calls the sovereignty of man over the body as "Essential category of Burhan (Demonstration)" (19).

Some consider the sovereignty of man over the body to be absolute and without the need of Sharia's approval (20). This consideration sometimes evokes some problems. For instance, the belief in the absoluteness of human authority over the body can lead us to consider euthanasia as a correct solution. It should be noted that reason is not sufficient for some decisions and the main motive for the existence of divine decrees is to support

reason (21) Shiite jurists have faith in that "man's sovereignty over his body" is not an absolute decree and requires certain conditions (22). Sometimes, they acknowledge the rule of "sovereignty over the soul" should be abandoned in actions such as suicide, amputation, or religiously prohibited action and any thing that causes a person to be humiliated (20).

Based on the rule of sovereignty, the decision-making authority in matters related to the body and its organs is the human himself. The scope of these matters includes the most general to the most detailed or sensitive issues related to the body and its organs. The most important challenge to the rule of "man's sovereignty over the soul" is the rule of "self-preservation"; In the sense that man has full sovereignty over all his body and organs as long as it does not conflict with the life, and if there is a conflict with the "self-preservation", the "rule of sovereignty" is negated.

According to the rule of "man's sovereignty over the soul" the decision of palliative care is among the patient's authorities, and if it struggles with the "self-preservation", it is prohibited according to the Sharia.

Permission to the doctor is a proof that patient has sovereignty over his soul:

The patient can give permission to another person to help him to save his life. Permission means. the patient declares that another person can interfere in his affairs or exercise his will regarding the care of the patient (23). This permission is in fact done through a contract (24). In other words, the patient's permission to the doctor for treatment means that the patient gives full authority to the doctor to treat him as he sees fit. This permission is settled through a treatment contract between the patient and the doctor. generally speaking, a patient's visit to a doctor is itself a kind of permission to the doctor to intervene. Only in cases such as anesthesia and coma, where it is not possible to obtain a duty from the patient, the doctor is obliged to take measures to save the patient's life without permission.

Generally, the authorized person is considered trustworthy by the authorizer, and the authorized person is not responsible for the harm caused to the patient; However, because the doctor may follow his own

personal opinion in proposing treatment measures, he is not considered a trustee in medical matters (25) The doctor will be acquitted only if the patient has discharged him from legal responsibility (26,27). Therefore, although permission can be considered as one of the rules that delegate decision-making to the doctor; But with respect to the doctor responsibility in cases of failure, it will not be considered as one of the basic rules. Human reason says that permission should be accompanied by acquittal.

The right to choose the decision in matters of palliative care belongs only to the patient and the doctor can help the patient as a consultant.

3.2. Palliative care and the rule of "self-preservation":

The most important jurisprudential rule in the evaluation of medical matters is the rule of "self-preservation". The rule considers life as one of the basic human rights (28).

First, it should be clarified what the self means in this rule. The word self means soul (Mind) and soul has different equivalents in Islamic texts (35-29), reason (36), blood (31,33,37-39), the essence of the object (35,40,41), body and spirit (30,35,39,41,43)

If we consider the soul(mind) to mean the spirit, reason or the essence of the object, then preserving it will be meaningless; Because the soul, in the sense of the spirit and the essence of the object, cannot be ruined so that the talk of its destruction become meaningful. Also, if the soul means the reason, the problem is that the protection of the reason is not within the human power. Qur'an sometimes refers to soul as the human body or the totality of the human body and soul (43). It seems that the soul basically means the body. Prohibition of killing oneself in the verse "Don't kill yourself" (54) and prohibition of doing an act that results in endangering life in the verse " Do not throw yourself into destruction with your own hands" (45) of are this kind. This interpretation is also approved by jurisprudence. For instance, a distressed person is allowed to take food or drink belonging to another person in order to save himself from death (46). Also, when taqiyyah becomes obligatory for self-preservation (57) or when self-preservation for each person

takes priority over the preservation of another person's life (48). In all these cases, the soul means the human body. Therefore, the use of the soul instead of the body strengthens the fact that in jurisprudence propositions, self-Preservation (46, 51) means protecting oneself from physical harm and injuries. If somewhere the soul means the spirit or reason, it is because of its association with the body.

Illness is one of the life-threatening events that if it continues, according to the rule of "self-preservation", a person must take action for treatment. Some Shiite jurists (52, 53) consider preserving life as a religious obligation and declare that nothing can remove this obligation. Studying the palliative care program makes it clear that this program does not use measures contrary to self-preservation in the following cases.

1. in the stage of relieving annoying symptoms such as pain, nausea, insomnia.
2. Consultations such as improving the knowledge of the patient and providing the correct understanding of the disease or emotional-spiritual-cultural support of the patient
3. improving the functional status of the patient,
4. rehabilitation measures and other improvement measures,

If the treatment is of no benefit to the patient, its continuation or discontinuation will not make a difference in life preservation. Therefore, palliative care is not in conflict with the rule of self-preservation.

3.3. Palliative care and the rule of "No-Harm":

One of the essentials of clinical care is that no one has the right to harm others. Ragheb Esfahani has interpreted the word "harm" as meaning bad condition (23). "Harm" is also used to mean any kind of intentional injury to oneself or others (54). According to this rule, there is no harm in Islam. Any rule that entails harm to an individual is prohibited by Shari'ah (17,52). This rule has Quranic (55) and numerous narrative evidence (48).

Some Shiite jurists consider this ruling to be only applicable to issues for which the Shariah has forged a verdict. They believe that if the Shariah rulings cause harm to the obligee, the obligee has the right to not fulfill that ruling by referring to the "rule" (56,64);

However, this rule does not apply in cases where Shariah has not given a ruling. For instance, due to the fact that no Shari'a ruling has been issued to the health status of the obligees, it can be abandoned by referring to the rule. At the same time, this rule is not reliable to prove or reject the necessity of palliative care; However, many Shiite jurists believe that the rule can be applied in non-existent affairs as well (56,58,62,63); that is, if a person is forced to perform an action to maintain his norm, that action is obligatory due to the rule of "No-Harm" and leaving it is forbidden.

Now, if we read the harm as a bad condition and call it a disease of the body, then according to the rule, man is obliged to remove the disease.

In this way, this rule finds a meaning close to the "self-preservation". That is why some Shiite jurists have considered the rule as another form of the rule of "self-preservation" (63-66). The entanglement between the rule of "No-Harm" and "Self-preservation" makes the rule of "No-Harm" one of the most widely applicable rules in the medical field.

According to aforementioned, all types of treatment and care are among the actions that are necessary to maintain the normal state of the body; Therefore, they are obligatory and it is forbidden to leave them. That is why, some Shiite jurists have considered the treatment of fatal diseases to be obligatory (67). Palliative care is not an instance of "No-Harm" rule due to the prevention and suppression of the maximum pain and suffering of the patient and also due to the improvement of his quality of life. At a higher level, if we consider pain and suffering as harm and, failure to take care of these matters as harmful, then palliative care becomes necessary as prevention of harm. Based on this point of view, palliative care is also considered a *mustahab* thing.

The obligation to avoid harm is also used in the treatment of the patient. The jurists Shiite believe that just as a person should do self-treat, the treatment of the other patients is also obligatory due to to prevent harm from others (67). Even some jurists believe that the rule of "No-Harm" has priority over the rule of "sovereignty over the soul" (68); As a result, if a person avoids treatment according to the rule of sovereignty and there is a fear

that the person will perish, the patient can be forced to undergo treatment.

3.4. palliative care and the rule of "Denial-of-hardship (nafy Ushr wal haraj):

Hardship means difficulty (29). Haraj also refers to hardship (23), unbearable losses (69). Many jurists believe that absolute harm is not a duty-bearer; Rather, the harm must reach a critical level so that the rule of No-Harm prevails over other divine commands (18). With this definition, the rule of "Denial-of-hardship" has priority over the rule of "No-Harm", and if the rule of "No-Harm" obliges a person to avoid harm, then "Denial-of-hardship" makes the negation of harm obligatory.

Based on the rule of "Denial", God mitigates the Shariah obligation in cases of hardship and difficulty (70). If this divine command is a general ruling, it will be extended to any time when difficult situations occur. it can also be extended to treatment cases. In a narration, the Holy Prophet (PBUH) forbade forcing the patient to eat food so as not to cause harm to himself (71).

However, some Shiite jurists believe that the rule of "Denial-of-hardship" also applies to existential rulings and not to non-existent ones. In this case, the existence of hardships does not negate the duty of the obligee (54,75,59). However, some Shiite jurists believe that the rule of "Denial-of-hardship" also applies to existential rulings and not to non-existent ones. In this case, the existence of hardships does not negate the duty of the obligee (54,57,59). Rather, if hardships arise as a result of the execution of a Shariah ruling, that ruling is negated according to the rule of "Denial". Based on this, since the occurrence of a disease does not mean the issuance of a shari'a ruling, the patient is not required to deny the hardship resulting from shari'a. From this point of view, the rule of "Denial-of-hardship" cannot be taken as a reason for the necessity of taking care, and it is not possible to prove the legitimacy or illegitimacy of palliative care with this rule.

The opposite point of view believes that hardship has the authority to establish a verdict absolutely; In such a matter, Failure to create a verdict by the Sharia is itself a form of establishment of the ruling (56,62,72); Therefore, the absolute negation of hardship is obligatory. This view is closer to reality

with the approval of jurists such as Sheikh Ansari.

Therefore, whenever a disease afflicts a person with hardship, it becomes obligatory to treat it according to the rule of "Denial". In cases where denial of difficulty is not possible except through palliative care, it becomes obligatory.

From the point of view of the obligee's authority to avoid difficulty, the rule of "Denial" is divided into two categories: Rukhsat and Azimat (Permission and Determination)

Rukhsat means to be free from doing or leaving the action; This means that if the obliged person becomes distressed, he can choose between doing the task or not doing it. "Azimat" also means commitment to something that is obligatory or forbidden by God. Therefore, it is obligatory to avoid difficulty in worship that causes embarrassment to the obligee. in other words, it is forbidden for the obligee to perform that task (73).

Many Shia jurists divide human duties into "Tarkhisi" and "Azimati". (permissive and determinative)

"Tarkhisi" tasks are those that a person can do or leave it; but in the "Azimati", a person is obliged to leave those tasks that are accompanied by difficulty. In "Azimati", doing something that causes hardship to a person is considered a forbidden act (73).

In the view of many jurists, acts of worship are considered as rulings. Therefore, if a person experiences difficulty in these actions, he is free to leave them or do them (74).

Now, if preservation the soul is considered as a type of Azimat, then observing it is mandatory in any situation, and "not preserving soul" means committing a haram act. hence, self-preservation is necessary and harming the soul is (Haram)forbidden. In this case, there is no difference between the rule of "Denial-of- hardship and the rule of "self-preservation"; both have the same meaning. From here, we can conclude that palliative care is a program to relieve suffering, and therefore it is obligatory. And if we consider it to be one of the Azimati rulings it will be forbidden not to provide palliative care.

However, if self-preservation is in the category of Tarkhisi, a person has right to observe or abandon "preservation of the

soul" in cases of hardship. In this case, self-preservation is also obligatory; However, failure to preserve it due to hardship is not Haram. It seems that self-preservation should be considered as non-worship actions. According to the rule of self-preservation, the authority to recognize the difficulty of actions and acts of worship is the obligee; Therefore, the difficulty of various medical actions is determined by the patient himself.

1. 4. Comparing palliative care with life-prolonging care from the point of view of jurisprudence

Modern medical advances have been able to increase the life span of patients who are close to death through measures. As long as these types of care improve the patient's performance, they are recommended. Palliative care is also suggested to the patient due to their effective role in relaxing.

However, if the life-prolonging treatments do not improve the patient's recovery, he will have to decide to endure or halt them. The approach to palliative care is different in cases of continuation or discontinuation of treatment and sometimes appears to be in conflict with life-prolonging care. For instance, in palliative care in order to reduce enduring pain, it is recommended to use narcotics or painkillers; But these drugs cause Renal or Hepatic complications that reduce the patient's lifespan in the long run. The use of narcotics also has the risk of patient addiction. From the point of view of many doctors, in this situation, palliative care has priority over life-prolonging care; But the acceptance of this ranking also depends on the jurisprudence. Therefore, the comparison between life-prolonging care and palliative care is helpful in terms of jurisprudential rules.

4.1. The rule of "self-preservation":

life-prolonging cares are more compatible with the "self-preservation" rule. These cares are planned to prolong the patient's life; Even if they do not maintain the patient's quality of life. Palliative care can also prolong the patient's life and strengthen self-preservation but due to not taking action to prolong life, it is in a lower rank than life-prolonging treatments. Sometimes it is said that the meaning of self-preservation is not only increasing the length of life, but also increasing the quality of life. Although this

matter can be proven from a philosophical point of view, but it has not been proven in jurisprudence. Perhaps the fatwa of Ayatollah Khoei and Javad Tabrizi, regarding the non-obligation of continuing life by medication and respiratory equipment in conditions where it is difficult for the patient to bear it (75), can be considered as a confirmation of the importance of quality of life in jurisprudence.

4.2. the rule of "No-Harm"

Life-prolonging treatments cause more damage to the patient's body.

Injuries and pains resulting from medical interventions in this type of care can be an example of damage to the body. Pain and suffering also damage the patient's dignity, which is a double harm for the patient. In addition, the heavy costs of invasive treatments can be considered as a financial loss. Other complications include the limitation of medical facilities; damage to patients who need these facilities with a higher probability of recovery; Fatigue and stress of medical team and the patient's relatives can also be considered a loss. but, palliative care deals with the suppression of the patient's suffering as much as possible; seeking to improve the patient's quality of life and does not suggest invasive or non-invasive interventions. Therefore, palliative care causes less harm to the patient than life-prolonging program.

4.3. the rule of "Denial-of-hardship"

The main goal of life-prolonging care is to maximize the patient's life by using all facilities.

These facilities include: Invasive treatment methods, exhausting treatments, and drugs with heavy side effects such as debilitating surgeries and drugs that cause more pain or nausea. These actions can make the patient suffer. Sometimes the Shiite jurists put the non-performance of life-prolonging care under the category of "denial-of- hardship" (75). But palliative care does not recommend unnecessary surgeries, and with pain relief approaches and psychological and counseling activities, it tries to reduce things that cause worry or distress to the patient. Therefore, palliative care is less harmful and can be considered as a plan for the patient.

4.4. the rule of "important vs the most important"

Now, a solution should be provided so that the patient can choose correctly among the types of near-death care when necessary. It is clear that this choice is made only in cases where life-prolonging care and palliative care conflict with each other; but, in cases where these two are applicable together, choosing between them does not make any sense. In fact, the patient is forced to choose one of three approaches in the near-death days:

First, he should refuse any to accept any care, Second, he has to accept life-prolonging care; The third is to choose palliative care. the first solution, according to the fatwa of many jurists, has no Shari'i prohibition; But it does not seem to be moral and reasonable. In Islamic ethics, it is recommended that the patient who is close to death should be given special attention and the means of comfort should be provided for him.

It seems that the only way to choose the type of care is the rule of "important vs the most important" According to this rule, if the obligee is forced to fulfill one and leave the other task, he has the duty to choose the more important one (76) Therefore, the patient can choose between palliative care and life-prolonging care. Let's suppose that the most important thing in the patient's opinion is life expectancy, for example, he has a duty or a loan that must be paid in a longer time, or he is waiting for a traveler to arrive to see him. In this case, he can choose life-prolonging care; But if the patient considers quality of life to be more important, then he can prioritize palliative care. One of the reasons for using this rule is that if the patient thinks that certain matter is more important than the others, then he should do the most important one. Therefore, if the patient thinks that a certain type of care is the most important, then he should choose that one.

Conclusion

The purpose of this research is to examine the issue of palliative care based on the rules of Shiite jurisprudence so that it can be a guide for the jurist in issuing Fatwa. The jurisprudential issues discussed in this research are as follows:

1. based on the rule of self-preservation, the main decision-maker in choosing palliative care is the patient Physicians can

undertake palliative care only after obtaining permission from the patient.

2. The fundamental difference between palliative care and euthanasia is that the former is done with the intention of helping the patient endure pain; While the latter is done with the intention of speeding up death. Therefore, the treatment in palliative care is stopped in order to eliminate annoying symptoms and improve the quality of life. It will be resumed as soon as the annoying symptoms removed; But in euthanasia, treatment is stopped to lead the patient to death. Therefore, the agency of the patient or his contributors for self-annihilation is probable only in euthanasia, and in palliative care, their contribution cannot be established.

3. There is no conflict between palliative care and jurisprudential rules of "self-preservation", "No-harm" and "Denial-of-hardship".

4. comparing life-prolonging care and palliative care, the former is more compatible with the rule of "self-preservation"; But it can be an instance of hardship. palliative care is compatible more with the rules of "No-harm", and "Denial-of-hardship", But it does not apply any additional measures to protect life. therefore, the patient can decide on the basis of the rule of "important vs the most important". If life expectancy is important in the near-death patients, life-prolonging care is recommended; But if quality of life is important, palliative care is suggested.

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