

Neurodegeneration in the Elderly and the Loss of Rights

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Dementia, Parkinson's and stroke are the most prevailing brain diseases in the elderly. The treatment of these and other neurodegenerative diseases is a field of ongoing research. But apart from being a medical issue, neurodegeneration in the elderly is also a topic providing scope for wideranging social and legal constraints. This means not only degrading treatment in nursing homes but also that, in many European countries, older people showing signs of dementia – diagnosed or not – may lose their driver's license or their right to vote.

So, with growing knowledge about age-related neurodegenerative conditions comes a growing fear for the elderly that their status as socially and legally respected members of society is threatened. Consequently, neurodegenerated elderly will most often have substantially less rights than other "healthy" citizens. In ethical terms, it seems highly disconcerting when losing neurological control will also mean losing civil and human rights.

This text recalls that vulnerability is part of the human condition and that personhood rests on vulnerability, not on autonomy. It is hereby proposed that neurological categories must not be the primary determining factor in the granting of rights, particularly as those categories are changing with ongoing research. Against this background, it is necessary to define a clear legal framework as to how we want to cope with neurodegeneration in the elderly. The elderly's wish for autonomy needs to be respected. At the same time, however, society shall be protected from behavioural dangers which neurodegenerative diseases encompass.

While it is difficult to find the balance between independence and paternalism, the existing international human rights laws do not sufficiently protect the rights of older persons with neurodegenerative disorders. A universal declaration on the rights of older people with neurodegenerative diseases could help prevent breaches of human rights but could also provide solutions for those breaches.

References

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