

# Nöroetik Prensipier

## Etik ilkeler konusunda öneriler

*Etiksel kavramları daha somut boyuta getirerek prensiplerin ilkeleştirilmesi hedeflenmiştir.*

**N**öroetik konusunda etiksel anlamda ilkeleşme, tüm insanı ve insanlığı kapsadığı için, tüm etik ilkeleri bünyesinde toplamaktadır.

Nöroetik olarak konunun yeniden gözden geçirilmesi ve ilkeleştirilmesi yukarıdaki kapsam altında gerekli olmadığı anlaşılacaktır. Ancak, olayın özetlenmesi açısından ilkelere toparlamanın mümkün olabileceği varsayılmaktadır.

Her bir yaklaşımda belirli esasların oluşturulması önceliklidir. Bir konu ele alınırken, o konuda bilgi sorgulaması öncesinde, belirli bir planın yapılması gerekir. Planlama olmadan rastgele alınan bilgiler, belirli bir bilgi kirliliğine neden olabilecektir. Birbiri ile çelişen durumlar ve bilgileri çözmek imkansızlaştığı gibi, belirli sorunlara da neden olabilecektir. Bu açıdan nöroetik kavramı üzerinde değinilmeden önce, bu konuda temel yaklaşımlar, belirli bir felsefe içinde ele alınmasını gerekli kılmaktadır.

Öncelikle konuyu ele alma biçimi, olayı yorumlama ve algılama düzeyi ortaya konulmalıdır. Bu amaçla nöroetik konusunda bir genel yaklaşım esasları oluşturulmaya çalışılmıştır.

Aşağıda bir ilkeleme çalışması görülecektir.

## Nöroetik Prensipier/İlkeler

### TANIMLAMALAR

#### Etik

Tıp Bilimi temelde insanı birey olarak ele almakta ve onun haklarının öncelikli olduğu ve otonomisinin her türlü durumda korunmasının hukuksal açıdan da ilke olarak ele alınması gerektiğinin bilincindedir.

Birey, insan olmanın gerektiği modelinde, ruhsal, sosyal ve kültürel anlamda da toplumsal bir kişiliği olduğunun kavramı olarak da algılanmalıdır.

Hekimlik mesleği, bireyin özerkliği ve kendi haklarını belirleme çerçevesinde, tıp biliminin uygulanması yanında sanatsal ve felsefe bilimler anlamında da bir bütünlüğü gerekli kılmaktadır. Tüm diğer özellikler hukuksal esaslar yanında etik ilkeler boyutunda da olmalıdır.

Etik, değer kavramında olanları, bir ahlak felsefesi kapsamında irdeleyerek, “doğru nedir” ve “ne yapmalıyım” sorularını sorgulamaktadır. Yargısal anlamda olmayıp, danışmanlık, yol gösterici ve ilkeleşmeye yönelik yaklaşımlarda bulunmaktadır. Felsefe Biliminden temel alan ve onun bir alt dalı olan etik bilim dalı, hukuksal gerekçelendirmenin ötesinde, bilimsel sorgulamayı gerekli kılmakta ve kalıplara dayalı olmayıp, çeşitli yol gösterici ilkeleşme temelli yaklaşımı öngörmektedir. Etik, insanın en değerli olduğu varsayımı ile beyinsel işlemlerde (nöroetik) özel bir önem taşır.

İnsanın yapısının bir tutum ve davranışları ile bir kişilik oluşturduğu ve bunun tek ve yalın bir özerk yapıda olduğu ve bir örneğinin olmaması yanında, en yüce varlığının da yaşama hakkı, hürriyeti ve güvenliği üzerinde olduğu bilincinde olarak, nöroetik kavramı üzerinde durulmalıdır.

İnsanı insan yapan unsurun, akli ve bu temeldeki kişiliğinin ortaya konulduğu tutum ve davranışlar olduğu dikkate alınarak, tüm bu işlevler için, etkin ve doğru bir beyinsel işlevin gerekli olduğu ortadadır. İnsanın gelişiminin bir süreç olması yanında, eğitim ve deneyimlerinin gelişimindeki katkısı önemsenmelidir. Nöroetik tüm bu boyutları da kapsamı içine almalı ve değerlendirmelidir.

## İlke

Etik ilkelerin oluşturulmasının amacı, ilkeleşmenin bir kural ve kalıp olmanın ötesinde olduğunu vurgulamaktır. Felsefede bütün nedenler zincirinin zorunlu başlangıcı olan ilke, Yunancada, **arkhe** (başlangıç, ilk) terimi ile dile getirdiği bir kavramdır. Sözlük anlamı olarak **ilke**, “ilk madde, öge, temel fikir, temel bilgi, her türlü münakaşanın dışında sayılan öncül davranış kuralı” olarak tanımlanabildiği gibi, bilgi etkinliğini de olanaklı kılar.

## Yaşam sürecindeki devinimler/Eğitim

İnsan doğumundan itibaren, ölümüne kadar bir değişim, devinim geçirmektedir. Bunun sosyal, kültürel ve maddi olanakları ötesinde, ilk planda, temelde bir gelişimsel boyut olması ve eğitsel anlamda gerçekleşmesi beklenir. Tüm bunlar içinde beyinsel işlevlerin yerinde olması gerekir.

Tıbbi yaklaşımlarda olduğu gibi, nöroetik kapsamda da, bir insanın becerileri ve tüm bedensel, ruhsal ve sosyo-kültürel temeldeki kişisel gelişimi, doping gibi etik dışı yaklaşımlarla değil, ancak eğitsel yaklaşımlarla, gelişim amaçlı olarak yapılabilir. Bunun tek yapıma yöntemi eğitimidir. Bu açıdan eğitim üzerinde daha geniş anlamda durulacaktır.

Uluslar arası tanımlama (Çocuk Hakları Sözleşmesi) ile eğitimin amacının\*;

- a) Eğitim alanının kişiliğinin, yeteneklerinin, zihinsel ve bedensel yeteneklerinin mümkün olduğunca geliştirilmesi;
- b) İnsan haklarına ve temel özgürlüklere, Birleşmiş Milletler Antlaşmasında benimsenen ilkelere saygısının geliştirilmesi;

- c) *Eğitim alanının ana-babasına, kültürel kimliğine, dil ve değerlerine, Eğitim alanının yaşadığı veya geldiği menşe ülkenin ulusal değerlerine ve kendisinininkinden farklı uygarlıklara saygısının geliştirilmesi;*
- d) *Eğitim alanının, anlayışı, barış, hoşgörü, cinsler arası eşitlik ve ister etnik, ister ulusal, ister dini gruplardan, isterse yerli halktan olsun, tüm insanlar arasında dostluk ruhuyla, özgür bir toplumda, yaşantıyı, sorumlulukla üstlenecek şekilde hazırlanması;*
- e) *Doğal çevreye saygısının geliştirilmesi şeklinde olmasını öngörülür.*
- f) *DTB Güney Afrika Bildirgesi de hastaneye yatırılan bireylerin eğitime devam edebilmesi konusuna vurgu yapar.*

\*Not: Çocuk yerine eğitim alan terminolojisi benimsenmiştir.

Eğitimin amacı T.C. Anayasası'nın 42. Maddesinde "Kimse, eğitim ve öğrenim hakkından yoksun bırakılamaz" şeklinde ifadesini bulmakta ve 130. Madde de "Milletin ve ülkenin ihtiyaçlarına uygun insan gücü yetiştirmek amacı ile" yaklaşımıyla M. Kemal Atatürk'ün belirttiği "muasır medeniyet ötesi" hedefi vurgulanmaktadır. Kısaca, eğitim amacı geleceğin bireyini yetiştirmek olarak ifade edilebilir. 1988 Edinburg Dünya Konferansında belirtilen "Öğrenmenin hayat boyu devamlı olduğu gerçeği ile bireyler pasif öğrenmeden, aktif öğrenmeye kadar, kendini yönlendirebilen, bağımsız ve eşgüdüm çalışma metotlarını almalıdırlar. Konu ve sınavları mesleki yeterlilik ve sosyal değerler üzerine olmalı, bilginin birikimi ve çağırılması üzerine olmamalıdırlar" prensipleri de açıkça metotları ortaya koymaktadır.

## Kültür ve Medeniyet

Kültür, bireylerin toplumda paylaştıkları her şeyi kapsayan karakterler olup, genetik olarak geçmeyen, öğrenilerek kazanılan faktörlerdir. Sosyal Antropoloji Bilimi temelde kültürü inceleyerek; aile, kaynaklar, çevre, din/devlet, insan ve eğitimi, sanat ve teknolojisini belirli gruplandırmalar içinde irdeler. Britannica Ansiklopedisinde ise kültürel parametreler; sosyal organizasyonlar, ekonomik sistemler (çevresel etkileşimler ile birlikte), eğitim, inanışlar, din, gelenek ve yasal yapı olarak tanımlanmaktadır. Kültürleme (enculturation = eğitim/sosyalizasyon) ve kültürlenme (culturation = etkileşim sonunda yeni yapılanma) tanımlarının temelde eğitimle sağlanabildiği gözlenmektedir.

Kültürel değişimler belirli teknolojik devrimsel boyutlarla etkileşerek oluşmakta, bu değişim doğal olgu olması yanında sürekli ve önüne geçilemez nitelik taşımaktadır. Avcılık ve toplayıcılık kültüründen, tarım ve hayvancılığa, endüstri devriminden bilişim çağı veya küreselleşmeye doğru bir süreç yaşanmaktadır. İnsanlar geçmişe değil, geleceğe, etik ve nöroetik gibi, geleceğin yapılanmasına ve kültürüne göre yetiştirilmelidir.

Canlıların yaşam süresi sınırlıdır. Varlığın devamlılığı, özellikle hayvanlarda yeni nesle genetik karakterlerin aktarılması türündedir. İnsanlarda ise bunun ötesinde, temelde kültürel gelişmeyi sağlayacak nesil oluşturmaktır. Bunun için en önemli unsurlar insan, sahip olduğu beyin ve beynsel işlevleridir. Gelişim, mevcut kültürel yapının ötesinde, gelişimsel yapıyı hedefleyerek, eğitimle olmalıdır. Tıbbi gereksinimler dışında, bireyin özellikle beynsel gelişimi, ilaç ve uyarıcı (veya

baskılayıcı) gibi etmenlerle değil, eğitimle sağlanmalıdır. Nöroetik kavramında, diğer yaklaşımlar etiksel açıdan tartışmalı kabul edilmelidir.

Medeniyetin oluşması ve geliştirilmesinde en önemli ve tartışılmaz ve ölçülemeyecek boyuttaki değerler eğitilmiş ve uzmanlaşmış insan olduğudur. Değişimin değerle birlikte tanımlanmasında, değerlerin ilkeleşmesinde olumlu yönde rol oynayan etiksel irdelemedir ve nöroetik ilkeleri de bu kapsamda ele alınmalıdır. Nöroetik bu anlamda giderek gelişecek bir etik dalı olarak görülmelidir.

Geleceğin yapılması açısından bilişim çağına uygun bir eğitim, bireyin yaşamsal boyutu yanında toplumsal bir varlık olması açısından da mutlak gereklilik taşımaktadır. Bu gereklilik gelişim ve gelişim üzerine olmalıdır. Tüm bunlar için, etkin ve doğrusal bir beyinsel işleme gereksinim olduğu ortadadır.

## GENEL BAKIŞ

Bir insanın temel anlamda koruma ve gözetilmesinin ötesinde, kendi otonomisi ile kendini geliştirmesi ve kişilik boyutunun özerk ve bağımsız, bağlantısız olarak sürdürülebilmesi amaçlanmalıdır. Sevgi ve saygı temelinde yaşam kalitesi ve yaşam mutluluğu kazanımı, sürdürülebilirliği, gelişimi ve sonlanması sağlanması açısından üstün çaba sarf edilmelidir.

Başlıca İNSAN OLARAK öngörülen yaklaşımlar:

1. **BEDENSEL:** Medikal uygulamalarda amaçlananlar, doping gibi uyarıcılar veya etik olmayan amaçlarla bedenin geliştirilmesini, değiştirilmesini kapsamaz ve gelişimin temel fizyolojik yapının desteklenmesi olduğu temelinden ödün verilemez.
2. **RUHSAL:** Hiçbir ruhsal yaklaşımın, tıbbi girişimler dâhil, bireyin kişilik özelliklerini yok saymaya veya değiştirmeye yönelmesi kabul edilemez. Medikal anlamda amaçlananlar bozulan ruhsal yapının normalleştirilmesi anlamında ele alınmalıdır. Gelişim, olumlu bir yöndeki gelişim şeklinde ele alınmalıdır.
3. **SOSYAL:** Kültürel yapının bir kalıp ve değiştirilemezliği yerine, geliştirilebilir nitelikte olduğu ve hiçbir şekilde kişilik yapısını zedeleyecek bir şekilde ele alınmasını bile haklı gösteremez. Bu yapı daha sonradan kazanıldığı gibi, değişiminin olası olduğu dikkate alınmalıdır. Tüm değişimler ancak gelişim boyutunda olduğunda kabul görebilir.

Başlıca KİŞİLİK OLARAK başlıca öngörülen yaklaşımlar:

1. Tutum ve davranışları ile toplumsal yeri
2. Duyguları, inanışları, yaşam tarzı ile kendi içsel yapısı,
3. Yaşamı ve yaşam süreci (Büyüme, Gelişme katılarak)
4. Aldığı/verdiği eğitsel yaklaşımları

5. Görüşleri, değerlendirmeleri, edebi ve sanatsal yaklaşımları
6. Eserleri, yayınları, çabaları
7. Düşünce veya felsefi yapısı

## NÖROETİK

NÖROETİK birçok bilim dalının ortak sorumluluğunda paylaşılan bir daldır. Deontoloji uzmanları (etik) ile Nöroloji, Beyin Cerrahisi, Radyoloji, Nörolojik Bilim ile uğraşanlar ve hekimlerin tümü nöroetik konularını irdelemek için etik kurul oluşturmaları ve hasta veya ilgili durum ve konuları irdelemelidirler. Bu unsurların etkin ve işlevsel olabilmesi açısından, bireyin beyinsel işlevlerinin her anlamda sağlıklı olması, sağlığının korunması veya yaşam kalitesinin yükseltilmesi ve desteklenmesi konularında çaba sarf etmeyi amaç edinmelidirler.

Nöroetik tüm bu yaklaşımların ayrı bilim dalı yapılanması içinde olduğunu dikkate alarak, insanı her unsurları ile birlikte temel çekirdek (süje) olarak ele almakta ve farklı disiplinlerin aynı bireyde bütünleşmesi, işbirliği ve eşgüdüm çalışması açısından etiksel birlikteliği sağlamayı hedeflemelidir.

Birey için tüm yaklaşımlarda etik felsefeler ışığında aydınlatma ve onam alınmalı ve deontolojik ilkeler temelinde bütünleşmeyi sağlamalıdır. Güven, sadakat ve sır saklama temelinde, öncelikle zararımızın dokunmaması yaklaşımı ile yararlı olma, özerkliğe saygı ile adalet olmalıdır.

Etik yaklaşımlar bireyin öncelikle hakkıdır ve insana hiçbir etiksel olmayan yaklaşım öngörülemez ve yapılması durumunda hukuksal ve etiksel olarak bireyin savunması en güçlü şekilde yapılmalıdır.

## DAYANAK ALINAN BAŞLICA BİLDİRGE ve SÖZLEŞMELER

- İnsan Haklarının Evrensel Bildirgesi ([Universal Declaration of Human Rights](#); WHO), 10 Aralık 1948
- Avrupa İnsan Hakları ve Temel Özgürlüğün Koruma Sözleşmesi ([European Convention for the Protection of Human Rights and Fundamental Freedoms](#)); 4 Kasım 1950, ve ek 11 protokolü, Eylül 1953
- Avrupa Sosyal Anlaşma (European Social Agreement), Ekim 1961, 19 Aralık 1966, 23 Mart 1976 Sivil ve Politik Hakların Uluslararası Sözleşmesi (The International Covenant on Civil and Political Rights and its Optional Protocols)
- Çocuk Hakları Sözleşmesi (Child Rights, WHO General Assembly, Kasım 1989)
- HASTANEYE YATIRILAN HASTA ÇOCUK HAKLARI (Dünya Tabipler Birliği Güney Afrika Bildirgesi, 22 Ekim 1996)
- Madrid Psikiyatri Uygulama Bildirgesi (Madrid Declaration on Ethical Standards for Psychiatric Practice; 25 Ağustos 1996, Almanya 8 Ağustos 1999, Yokohama, Japonya 26 Ağustos 2002 ve 12 Eylül 2005 Kahire (Mısır)
- Helsinki Bildirgesi ve son 2008 Seul yazımı (Helsinki Declaration, 2008 Seul)
- Meslek Etik Prensiplere genel anlamda kabul gerekir.

# Principles of Neuroethics

(Ethical Committee of Eskisehir Osmangazi University  
Medical Faculty & Biophysics Department)

*Authors: M.A. Akşit, F. Esen, Ö. Elçioğlu*

*Ethical Committee Members: D. Özbabalık, B. Yaşar, Ö. Çolak, S. Işıksoy, F.S.*

*Kılıç, Ö. Altuğ (© M.A. Akşit, Ö. Elçioğlu)*

Approved by the Ethical Committee of the Medical Faculty of Eskisehir Osmangazi University, dated; May 29, 2009 (?)

## DEFINITIONS

### **Ethics**

Medical science mainly concerns the person as individual, and physicians are also aware for the civil privilege (liberties) and her/his autonomy must be solely considered from all other aspects, in collaboration of art and philosophical science, and ethics, and these prime factors are also a code of legal and or ethical concepts.

The concept must be perceived that, each individual is a model of human mankind, and also its physiological; mental and spiritual aspects, and social and cultural personality at the community is unique.

Ethics, which regard as the worth of values (philosophy of moral), and addresses the questions, "what is right" and "what we ought to do" in particular conditions and state of affairs. Ethical concepts are guiding principles, consultant advisers under the moral principles and not an implicational order as a legal court array. Ethics, which has roots in philosophy, beyond the legal reasoning, requires the scientific inquiring, and not depending on the strict moral regulations, obligatory rules, they are guiding the way of performance and principles to follow. Ethics, considered the human being as the inevitably most precious worth, Neuroethics have a special value in ethics, as Neuroethics focuses on the brain.

Neuroethics concept must be rooted on principles as; the structure of an individual is constructed by his/her unique attitudes and behaviors and by self determination concept, individually solitary pattern, and the most precious value is, the right to life, liberty and security of person.

The effective and righteous neuronal function is required for the mental health, intelligence, forming the personal specifications, attitudes, behaviors. The evolution and the development of a person is a lifetime procedure, the contribution of education and experience contribute them. Neuroethics must evaluate the person and the brain, with all those dimensions.

### **Principles**

The purpose to assemble the ethical principles, they are beyond of the strict rule or patterns; they are entire obligatory reasoning bond of philosophical aspects, from the ancient. In Greek, the term "arkhe", implication as "primarily, the first" and its meaning is "the main concept". As a dictionary meaning (Encyclopedia Britannica); "a comprehensive and

fundamental doctrine, or assumption, a primary source, with respect to fundamentals” and it also permits for knowledge efficiency.

### ***Education; the evolitional process (actions for enculturation)***

Human being is in evaluation from birth to death. This development is ahead of the social, cultural and physical, materialistic factors. First this development must be in positive evolutionary and confirm by the education. For all those increments, brain functions must be healthy and in proper mode.

The only acceptable approach, as in medical procedures, and also at the Neuroethics, the developing of the personal aspects; physical, physiological, social, and cultural ones (and also others), must be only on educational purposes, not non ethical conducts, as in doping and stimulation methods. For the concept of Neuroethics, ethical principles on education must be evaluated.

International aim of the education is noted at the Child Rights (Article 29), as;

- (a) The development of the trainee's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the trainee's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the trainee for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.
- (f) In addition of the above “Child Rights”, the educational process must be continuing even at the treatment due to Sought African Declaration of WHO.

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The word “trainee” is used in place of “child”.

At the Constitution of Turkish Republic, (Article 42), “No one divestment from the education and training rights”, and at the High Education Law (No’s 2547, Article 130); “The purpose of the education is for requirements of people and nation” is dedicated to the Atatürk’s indications “educational purpose must be beyond the current civilization”. For the new coming generations, the purpose and the principles of the educational methods are, as indicated at the Edinburg, in 1988, “Under the reality of the education is life long process, from the passive learning to active, self learning, self determination, independent learning, and collaborative studies must be considered. The educational subjects and examinations must be on efficiency of the profession and social values, not on the cumulating and recalling of the knowledge”.

### ***Culture and Civilization***

Culture, is the all parameters and characteristics that the individual share at the community, that will not genetically passed, but gained by education and training, from lifelong. For social anthropological concept, culture structures are; Family, cultural sources, environmental aspects, administration, custom, legal system, arts, technology, religion/beliefs and personal attitudes and behaviors. Due to Encyclopedia Britannica cultural aspects are; Social Organizations, Economic systems (& environmental effects), Education, Religion and beliefs,

Custom and law. The only acceptable developing of culture is on the educational ways of enculturation and cultururation.

Cultural phases are changes due to the technological evolutional phases and this process is continuous and ineluctable. From cultural gathering period to agriculture, industrial period to globalization of the word is the continuing process. The individual must be educated not for the past cultural parameters, but for the future concepts, as ethics and Neuroethics.

Life is lasting for a period of time, the continuing of the individuality parameters in the animals are on genetically to the new generations. In the human being, the continuing of the existence is on cultural perspectives, the civilization by the generations. Therefore the ultimate importance based on the individual and his/her brain and neuronal functions. Evolution of a person and his/her brain functions', other than medical requirements, beyond the cultural structure, therefore, aim to developmental perspectives, not by drugs or other stimulants (or inhibitors), only by education. Under the Neuroethics concept, other procedures are arguments, and they are not fitted to ethical conducts.

Un-doubly and inevitably, the sole factor and value is the educated and professionally trained individual, for the establishing and remaking of the civilization. Evolution must be describe by ethical principles, the values and moral philosophy features have to assessed under ethical perspectives, as the Neuroethics codes. The advance of the Neuroethics seems to be under these parameters.

For the new creation of the future, enculturation by the education at the globalization period, the individual as a unique formation, is the sole factor for requirement of this socio-cultural process. This evolution must be on progress and development. For all those course of actions, effective, righteous and healthy brain functions are compulsory.

## GENERAL CONSIDERATIONS

The general medical considerations for the individuals, further than healing; protection and guarding the health, evolution of personal aspects by his/her autonomy, the personality must be persuade by self determination. On the respect and affection on love, the ultimate effort must be performed for quality of life, felicity and glory of living, and developing, continuation, evolution and even ending the life.

Approach a person, as a human being mainly as;

1. **PHYSICAL ASPECT:** Medical approaches will not consider developing, changing and disturbing the body structure and functions, by unethical purposes and reasoning, like giving doping and other stimulants, the growth and development can only be acceptable by physiological and other medical manner. There will be no medical and ethical compensation or compromise.
2. **PHYSIOLOGICAL ASPECT:** No procedures even the medical applications and therapy will not aim to change or to omit the personality of the individual. Medical considerations must be for health and taking care purposes, and normalization of the physiological condition. Therapy must be for healing and positively progression or increasing the life quality.
3. **SOCIAL AND CULTURAL ASPECT:** The social and cultural characteristics will not be regard as constrict structures, they must deem as developmental or evolutionary ones, and nothing can disturb or diminished the personality and cognitive of the individual. These factors are gained features, and alterations can be possible. All changing factors can be accepted when they are evolutionary.



The prescience of the personal identification must be taken as a complex globe, mainly as:

1. The status in the family, community; attitudes, behaviors etc
2. The attitudes that will only concerns for himself/herself; emotions, feelings, sensations, the way of life, beliefs and initiatives etc
3. Life and the way of living (including the growth and the development)
4. Lifelong enculturation process (education); as a trainee and trainer
5. Personal ideas, evaluations, esthetical and literary concepts
6. Creations; structural (handiwork, construction, architecture etc), art (drawing, painting etc), publication (book, article etc), etc
7. Thoughts and/or philosophical aspects

## NEUROETHICS

Neuroethics responsibilities are shared by multi centric scientific departments; professions on ethics (bio-ethics) and deontology, neurology, neurosurgery, radiology, neurosciences and physicians. All departments must collaborate under the ethical committee concepts for the conditions, situations etc, of the persons or patients. For their effectiveness and functional, the main aim on Neuroethics are; on the basis of the unique person's rights on brain functions at every aspects; keep him or her healthy and also guarding the health, and increasing and protection of quality of life.

Neuroethics accepts all the sections divide attitudes and applications, but all of them must merge under the solitary condition (or patient), by cooperation and collaborations under medical science and especially by ethical coordination.

Under the ethical principles, informed consent must require for all procedures, and combine with the deontological principles; on the foundation of trust, confidence, fidelity, primum non nocere, utility, respect to autonomy and justice.

All rights, especially the ethical rights are primarily for serving the person. Non ethical applications will not permit and under such invulnerable conditions, Neuroethics concept must urge the members to be an advocate of the individual, for rights by the most potential legal and ethical means.

## Relevant Statements of other International Organizations

- [\[2\] Universal Declaration of Human Rights](#); WHO, in 10th December 1948
- [\[2\] European Convention for the Protection of Human Rights and Fundamental Freedoms](#) ; 4 November 1950, with its 11 additional protocols, on September, 1953
- [\[2\] European Social Agreement](#), in October 1961
- [\[2\] 19 December 1966](#), and entered into force on 23 March 1976, The International Covenant on Civil and Political Rights and its Optional Protocols.
- [\[2\] Child Rights](#), WHO General Assembly, November 1989, action in September 1990
- [\[2\] WHO Sought Africa Declaration](#), October, 22 1996
- [\[2\] Madrid Declaration on Ethical Standards for Psychiatric Practice](#); August 25, 1996, in Hamburg, Germany, on August 8, 1999, 2002 Yokohama, Japan, and 2005 Cairo, Egypt
- [\[2\] Helsinki Declaration](#), 2000 Edinburg version, 2002 Washington, 2004 Tokyo and 2008 Seoul additions
- [\[2\] All other professional ethical codes must be accepted as general aspects](#)

## 2017-2018 Güncellemesi

## 1) TIBBİ DEONTOLOJİ TÜZÜĞÜ

Son Güncelleme: Çarşamba, 12 Ocak 2005 12:50 Çarşamba, 12 Ocak 2005 12:50

TIBBİ DEONTOLOJİ TÜZÜĞÜ

Yürürlüğe Koyan Bakanlar Kurulu Kararnamesi: No.4/12578 - 13 Ocak 1960

(Resmi Gazete ile neşir ve ilânı: 19 Şubat 1960 - Sayı: 10436)

3.t. Düstur, c.41 - s.164

MADDE 1 - Tabip ve dış tabiplerinin, deontoloji bakımından riayetle mükellef oldukları kaide ve esaslar bu Nizamnamede gösterilmiştir.

6023 sayılı Türk Tabipleri Birliği Kanununun 7 nci maddesi mucibince tabip odalarına kayıtlı bulunan tabip ve dıştabipleri, bu Nizamname hükümlerine tabidirler.

BİRİNCİ KISIM

UMUMİ KAİDE VE ESASLAR

MADDE 2 - Tabip ve dış tabibinin başta gelen vazifesi, insan sağlığına, hayatına ve şahsiyetine ihtimam ve hürmet göstermektir.

Tabip ve dış tabibi; hastanın cinsiyeti, ırkı, milliyeti, dini ve mezhebi, ahlâki düşünceleri, karakter ve şahsiyeti, içtimai seviyesi, mevkii ve siyasi kanaatı ne olursa olsun, muayene ve tedavi hususunda âzami dikkat ve ihtimamı göstermekle mükelleftir.

MADDE 3 - Tabip, vazifesi ve ihtisası ne olursa olsun, gerekli bakımın sağlanamadığı âcil vakalarda, mücbir sebep olmadıkça, ilk yardımda bulunur.

Dış tabibi de, kendi sahasında, aynı mükellefiyete tabidir.

MADDE 4 - Tabip ve dış tabibi, meslek ve sanatının icrası vesilesiyle muttali olduğu sırları, kanuni mecburiyet olmadıkça, ifşa edemez.

Tıbbi toplantılarda takdim edilen veya yayınlarda bahis konusu olan vakalarda, hastanın hüviyeti açıklanamaz.

MADDE 5 - Sağlık müesseselerinde tatbik olunan usul ve kaideler mahfuz olmak üzere, hasta; tabibini ve dış tabibini serbestçe seçer.

MADDE 6 - Tabip ve dış tabibi, sanat ve mesleğini icra ederken, hiç bir tesir ve nüfuza kapılmaksızın, vicdanî ve meslekî kanaatına göre hareket eder.

Tabip ve dış tabibi, tatbik edeceği tedaviye tâyinde serbesttir.

MADDE 7 - Tabip ve dış tabibi sanat ve mesleğinin icrası dışında dahi olsa, meslek ahlâk ve adabı ile telif edilemeyen hareketlerden kaçınır.

MADDE 8 - Tabiplik ve dış tabipliği mesleklerine ve tedavi müesseselerine, ticari bir veçhe verilemez.

Tabip ve dış tabibi, yapacağı yayınlarda tababet mesleğinin şerefini üstün tutmaya mecbur olup, ne suretle olursa olsun, yazıların da kendi reklâmını yapamaz.

Tabip ve dış tabibi, gazetelerde ve diğer neşri vasıtalarında, reklâm mahiyetinde teşekkür ilânları yazdıramaz.

MADDE 9 - Tabip ve dış tabibi, gazete ve sair neşir vasıtaları ile yapacağı ilânlarda ve reçete kâğıtlarında, ancak ad ve soyadı ile adresini, Tababet İhtisas Nizamnamesine göre kabul edilmiş olan ihtisas şubesini, akademik ünvanını ve muayene gün ve saatlarını yazabilir.

Muayenehane kapılarına veya binaların dışına asılacak tabebâların ebadı ve adedi, mahalli tabip odaları tarafından tesbit edilebilir. Tabipler ve dış tabipleri, tabip odalarının bu husustaki kararlarına riayet etmekle mükelleftirler.

Tabelâlarda en çok iki renk kullanılabilir. Işık verici vasıtalarla tabelâları süslemek yasaktır

Sayfa 1 / 5 TIBBİ DEONTOLOJİ TÜZÜĞÜ

04.08.2011 <http://www.ttb.org.tr/mevzuat/index.php?view=article&catid=4%3At&id=52%3Ati bb...>

MADDE 10 - Araştırma yapmakta olan tabip ve dış tabibi, bulduğu teşhis ve tedavi usulünü, yeter derecede tecrübe ederek faydalı olduğuna veya zararlı neticeler tevhit etmeyeceğine kanaat getirmediğçe, tatbik veya tavsiye edemez. ancak, yeter derecede tecrübe edilmemiş olan yeni bir keşfin tatbikatı sırasında alınacak tedbirler hakkında ilgililerin dikkatini celbetmek ve henüz tecrübe safhasında olduğunu ilâve etmek şartı ile, bu keşif tavsiye edebilir.

Bir keşif hakkında yalnız kanaat uyandıracak ifadeler kullanılması yasaktır.

MADDE 11 - Tecrübe maksadı ile insanlar üzerinde hiç bir cerrahi müdahale yapılamıyacağı gibi aynı maksatla kimyevî, fizikî veya biyolojik şekilde herhangi bir tedavi de tatbik edilemez.

Klâsik medotların bir hastaya fayda vermiyeceği klinik veya lâboratuvar muayeneleri neticesinde sabit olduğu takdirde daha önce, mûtat tecrübe hayvanları üzerinde kâfi derecede denenmek suretiyle faydalı tesirleri anlaşılmış olan bir tedavi usulünün tatbiki caizdir. Şu kadar ki, bu tedaviinin tatbik edilebilmesi için, hastaya faydalı olacağı ve muvaffakiyet elde edilmemesi halinde ise mûtat tedavi usullerinden daha elverişsiz bir netice alınmıyacağı muhtemel bulunması şarttır.

Evvelce tecrübe edilmiş olmamakla beraber, zarar vermesine ihtimal bulunmayan ve hastayı kurtarması kati görülen bir müdahale yapılabilir.

MADDE 12 - Tabip ve dış tabiplerinin:

A) Hastalara, herhangi bir suretle olursa olsun, haksız bir menfaat temini istihdaf eden fiil ve hareketlerde bulunanları;

B) Birbirlerine, muayene ve tedavi için hasta göndermeleri mukabilinde ücret alıp vermeleri;

C) Kendilerine hasta temini maksadiyle, eczacı, yardımcı tıbbi personel ve diğer her hangi bir şahsa tavassut ücreti ödemeleri;

D) Şahsi bir menfaat düşüncesi veya gayrimeşru bir gaye ile ilâç, tıbbi alet veya vasıtalar tavsiye etmeleri yahut sağlık müesseselerine hasta sevketmeleri veya yatırmaları;

E) Muayene ve tedavi ücretinin tesbiti ve bunun ödenmesi hususunda, üçüncü şahısların tavassutunu kabul etmeleri;

caiz değildir.

İKİNCİ KISIM

MESLEKDAŞLARIN HASTALARI İLE MÜNASEBETLERİ

MADDE 13 - Tabip ve dış tabibi, ilmî icaplara uygun olarak teşhis koyar ve gereken tedaviyi tatbik eder. Bu faaliyetlerinin mutlak surette şifa ile neticelenmemesinden dolayı, deontoloji bakımından muaheze edilemez.

Tababet prensip ve kaidelerine aykırı veya aldatıcı mahiyette teşhis ve tedavi yasaktır.

Tabip ve dış tabibi; teşhis, tedavi veya korunmak gayesi olmaksızın hastanın arzusuna uyararak veya diğer sebeplerle, akli veya bendeni mukavemetini azaltacak her hangi bir şey yapamaz.

MADDE 14 - Tabip ve dış tabibi, hastanın vaziyetinin icabettirdiği sıhhi ihtimamı gösterir. Hastanın hayatını kurtarmak ve sıhhatini korumak mümkün olmadığı takdirde dahi, ıstırabını azaltmaya veya dindirmeye çalışmakla mükelleftir.

Tabip ve dış tabibi, hastasına ümit vererek teselli eder. Hastanın maneviyatı üzerine fena tesir yapmak suretiyle hastalığın artması ihtimali bulunmadığı takdirde, teşhise göre alınması gereken tedbirlerin hastaya açıkca söylenmesi lâzımdır. Ancak, hastalığın, vahim görülen akibet ve seyrinin saklanması uygundur.

Maş'um bir pronostik hastanın kendisine çok büyük bir ihtiyatla ihsas edilebilir. Hasta tarafından, böyle bir pronostiğin ailesine açıklanmaması istenilmemiş veya açıklanacağı şahıs tâyin olunmamış ise, durum ailesine bildirilir.

MADDE 15 - Hastaya bakmak üzere bir aile nezdinde veya herhangi bir müesseseye çağrılan tabip, korunmayı da sağlamaya çalışır. Tabip hastalara ve onlarla birlikte yaşayanlara, kendilerine ve muhitlerine karşı mesuliyetlerini bildirir.

Tabib icabında, tedaviye devamı reddetmek pahasına da olsa hijyen ve korunma kaidelerine riayeti temin için gayret sarfeder.

MADDE 16 - Tabip ve dış tabibi bir kimsenin sıhhi durumu hakkında, ilmî metodları tatbik suretiyle bizzat yaptığı muayene neticesinde edindiği vicdani ve fennî kanaata ve şahsi müşahadesine göre rapor verir.

Sayfa 2 / 5TİBB İ DEONTOLOJİ TÜZÜĞÜ

04.08.2011<http://www.ttb.org.tr/mevzuat/index.php?view=article&catid=4%3At&id=52%3Ati bb...>

Hususi bir maksakta veya hatır için rapor veya herhangi bir vesika verilmez.

MADDE 17 - Tabip ve dış tabibi, hastanın hususi veya ailevi işlerine karışamaz. Ancak, hayati ehemmiyeti haiz bulunan veya sağlık bakımından zaruri görülen hallerde, mümkün olan kolaylığı ve mânevi yardımı sağlar.

MADDE 18 - Tabip ve dış tabibi, âcil yardım, resmî veya insani vazifenin ifası halleri hariç olmak üzere, mesleki veya şahsi sebeplerle hastaya bakmayı reddedebilir.

MADDE 19 - Tabip ve dış tabibi mesleki veya şahsi sebeplerle, tedaviyi bitirmeden hastasını bırakabilir. Ancak, bu gibi hallerde, diğer bir meslektaşın tedavi veya müdahalesine imkân verecek zamanı evvelden hesaplayarak hastayı vaktinde haberdar etmesi şarttır. Hastanın bırakılması halinde hayatının tehlikeye düşmesi veya sıhhatinin zarara uğraması muhtemel ise, diğer bir meslektaş temin edilmedikçe, hastayı terkedemez.

Hastayı bu suretle terkeden tabip ve dış tabibi, lüzum gördüğü veya hasta tarafından talep edildiği takdirde, tedavi zamanına ait müşahade notlarını verir.

MADDE 20 - Tabip ve dış tabibi, faydasızlığını bildiği bir ilâcı, hastaya veremez. Ancak, esaslı bir tedavi yapamaması mümkün olmayan hallerde, teselli bakımından bazı ilâçlar tavsiye edebilir.

Mali vaziyetleri müsait olmayan hastalara, mutlak zaruret olmadıkça, pahalı teselli ilâçları verilmesi caiz değildir.

Tabip ve dış tabibi, hastaya lüzumsuz veya fuzulî masraflar yaptırmıyacağı gibi faydası olmayacağına ve hastanın malî kudretinin kâfi gelmeyeceğini bildiği bir tedaviyi tavsiye edemez.

MADDE 21 - Başkalarının yardımı ile yapılacak cerrahî ameliyeler ile diğer tedavilerde, operatör, müdavi tabip ve dış tabibi, beraber çalışacağı elamanları seçmekte serbesttir.

Götürü ücret şartı müstesna olmak üzere, yardımcı tıbbi personelin ücretleri hasta tarafından ödenir. Hasta tarafından çağrılmamış olan müdavi tabip veya dış tabibi, ameliyatta hazır bulunmaktan dolayı ayrıca ücret isteyemez.

Umumi, mülhak ve hususi bütçeli daireler ile belediyelere, iktisadi Devlet teşekküllerine veya bunlara bağlı müesseselere ait sağlık tesislerinde olan usul ve esaslar mahfuzdur.

MADDE 22 - Ananın hayatını kurtarmak için yeğâne çare teşkil ettiği takdirde, avortman yapılması caizdir. Ciddi bir tehlikede bulunan ananın hayatı, cerrahi müdahaleyi veya gebeliğe son verebilecek bir tedaviyi zaruri kılıyorsa, hastalığın taallûk ettiği tıp şubesinde mütehasıs iki tabibin ve bu iki mütehasıs temin edilemediği takdirde iki tabibin objektif ve katî delillere dayanan raporları alınmadıkça bu müdahale veya tedavi yapılamaz. Bu raporların aslı müdahaleyi veya tedaviyi yapan tabib tarafından mühafaza olunur ve kendisi tarafından tasdikli ve hastanın ismini ihtiva edmeyen bir örneği, mensup olduğu tabip odasına taahhütlü olarak gönderilir.

Raporun tasdik şerhinde, avortmanın yapıldığı tarih ve mahal gösterilir. Ağır ve âcil vakalarda, yukarıki fıkra mucibince tabip raporu alınması mümkün olmadığı takdirde, tabib re'sen hareket eder ve keyfiyeti derhal taahhütlü bir mektupla mensup olduğu tabip odasına bildirir.

Avortmanlarda, hastanın ve varsa veli veya vasisinin yazılı olarak muvafakatının alınması şarttır.

Bu nizamnamenin yirmi birinci maddesinde yazılı sağlık tesislerinde yapılacak avortmanlarda, bu tesislerde cari olan usul ve esaslar mahfuzdur.

MADDE 23 - Güç doğumlarda tabip, anayı ve çocuğu kurtarmaya gayret eder.

Bu gibi hallerde tabip, ailevî, mülâhazaralar vesair tesirlere kapılmaksızın, ilmin ve fennin icaplarını yerine getirir.

MADDE 24 - Hasta, konsültasyon yapılmasını arzu ederse, müdavi tabip veya dış tabibi bu talebi kabul eder.

Müdavi tabip veya dış tabibi, konsültasyon yapılmasına lüzum gördüğü takdirde, keyfiyeti hastaya bildirir. Bu teklifin kabul edilmemesi halinde, müdavi tabip veya dış tabibi, hastasını bırakabilir.

Bu Nizamnamenin yirmi birinci maddesinde yazılı sağlık tesislerinde, konsültasyonun hangi hallerde ve ne suretle yapılacağı, hastahaneler talimatnamelerinde gösterilir.

Sayfa 3 / 5TİBB İ DEONTOLOJİ TÜZÜĞÜ

04.08.2011<http://www.ttb.org.tr/mevzuat/index.php?view=article&catid=4%3At&id=52%3Ati bb...>

MADDE 25 - Konsültasyonlarda münakaşa ve müşavareler hasta ile etrafındakilerin duyup anlayamayacakları şekilde yapılır.

Münakaşa ve müşavare esnasında, meslek vekarının mühafaza edilmesine dikkat olunur.

Konsültasyona iştirak eden tabip veya dış tabibinin, bir meslektaşı himaye maksadı ile veya başka bir hissi sebeple, lüzumsuz medihlerden kaçınarak kanaatını açıkça söylemesi lâzımdır.

MADDE 26 - Konsültasyonda varılan neticeler, bir konsültasyon zaptı ile tespit ve bu zabıt müştereken imza olunur.

Konsültasyon neticesi, ayrıca en yaşlı tabip veya dış tabibi tarafından hastaya bildirilir. Netice bildirilirken hastanın veya yakınlarının maneviyatını bozacak veya kendilerini tereddüt ve şüpheye düşürecek müphem ve imalı sözler sarfedilmesi caiz değildir.

MADDE 27 - Konsültan tabip veya dış tabibi, yapılan tedaviyi uygun görmediği takdirde, kanaatını konsültasyon zaptına yazmakla iktifa eder. Yapılan tedaviye müdahalede bulunamaz.

MADDE 28 - Konsültan tabip veya dış tabibi ile müdavi tabibin kanaatları arasında aykırılık hasıl olur ve hasta, konsültan tabip veya dış tabibin kanaatını tercih eder ise, müdavi tabip kendi görüşünde ısrar ettiği takdirde hastayı terkedebilir.

MADDE 29 - Konsültan tabip veya dış tabibi hastanın ısrarlı talebi olmadıkça hastayı tedavi edemez. Konsültan tabip veya dış tabibin konsültasyonu icabettirmiş olan hastalığın devamı müddetince, müdavi tabibin muvafakatı olmadan, hastanın yanına aynı hastalık için mesleki bir maksatla sonradan girmesi caizdir.

MADDE 30 - Yapılan konsültasyonda her tabip veya dış tabibi, ücretini ayrı ayrı alır. Ücretin bir elden alınarak taksimi caiz değildir.

Konsültasyon, müdavi tabibe, konsültan tabip veya dış tabibi gibi, ücret almak hakkını verir.

MADDE 31 - Asgari ücret tarifesi tatbik olunan yerlerde tabip veya dış tabibi rekabet veya propaganda maksadı ile, tarifede yazılı asgari miktardan aşağı ücret kabul edemez.

MADDE 32 - Tabip ve dış tabibinin kendi meslekdaşları ile bunların bakmakla mükellef oldukları usul ve furuunun ve karı ve kocalarının muayene ve tedavileri için ücret almaması uygundur. Bu hallerde, zaruri masraflarını isteyebilir.

MADDE 33 - Her çeşit cerrahi müdahale, doğum, fizikoterapi, radyoterapi, dış tababeti tedavileri ve tabibin sıkı nezaretini gerektiren sürekli kürler için hastalardan maktu bir ücret istenebilir.

Bir kür evinde veya bakım ve tedavi müessesinde, tedavi için maktu bir ücret alınabilir.

Diğer hallerde maktu ücretle hasta tedavisi yapılamaz.

Bu Nizamnamenin yirmi birinci maddesinde yazılı sağlık tesislerinde cari olan usul ve esaslar mahfuzdur.

MADDE 34 - Götürü ücreti alınması caiz olan hallerde, tedavi tamamlanmadan herhangi bir sebeple bırakılırsa, müdavi tabip o zamana kadar sarfettiği mesai ile masraflarına tekabül eden ücreti alır ve peşin ücret almış ise bakiyesini iade eder.

MADDE 35 - Acil vakalarda müdahale eden tabip veya dış tabibi, bu müdahaleden dolayı, ücretini sonradan isteyebilir.

MADDE 36 - Bu Nizamnamenin yirmi birinci maddesinde yazılı sağlık tesislerinde çalışan tabip ve dış tabibi, bu daire ve müesseselere ait sağlık kurullarına başvurmuş olan hastaları muayenehane veya lâboratuvarına celbederek ücretle tedavi edemez.

#### ÜÇÜNCÜ KISIM

##### MESLEKTAŞLARIN BİRBİRİ İLE VE PARAMEDİKAL

##### MESLEK MENSUPLARI İLE MÜNASEBETLERİ

MADDE 37 - Tabip ve dış tabipleri, kendi aralarında iyi meslektaşlık münasebetlerini idame ettirmeli ve mânevi bakımından birbirine yardım etmelidirler. Meslekle ilgili anlaşmazlıklarını, evvelâ kendi aralarında halletmeğe çalışmalı ve bunda muvaffak olamadıkları takdirde mensup oldukları tabip odalarına haber vermelidirler.

MADDE 38 - Tabip ve dış tabibi meslektaşlarını zemmedemeyeceği gibi onları küçük düşürecek diğer tavır ve hareketlerde de bulunamaz.

Tabip ve dış tabibi, herhangi bir şahsın haysiyet kırıcı hücumlarına karşı meslektaşlarını korur.

Sayfa 4 / 5TİBB İ DEONTOLOJİ TÜZÜĞÜ

04.08.2011<http://www.ttb.org.tr/mevzuat/index.php?view=article&catid=4%3At&id=52%3Ati%3Abb...>

MADDE 39 - Tabip ve dış tabibi meslektaşlarının hastalarını elde etmeğe mâtufluk hareket ve teşebbüslerde bulunamaz.

MADDE 40 - Tabip ve dış tabibi, paramedikal meslek mensupları ile mesleki münasebetlerinde, onların bağımsızlığını ihlâl etmemeli, kendilerine nazaket göstermeli, onları hastalarına karşı müşkül bir duruma koyabilecek hareketlerden sakınmalıdır.

#### DÖRDÜNCÜ KISIM

##### ÇEŞİTLİ HÜKÜMLER

MADDE 41 - Tabip odaları her yıl Ocak ayı başında, odalarda kayıtlı bulunan tabip ve dış tabiplerinin ad ve soyadları ile ihtisas ve adreslerini gösteren levhayı hazırlamakla mükelleftir.

MADDE 42 - Muayenehane veya lâboratuvar açan tabip ve dış tabibi, hasta kabulüne veya lâboratuvarında faaliyete başladığı tarihten ve muayenehane veya lâboratuvarlarını kapatması veya nakletmesi halinde de, kapatma veya naklin vukuubulduğu tarihten itibaren en çok bir hafta içinde, keyfiyeti, yazılı olarak mensup olduğu tabip odasına bildirir.

MADDE 43 - Tabip ve dış tabibi, muayenehane veya lâboratuvarlarında, kendi namına diğer bir meslektaşı çalıştıramaz. Ancak, muvakkat bir müddet için bizzat bulunmadığı takdirde, diğer bir meslektaşı yerine bırakabilir. Bu müddet bir aydan fazla devam ederse, mensup olduğu tabip odasını haberdar eder.

MADDE 44 - Tabip ve dış tabipleri, bu Nizamname hükümlerine aykırı hareket ettikleri takdirde, 6023 sayılı Türk Tabipleri Birliği Kanununun 30 uncu maddesine tevkifan mensup oldukları Tabip Odaları İdare Heyetleri tarafından Haysiyet Divanına sevkedilirler.

Tabip ve dış tabiplerinin inzibati ceza ile teciye edilmeleri, haklarında ayrıca hukuki veya cezai takibat yapılmasına mâni değildir.

MUVAKKAT MADDE - Bu Nizamname hükümleri, sanatlarını icra den permili dışçiler hakkında da tatbik olunur.

MADDE 45 - 6023 sayılı Kanunun 59 uncu maddesinin (g) bendine müsteniden hazırlanmış ve Şûrayı Devletçe tetkik edilmiş olan bu Nizamname hükümleri, Resmî Gazete ile neşri tarihinden iki ay sonra yürürlüğe grier.

MADDE 46 - Bu Nizamname hükümlerini icraya, Adliye ve Sıhhat ve İçtimai Muavenet Vekilleri memurdur.

## 2) Free will (wikipedia)

**Free will** is the ability to [choose](#) between different possible courses of [action](#) unimpeded.<sup>[1][2]</sup>

Free [will](#) is closely linked to the concepts of [responsibility](#), [praise](#), [guilt](#), [sin](#) and other judgements which apply only to actions that are freely chosen. It is also connected with the concepts of [advice](#), [persuasion](#), [deliberation](#) and [prohibition](#). Traditionally, only actions that are freely willed are seen as deserving credit or blame. There are numerous different concerns about threats to the possibility of free will, varying by how exactly it is conceived, which is a matter of some debate.

Some conceive free will to be the capacity to make choices in which the outcome has not been determined by past events. [Determinism](#) suggests that only one course of events is possible, which is inconsistent with the existence of free will thus conceived. This problem has been identified in [ancient Greek philosophy](#)<sup>[3]</sup> and remains a major focus of philosophical debate. This view that conceives free will to be incompatible with determinism is called [incompatibilism](#) and encompasses both [metaphysical libertarianism](#), the claim that determinism is false and thus free will is at least possible, and [hard determinism](#), the claim that determinism is true and thus free will is not possible. It also encompasses [hard incompatibilism](#), which holds not only determinism but also its negation to be incompatible with free will and thus free will to be impossible whatever the case may be regarding determinism.

In contrast, [compatibilists](#) hold that free will *is* compatible with determinism. Some compatibilists even hold that determinism is *necessary* for free will, arguing that choice involves preference for one course of action over another, requiring a sense of *how* choices will turn out.<sup>[4][5]</sup> Compatibilists thus consider the debate between libertarians and hard determinists over free will vs determinism a [false dilemma](#).<sup>[6]</sup> Different compatibilists offer very different definitions of what "free will" even means and consequently find different types of constraints to be relevant to the issue. Classical compatibilists considered free will nothing more than freedom of action, considering one free of will simply if, *had* one counterfactually wanted to do otherwise, one *could* have done otherwise without physical impediment. Contemporary compatibilists instead identify free will as a psychological capacity, such as to direct one's behavior in a way responsive to reason, and there are still further different

conceptions of free will, each with their own concerns, sharing only the common feature of not finding the possibility of determinism a threat to the possibility of free will.<sup>[17]</sup>

#### [Western philosophy](#)[\[edit\]](#)

See also: [Free will in antiquity](#)

The underlying questions are whether we have control over our actions, and if so, what sort of control, and to what extent. These questions predate the early Greek [stoics](#) (for example, [Chrysippus](#)), and some modern philosophers lament the lack of progress over all these millennia.<sup>[8][9]</sup>

On one hand, humans have a strong sense of freedom, which leads us to believe that we have free will.<sup>[10][11]</sup> On the other hand, an intuitive feeling of free will could be mistaken.<sup>[12][13]</sup>

It is difficult to reconcile the intuitive evidence that conscious decisions are causally effective with the view that the physical world can be explained to operate perfectly by [physical law](#).<sup>[14]</sup> The conflict between intuitively felt freedom and natural law arises when either [causal closure](#) or [physical determinism](#) ([nomological determinism](#)) is asserted. With causal closure, no physical event has a cause outside the physical domain, and with physical determinism, the future is determined entirely by preceding events (cause and effect).

The puzzle of reconciling 'free will' with a deterministic universe is known as the *problem of free will* or sometimes referred to as the *dilemma of determinism*.<sup>[15]</sup> This dilemma leads to a [moral](#) dilemma as well: the question of how to assign [responsibility](#) for actions if they are caused entirely by past events.<sup>[16][17]</sup>

Compatibilists maintain that mental reality is not of itself causally effective.<sup>[18][19]</sup> Classical [compatibilists](#) have addressed the dilemma of free will by arguing that free will holds as long as we are not externally constrained or coerced.<sup>[20]</sup> Modern compatibilists make a distinction between freedom of will and freedom of *action*, that is, separating freedom of choice from the freedom to enact it.<sup>[21]</sup> Given that humans all experience a sense of free will, some modern compatibilists think it is necessary to accommodate this intuition.<sup>[22][23]</sup> Compatibilists often associate freedom of will with the ability to make rational decisions.

A different approach to the dilemma is that of [incompatibilists](#), namely, that if the world is deterministic then, our feeling that we are free to choose an action is simply an [illusion](#). [Metaphysical libertarianism](#) is the form of incompatibilism which posits that [determinism](#) is false and free will is possible (at least some people have free will).<sup>[24]</sup> This view is associated with [non-materialist](#) constructions,<sup>[12]</sup> including both traditional [dualism](#), as well as models supporting more minimal criteria; such as the ability to consciously veto an action or competing desire.<sup>[25][26]</sup> Yet even with [physical indeterminism](#), arguments have been made against libertarianism in that it is difficult to assign *Origination* (responsibility for "free" indeterministic choices).

Free will here is predominately treated with respect to [physical determinism](#) in the strict sense of [nomological determinism](#), although other forms of determinism are also relevant to free will.<sup>[27]</sup> For example, logical and [theological](#) determinism challenge metaphysical libertarianism with ideas of [destiny](#) and [fate](#), and [biological](#), [cultural](#) and [psychological](#) determinism feed the development of compatibilist models. Separate classes of [compatibilism](#) and [incompatibilism](#) may even be formed to represent these.<sup>[28]</sup>

Below are the classic arguments bearing upon the dilemma and its underpinnings.

#### [Incompatibilism](#)[\[edit\]](#)

*Main article:* [Incompatibilism](#)

Incompatibilism is the position that free will and determinism are logically incompatible, and that the major question regarding whether or not people have free will is thus whether or not their actions are determined. "Hard determinists", such as [d'Holbach](#), are those incompatibilists who accept determinism and reject free will. In contrast, "[metaphysical libertarians](#)", such as [Thomas Reid](#), [Peter van Inwagen](#), and [Robert Kane](#), are those incompatibilists who accept free will and deny determinism, holding the view that some form of indeterminism is true.<sup>[29]</sup> Another view is that of hard incompatibilists, which state that free will is incompatible with both [determinism](#) and [indeterminism](#).<sup>[30]</sup>

Traditional arguments for incompatibilism are based on an "[intuition pump](#)": if a person is like other mechanical things that are determined in their behavior such as a wind-up toy, a billiard ball, a

puppet, or a robot, then people must not have free will.<sup>[29][31]</sup> This argument has been rejected by compatibilists such as Daniel Dennett on the grounds that, even if humans have something in common with these things, it remains possible and plausible that we are different from such objects in important ways.<sup>[32]</sup>

Another argument for incompatibilism is that of the "causal chain". Incompatibilism is key to the idealist theory of free will. Most incompatibilists reject the idea that freedom of action consists simply in "voluntary" behavior. They insist, rather, that free will means that man must be the "ultimate" or "originating" cause of his actions. He must be *causa sui*, in the traditional phrase. Being responsible for one's choices is the first cause of those choices, where first cause means that there is no antecedent cause of that cause. The argument, then, is that if man has free will, then man is the ultimate cause of his actions. If determinism is true, then all of man's choices are caused by events and facts outside his control. So, if everything man does is caused by events and facts outside his control, then he cannot be the ultimate cause of his actions. Therefore, he cannot have free will.<sup>[33][34][35]</sup> This argument has also been challenged by various compatibilist philosophers.<sup>[36][37]</sup>

A third argument for incompatibilism was formulated by [Carl Ginet](#) in the 1960s and has received much attention in the modern literature. The simplified argument runs along these lines: if determinism is true, then we have no control over the events of the past that determined our present state and no control over the laws of nature. Since we can have no control over these matters, we also can have no control over the *consequences* of them. Since our present choices and acts, under determinism, are the necessary consequences of the past and the laws of nature, then we have no control over them and, hence, no free will. This is called the *consequence argument*.<sup>[38][39]</sup> Peter van Inwagen remarks that C.D. Broad had a version of the consequence argument as early as the 1930s.<sup>[40]</sup>

The difficulty of this argument for some compatibilists lies in the fact that it entails the impossibility that one could have chosen other than one has. For example, if Jane is a compatibilist and she has just sat down on the sofa, then she is committed to the claim that she could have remained standing, if she had so desired. But it [follows from](#) the consequence argument that, if Jane had remained standing, she would have either generated a contradiction, violated the laws of nature or changed the past. Hence, compatibilists are committed to the existence of "incredible abilities", according to Ginet and van Inwagen. One response to this argument is that it equivocates on the notions of abilities and necessities, or that the free will evoked to make any given choice is really an illusion and the choice had been made all along, oblivious to its "decider".<sup>[39]</sup> [David Lewis](#) suggests that compatibilists are only committed to the ability to do something otherwise if *different circumstances* had actually obtained in the past.<sup>[41]</sup>

Using *T*, *F* for "true" and "false" and ? for undecided, there are exactly nine positions regarding determinism/free will that consist of any two of these three possibilities:<sup>[42]</sup>

Galen Strawson's table<sup>[42]</sup>

	1	2	3	4	5	6	7	8	9
<b>Determinism <i>D</i></b>	T	F	T	F	T	F	?	?	?
<b>Free will <i>FW</i></b>	F	T	T	F	?	?	F	T	?

*Incompatibilism* may occupy any of the nine positions except (5), (8) or (3), which last corresponds to *soft determinism*. Position (1) is *hard determinism*, and position (2) is *libertarianism*. The position (1) of hard determinism adds to the table the contention that *D* implies *FW* is untrue, and the position (2) of libertarianism adds the contention that *FW* implies *D* is untrue. Position (9) may be called *hard incompatibilism* if one interprets ? as meaning both concepts are of dubious value. *Compatibilism* itself may occupy any of the nine positions, that is, there is no logical contradiction between determinism and free will, and either or both may be true or false in principle. However, the most common meaning attached to *compatibilism* is that some form of determinism is true and yet we have some form of free will, position (3).<sup>[43]</sup>

[Alex Rosenberg](#) makes an extrapolation of physical determinism as inferred on the macroscopic scale by the behaviour of a set of dominoes to neural activity in the brain where; "If the brain is nothing but

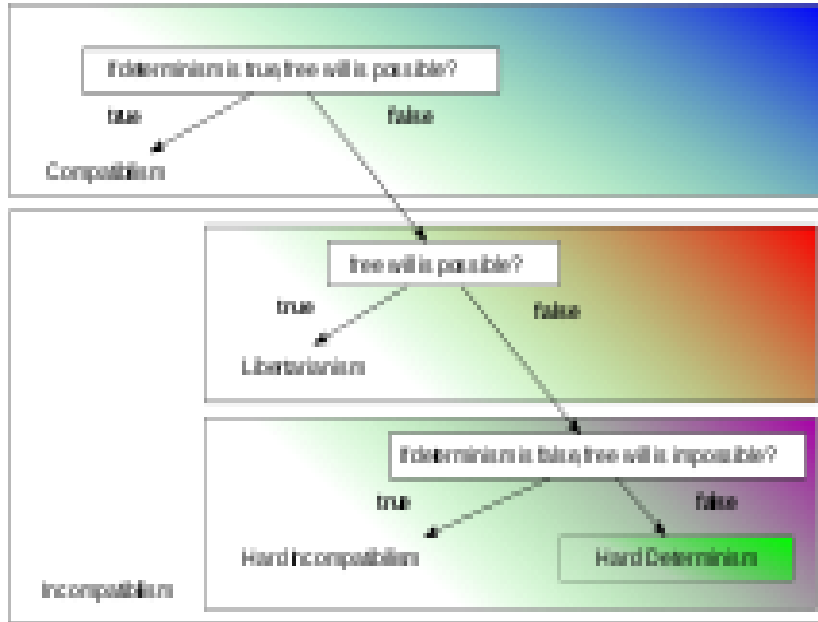


a complex physical object whose states are as much governed by physical laws as any other physical object, then what goes on in our heads is as fixed and determined by prior events as what goes on when one domino topples another in a long row of them."<sup>[44]</sup> [Physical determinism](#) is currently disputed by prominent [interpretations](#) of [quantum mechanics](#), and while not necessarily representative of intrinsic [indeterminism](#) in nature, fundamental limits of precision in measurement are inherent in the [uncertainty principle](#).<sup>[45]</sup> The relevance of such prospective indeterminate activity to free will is, however, contested,<sup>[46]</sup> even when chaos theory is introduced to magnify the effects of such microscopic events.<sup>[26][47]</sup>

Below these positions are examined in more detail.<sup>[42]</sup>

### Hard determinism[edit]

Main article: [Hard determinism](#)



A simplified [taxonomy](#) of philosophical positions regarding free will and determinism.

Determinism can be divided into causal, logical and theological determinism.<sup>[48]</sup> Corresponding to each of these different meanings, there arises a different problem for free will.<sup>[49]</sup> Hard determinism is the claim that [determinism](#) is true, and that it is [incompatible with free will](#), so free will does not exist. Although hard determinism generally refers to [nomological determinism](#) (see causal determinism below), it can include all forms of determinism that necessitate the future in its entirety.<sup>[50]</sup> Relevant forms of determinism include:

#### [Causal determinism](#)

The idea that everything is caused by prior conditions, making it impossible for anything else to happen.<sup>[51]</sup> In its most common form, [nomological \(or scientific\) determinism](#), future events are necessitated by past and present events combined with the laws of nature. Such determinism is sometimes illustrated by the [thought experiment](#) of [Laplace's demon](#). Imagine an entity that knows all facts about the past and the present, and knows all natural laws that govern the universe. If the laws of nature were determinate, then such an entity would be able to use this knowledge to foresee the future, down to the smallest detail.<sup>[52][53]</sup>

#### [Logical determinism](#)

The notion that all [propositions](#), whether about the past, present or future, are either true or false. The problem of free will, in this context, is the problem of how choices can be free, given that what one does in the future is already determined as true or false in the present.<sup>[49]</sup>

#### [Theological determinism](#)

The idea that the future is already determined, either by a [creator deity](#) decreeing or [knowing](#) its outcome in advance.<sup>[54][55]</sup> The problem of free will, in this context, is the problem of how our actions can be free if there is a being who has determined them for us in advance, or if they are already set in time.

Other forms of determinism are more relevant to compatibilism, such as [biological determinism](#), the idea that all behaviors, beliefs, and desires are fixed by our genetic endowment and our biochemical makeup, the latter of which is affected by both genes and environment, [cultural determinism](#) and [psychological determinism](#).<sup>[49]</sup> Combinations and syntheses of determinist theses, such as bio-environmental determinism, are even more common.

Suggestions have been made that hard determinism need not maintain strict determinism, where something near to, like that informally known as [adequate determinism](#), is perhaps more relevant.<sup>[27]</sup>

Despite this, hard determinism has grown less popular in present times, given scientific suggestions that determinism is false – yet the intention of their position is sustained by hard incompatibilism.<sup>[24]</sup>

### **Metaphysical libertarianism[edit]**

*Main article: [Libertarianism \(metaphysics\)](#)*

Various definitions of free will that have been proposed for Metaphysical Libertarianism (agent/substance causal,<sup>[56]</sup> centered accounts,<sup>[57]</sup> and efforts of will theory<sup>[26]</sup>), along with examples of other common free will positions (Compatibilism,<sup>[14]</sup> Hard Determinism,<sup>[58]</sup> and Hard Incompatibilism<sup>[30]</sup>). Red circles represent mental states; blue circles represent physical states; arrows describe causal interaction.

[Metaphysical libertarianism](#) is one philosophical view point under that of incompatibilism. Libertarianism holds onto a concept of free will that requires that the [agent](#) be able to take more than one possible course of action under a given set of circumstances.

Accounts of libertarianism subdivide into non-physical theories and physical or naturalistic theories. Non-physical theories hold that the events in the brain that lead to the performance of actions do not have an entirely physical explanation, which requires that the world is not closed under physics. This includes [interactionist dualism](#), which claims that some non-physical [mind](#), will, or [soul](#) overrides physical [causality](#). Physical determinism implies there is only one possible future and is therefore not compatible with libertarian free will. As consequent of incompatibilism, metaphysical libertarian explanations that do not involve dispensing with [physicalism](#) require physical indeterminism, such as probabilistic subatomic particle behavior – theory unknown to many of the early writers on free will. Incompatibilist theories can be categorised based on the type of indeterminism they require; uncaused events, non-deterministically caused events, and agent/substance-caused events.<sup>[56]</sup>

### **Non-causal theories[edit]**

Non-causal accounts of incompatibilist free will do not require a free action to be caused by either an agent or a physical event. They either rely upon a world that is not causally closed, or physical indeterminism. Non-causal accounts often claim that each intentional action requires a choice or volition – a willing, trying, or endeavoring on behalf of the agent (such as the cognitive component of lifting one's arm).<sup>[59][60]</sup> Such intentional actions are interpreted as free actions. It has been suggested, however, that such acting cannot be said to exercise control over anything in particular. According to non-causal accounts, the causation by the agent cannot be analysed in terms of causation by mental states or events, including desire, belief, intention of something in particular, but rather is considered a matter of spontaneity and creativity. The exercise of intent in such intentional actions is not that which determines their freedom – intentional actions are rather self-generating. The "actish feel" of some intentional actions do not "constitute that event's activeness, or the agent's exercise of active control", rather they "might be brought about by direct stimulation of someone's brain, in the absence of any relevant desire or intention on the part of that person".<sup>[56]</sup> Another question raised by such non-causal theory, is how an agent acts upon reason, if the said intentional actions are spontaneous.

Some non-causal explanations involve invoking [panpsychism](#), the theory that a quality of [mind](#) is associated with all particles, and pervades the entire universe, in both animate and inanimate entities.

### **Event-causal theories[edit]**

Event-causal accounts of incompatibilist free will typically rely upon physicalist models of mind (like those of the compatibilist), yet they presuppose physical indeterminism, in which certain indeterministic events are said to be caused by the agent. A number of event-causal accounts of free will have been created, referenced here as *deliberative indeterminism*, *centred accounts*, and *efforts of will theory*.<sup>[56]</sup> The first two accounts do not require free will to be a fundamental constituent of the universe. Ordinary randomness is appealed to as supplying the "elbow room" that libertarians believe necessary. A first common objection to event-causal accounts is that the indeterminism could be destructive and could therefore diminish control by the agent rather than provide it (related to the problem of origination). A second common objection to these models is that it is questionable whether such indeterminism could add any value to deliberation over that which is already present in a deterministic world.

*Deliberative indeterminism* asserts that the indeterminism is confined to an earlier stage in the decision process.<sup>[61][62]</sup> This is intended to provide an indeterminate set of possibilities to choose from, while not risking the introduction of *luck* (random decision making). The selection process is deterministic, although it may be based on earlier preferences established by the same process. Deliberative indeterminism has been referenced by [Daniel Dennett](#)<sup>[63]</sup> and [John Martin Fischer](#).<sup>[64]</sup> An obvious objection to such a view is that an agent cannot be assigned ownership over their decisions (or preferences used to make those decisions) to any greater degree than that of a compatibilist model.

*Centred accounts* propose that for any given decision between two possibilities, the strength of reason will be considered for each option, yet there is still a probability the weaker candidate will be chosen.<sup>[57][65][66][67][68][69][70]</sup> An obvious objection to such a view is that decisions are explicitly left up to chance, and origination or responsibility cannot be assigned for any given decision.

*Efforts of will theory* is related to the role of will power in decision making. It suggests that the indeterminacy of agent volition processes could map to the indeterminacy of certain physical events – and the outcomes of these events could therefore be considered caused by the agent. Models of [volition](#) have been constructed in which it is seen as a particular kind of complex, high-level process with an element of physical indeterminism. An example of this approach is that of [Robert Kane](#), where he hypothesizes that "in each case, the indeterminism is functioning as a hindrance or obstacle to her realizing one of her purposes – a hindrance or obstacle in the form of resistance within her will which must be overcome by effort."<sup>[26]</sup> According to Robert Kane such "ultimate responsibility" is a required condition for free will.<sup>[71]</sup> An important factor in such a theory is that the agent cannot be reduced to physical neuronal events, but rather mental processes are said to provide an equally valid account of the determination of outcome as their physical processes (see [non-reductive physicalism](#)).

Although at the time [quantum mechanics](#) (and physical [indeterminism](#)) was only in the initial stages of acceptance, in his book [Miracles: A preliminary study](#) C.S. Lewis stated the logical possibility that if the physical world were proved indeterministic this would provide an entry point to describe an action of a non-physical entity on physical reality.<sup>[72]</sup> [Indeterministic](#) physical models (particularly those involving [quantum indeterminacy](#)) introduce random occurrences at an atomic or subatomic level. These events might affect brain activity, and could seemingly allow [incompatibilist](#) free will if the apparent indeterminacy of some mental processes (for instance, subjective perceptions of control in conscious [volition](#)) map to the underlying indeterminacy of the physical construct. This relationship, however, requires a causative role over probabilities that is questionable,<sup>[73]</sup> and it is far from established that brain activity responsible for human action can be affected by such events. Secondly, these incompatibilist models are dependent upon the relationship between action and conscious volition, as studied in the [neuroscience of free will](#). It is evident that observation may disturb the outcome of the observation itself, rendering limited our ability to identify causality.<sup>[45]</sup> [Niels Bohr](#), one of the main architects of quantum theory, suggested, however, that no connection could be made between indeterminism of nature and freedom of will.<sup>[46]</sup>

#### **Agent/substance-causal theories[edit]**

Agent/substance-causal accounts of incompatibilist free will rely upon substance dualism in their description of mind. The agent is assumed power to intervene in the physical

world.<sup>[74][75][76][77][78][79][80][81]</sup> Agent (substance)-causal accounts have been suggested by both [George Berkeley](#)<sup>[82]</sup> and [Thomas Reid](#).<sup>[83]</sup> It is required that what the agent causes is not causally determined by prior events. It is also required that the agent's causing of that event is not causally determined by prior events. A number of problems have been identified with this view. Firstly, it is difficult to establish the reason for any given choice by the agent, which suggests they may be random or determined by *luck* (without an underlying basis for the free will decision). Secondly, it has been questioned whether physical events can be caused by an external substance or mind – a common problem associated with [interactionist dualism](#).

#### **Hard incompatibilism**[\[edit\]](#)

Hard incompatibilism is the idea that free will cannot exist, whether the world is deterministic or not. [Derk Pereboom](#) has defended hard incompatibilism, identifying a variety of positions where free will is irrelevant to indeterminism/determinism, among them the following:

1. Determinism (D) is true, D does not imply we lack free will (F), but in fact we do lack F.
2. D is true, D does not imply we lack F, but in fact we don't know if we have F.
3. D is true, and we do have F.
4. D is true, we have F, and F implies D.
5. D is unproven, but we have F.
6. D isn't true, we do have F, and would have F even if D were true.
7. D isn't true, we don't have F, but F is compatible with D.

Derk Pereboom, *Living without Free Will*,<sup>[30]</sup> p. xvi.

Pereboom calls positions 3 and 4 *soft determinism*, position 1 a form of *hard determinism*, position 6 a form of *classical libertarianism*, and any position that includes having F as *compatibilism*.

[John Locke](#) denied that the phrase "free will" made any sense (compare with [theological noncognitivism](#), a similar stance on the [existence of God](#)). He also took the view that the truth of determinism was irrelevant. He believed that the defining feature of voluntary behavior was that individuals have the ability to *postpone* a decision long enough to reflect or deliberate upon the consequences of a choice: "... the will in truth, signifies nothing but a power, or ability, to prefer or choose".<sup>[84]</sup>

The contemporary philosopher [Galen Strawson](#) agrees with Locke that the truth or falsity of determinism is irrelevant to the problem.<sup>[85]</sup> He argues that the notion of free will leads to an infinite regress and is therefore senseless. According to Strawson, if one is responsible for what one does in a given situation, then one must be responsible for the way one is in certain mental respects. But it is impossible for one to be responsible for the way one is in any respect. This is because to be responsible in some situation *S*, one must have been responsible for the way one was at  $S^{-1}$ . To be responsible for the way one was at  $S^{-1}$ , one must have been responsible for the way one was at  $S^{-2}$ , and so on. At some point in the chain, there must have been an act of origination of a new causal chain. But this is impossible. Man cannot create himself or his mental states *ex nihilo*. This argument entails that free will itself is absurd, but not that it is incompatible with determinism. Strawson calls his own view "pessimism" but it can be classified as [hard incompatibilism](#).<sup>[85]</sup>

#### **Related philosophical issues**[\[edit\]](#)

##### **High level determinism and free will**[\[edit\]](#)

Causal determinism[\[edit\]](#)

*Main article:* [Determinism](#)

Causal determinism is the concept that [events](#) within a given [paradigm](#) are bound by [causality](#) in such a way that any state (of an object or event) is completely determined by prior states. Causal determinism proposes that there is an unbroken chain of prior occurrences stretching back to the origin of the universe. Causal determinists believe that there is nothing uncaused or [self-caused](#). The most common form of causal determinism is nomological determinism (or scientific determinism), the notion that the past and the present dictate the future entirely and necessarily by rigid natural laws, that every occurrence results inevitably from prior events. [Quantum mechanics](#) poses a serious challenge to this view.

Fundamental debate continues over whether the physical universe is likely to be [deterministic](#). Although the scientific method cannot be used to rule out [indeterminism](#) with respect to violations of [causal closure](#), it can be used to identify indeterminism in natural law. [Interpretations of quantum mechanics](#) at present are both [deterministic](#) and [indeterministic](#), and are being constrained by ongoing experimentation.<sup>[86]</sup>

Destiny and fate[[edit](#)]

*Main article:* [Destiny](#)

Destiny or fate is a predetermined course of events. It may be conceived as a predetermined future, whether in general or of an individual. It is a concept based on the belief that there is a fixed natural order to the cosmos.

Although often used interchangeably, the words "fate" and "destiny" have distinct connotations.

[Fate](#) generally implies there is a set course that cannot be deviated from, and over which one has no control. Fate is related to [determinism](#), but makes no specific claim of physical determinism. Even with physical indeterminism an event could still be fated externally (see for instance [theological determinism](#)). Destiny likewise is related to determinism, but makes no specific claim of physical determinism. Even with physical indeterminism an event could still be destined to occur.

[Destiny](#) implies there is a set course that cannot be deviated from, but does not of itself make any claim with respect to the setting of that course (i.e., it does not necessarily conflict with [incompatibilist](#) free will). Free will if existent could be the mechanism by which that destined outcome is chosen (determined to represent destiny).<sup>[87]</sup>

Logical determinism[[edit](#)]

*See also:* [B-theory of time](#)

Discussion regarding destiny does not necessitate the existence of supernatural powers. Logical [determinism](#) or determinateness is the notion that all propositions, whether about the past, present, or future, are either true or false. This creates a unique problem for free will given that propositions about the future already have a truth value in the present (that is it is already determined as either true or false), and is referred to as the [problem of future contingents](#).

Omniscience[[edit](#)]

*Main article:* [Omniscience](#)

[Omniscience](#) is the capacity to know everything that there is to know (included in which are all future events), and is a property often attributed to a creator deity. Omniscience implies the existence of destiny. Some authors have claimed that free will cannot coexist with omniscience. One argument asserts that an omniscient creator not only implies destiny but a form of high level [predeterminism](#) such as hard [theological determinism](#) or [predestination](#) – that they have independently fixed all events and outcomes in the universe in advance. In such a case, even if an individual could have influence over their lower level physical system, their choices in regard to this cannot be their own, as is the case with libertarian free will. Omniscience features as an [incompatible-properties argument](#) for the existence of [God](#), known as the [argument from free will](#), and is closely related to other such arguments, for example the incompatibility of [omnipotence](#) with a good creator deity (i.e. if a deity knew what they were going to choose, then they are responsible for letting them choose it).

**Predeterminism**[[edit](#)]

*Main article:* [Predeterminism](#)

*See also:* [Predestination](#)

[Predeterminism](#) is the idea that all events are determined in advance.<sup>[88][89]</sup> Predeterminism is the [philosophy](#) that all events of [history](#), past, present and future, have been decided or are known (by [God](#), [fate](#), or some other force), including human actions. Predeterminism is frequently taken to mean that human actions cannot interfere with (or have no bearing on) the outcomes of a pre-determined course of events, and that one's destiny was established externally (for example, exclusively by a creator deity). The concept of predeterminism is often argued by invoking [causal determinism](#), implying that there is an unbroken [chain of prior occurrences](#) stretching back to the origin of the universe. In the case of predeterminism, this chain of events has been pre-established, and human actions cannot interfere with the outcomes of this pre-established chain. Predeterminism can be used to mean such pre-established causal determinism, in which case it is categorised as a

specific type of [determinism](#).<sup>[88][90]</sup> It can also be used interchangeably with causal determinism – in the context of its capacity to determine future events.<sup>[88][91]</sup> Despite this, predeterminism is often considered as independent of causal determinism.<sup>[92][93]</sup> The term predeterminism is also frequently used in the context of biology and heredity, in which case it represents a form of [biological determinism](#).<sup>[94]</sup>

The term predeterminism suggests not just a determining of all events, but the prior and deliberately conscious determining of all events (therefore done, presumably, by a conscious being). While determinism usually refers to a naturalistically explainable causality of events, predeterminism seems by definition to suggest a person or a "someone" who is controlling or planning the causality of events before they occur and who then perhaps resides beyond the natural, causal universe. [Predestination](#) asserts that a supremely powerful being has indeed fixed all events and outcomes in the universe in advance, and is a famous doctrine of the [Calvinists](#) in [Christian](#) theology. Predestination is often considered a form of hard [theological determinism](#). Predeterminism has therefore been compared to [fatalism](#).<sup>[95]</sup> Fatalism is the idea that everything is fated to happen, so that humans have no control over their future.

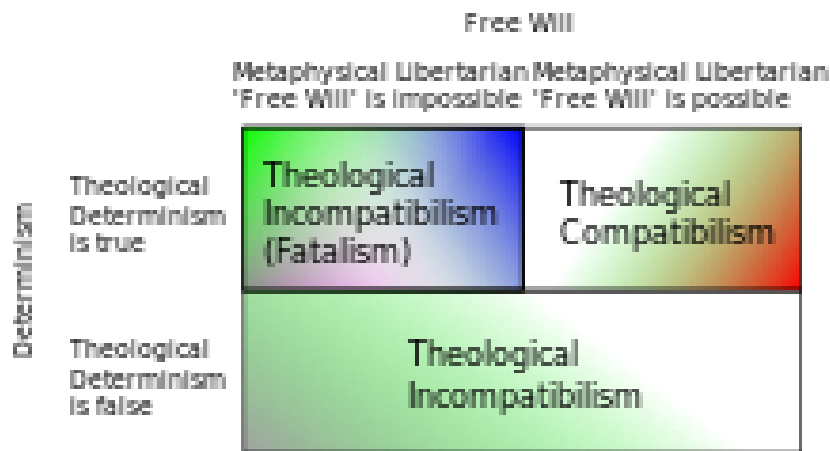
**Theological determinism**<sup>[edit]</sup>

Main article: [Theological determinism](#)

[Theological determinism](#) is a form of [determinism](#) stating that all events that happen are pre-ordained, or [predestined](#) to happen, by a [monotheistic deity](#), or that they are destined to occur given its [omniscience](#). Two forms of theological determinism exist, here referenced as strong and weak theological determinism.<sup>[96]</sup>

- The first one, strong theological determinism, is based on the concept of a [creator deity](#) dictating all events in history: "everything that happens has been predestined to happen by an omniscient, omnipotent divinity."<sup>[97]</sup>
- The second form, weak theological determinism, is based on the concept of divine foreknowledge – "because [God](#)'s omniscience is perfect, what God knows about the future will inevitably happen, which means, consequently, that the future is already fixed."<sup>[98]</sup>

There exist slight variations on the above categorisation. Some claim that theological determinism requires [predestination](#) of all events and outcomes by the divinity (that is, they do not classify the weaker version as 'theological determinism' unless libertarian free will is assumed to be denied as a consequence), or that the weaker version does not constitute 'theological determinism' at all.<sup>[50]</sup> Theological determinism can also be seen as a form of [causal determinism](#), in which the antecedent conditions are the nature and will of God.<sup>[51]</sup> With respect to free will and the classification of theological compatibilism/incompatibilism below, "theological determinism is the thesis that God exists and has infallible knowledge of all true propositions including propositions about our future actions," more minimal criteria designed to encapsulate all forms of theological determinism.<sup>[27]</sup>



A simplified [taxonomy](#) of philosophical positions regarding free will and theological determinism.<sup>[28]</sup>

There are various implications for [metaphysical libertarian](#) free will as consequent of theological determinism and its philosophical interpretation.

- Strong theological determinism is not compatible with metaphysical libertarian free will, and is a form of *hard theological determinism* (equivalent to theological fatalism below). It claims that free will does not exist, and *God* has absolute control over a person's actions. Hard theological determinism is similar in implication to [hard determinism](#), although it does not invalidate [compatibilist](#) free will.<sup>[28]</sup> Hard theological determinism is a form of theological incompatibilism (see figure, top left).
- Weak theological determinism is either compatible or incompatible with metaphysical libertarian free will depending upon one's philosophical interpretation of [omniscience](#) – and as such is interpreted as either a form of hard theological determinism (known as [theological fatalism](#)), or as *soft theological determinism* (terminology used for clarity only). Soft theological determinism claims that humans have free will to choose their actions, holding that *God*, while [knowing their actions before they happen](#), does not affect the outcome. *God's* providence is "compatible" with voluntary choice. Soft theological determinism is known as theological compatibilism (see figure, top right). A rejection of theological determinism (or [divine foreknowledge](#)) is classified as theological incompatibilism also (see figure, bottom), and is relevant to a more general discussion of free will.<sup>[28]</sup>

The basic argument for theological fatalism in the case of weak theological determinism is as follows:

1. Assume divine foreknowledge or [omniscience](#)
2. [Infallible](#) foreknowledge implies destiny (it is known for certain what one will do)
3. Destiny eliminates alternate possibility (one cannot do otherwise)
4. Assert incompatibility with metaphysical libertarian free will

This argument is very often accepted as a basis for theological incompatibilism: denying either libertarian free will or divine foreknowledge (omniscience) and therefore theological determinism. On the other hand, theological compatibilism must attempt to find problems with it. The formal version of the argument rests on a number of premises, many of which have received some degree of contention. Theological compatibilist responses have included:

- Deny the truth value of [future contingents](#), as proposed for example by [Aristotle](#) (although this denies foreknowledge and therefore theological determinism).
- Assert differences in non-temporal knowledge (space-time independence), an approach taken for example by [Boethius](#),<sup>[99]</sup> [Thomas Aquinas](#),<sup>[100]</sup> and [C.S. Lewis](#).<sup>[101]</sup>
- Deny the Principle of [Alternate Possibilities](#): "If you cannot do otherwise when you do an act, you do not act freely." For example, a human observer could in principle have a machine that could detect what will happen in the future, but the existence of this machine or their use of it has no influence on the outcomes of events.<sup>[102]</sup>

In the definition of [compatibilism](#) and [incompatibilism](#), the literature often fails to distinguish between physical determinism and higher level forms of determinism (predeterminism, theological determinism, etc.) As such, hard determinism with respect to theological determinism (or "Hard Theological Determinism" above) might be classified as hard incompatibilism with respect to physical determinism (if no claim was made regarding the internal causality or determinism of the universe), or even compatibilism (if freedom from the constraint of determinism was not considered necessary for free will), if not hard determinism itself. By the same principle, metaphysical libertarianism (a form of incompatibilism with respect to physical determinism) might be classified as compatibilism with respect to theological determinism (if it was assumed such free will events were pre-ordained and therefore were destined to occur, but of which whose outcomes were not "predestined" or determined by *God*). If hard theological determinism is accepted (if it was assumed instead that such outcomes were predestined by *God*), then metaphysical libertarianism is not, however, possible, and would require reclassification (as hard incompatibilism for example, given that the universe is still assumed to be indeterministic – although the classification of hard determinism is technically valid also).<sup>[50]</sup>

### 3) Mind-body problem[edit]

[René Descartes](#)

The idea of *free will* is one aspect of the [mind-body problem](#), that is, consideration of the relation between [mind](#) (for example, consciousness, memory, and judgment) and body (for example, the [human brain](#) and [nervous system](#)). [Philosophical models of mind](#) are divided into [physical](#) and non-physical expositions.

[Cartesian dualism](#) holds that the mind is a nonphysical substance, the seat of consciousness and intelligence, and is not identical with physical states of the brain or body. It is suggested that although the two worlds do interact, each retains some measure of autonomy. Under cartesian dualism external mind is responsible for bodily action, although unconscious brain activity is often caused by external events (for example, the instantaneous reaction to being burned).<sup>[103]</sup> Cartesian dualism implies that the physical world is not deterministic – and in which external mind controls (at least some) physical events, providing an interpretation of [incompatibilist](#) free will. Stemming from Cartesian dualism, a formulation sometimes called [interactionist dualism](#) suggests a two-way interaction, that some physical events cause some mental acts and some mental acts cause some physical events. One modern vision of the possible separation of mind and body is the ["three-world" formulation](#) of [Popper](#).<sup>[104]</sup> Cartesian dualism and Popper's three worlds are two forms of what is called [epistemological pluralism](#), that is the notion that different epistemological methodologies are necessary to attain a full description of the world. Other forms of epistemological pluralist dualism include [psychophysical parallelism](#) and [epiphenomenalism](#). Epistemological pluralism is one view in which the mind-body problem is *not* reducible to the concepts of the natural sciences.

A contrasting approach is called [physicalism](#). Physicalism is a [philosophical theory](#) holding that everything that [exists](#) is no more extensive than its [physical properties](#); that is, that there are no non-physical substances (for example physically independent minds). Physicalism can be reductive or non-reductive. [Reductive physicalism](#) is grounded in the idea that everything in the world can actually be reduced analytically to its fundamental physical, or material, basis. Alternatively, [non-reductive physicalism](#) asserts that mental properties form a separate ontological class to physical properties: that mental states (such as [qualia](#)) are not ontologically reducible to physical states. Although one might suppose that mental states and neurological states are different in kind, that does not rule out the possibility that mental states are correlated with neurological states. In one such construction, [anomalous monism](#), mental events [supervene](#) on physical events, describing the [emergence](#) of mental properties correlated with physical properties – implying causal reducibility. Non-reductive physicalism is therefore often categorised as [property dualism](#) rather than [monism](#), yet other types of property dualism do not adhere to the causal reducibility of mental states (see epiphenomenalism).

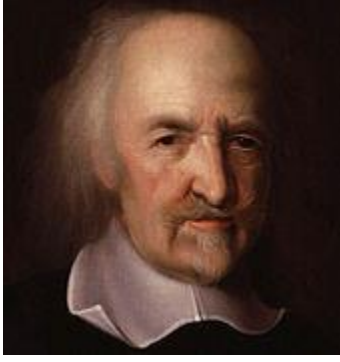
[Incompatibilism](#) requires a distinction between the mental and the physical, being a commentary on the incompatibility of (determined) physical reality and one's presumably distinct experience of will. Secondly, [metaphysical libertarian](#) free will must assert influence on physical reality, and where mind is responsible for such influence (as opposed to ordinary system randomness), it must be distinct from body to accomplish this. Both substance and property dualism offer such a distinction, and those particular models thereof that are not causally inert with respect to the physical world provide a basis for illustrating incompatibilist free will (i.e. interactionist dualism and non-reductive physicalism).

It has been noted that the [laws of physics](#) have yet to resolve the [hard problem of consciousness](#).<sup>[105]</sup> "Solving the hard problem of consciousness involves determining how physiological processes such as ions flowing across the nerve membrane *cause* us to have experiences."<sup>[106]</sup> According to some, "Intricately related to the hard problem of consciousness, the hard problem of free will represents *the* core problem of conscious free will: Does conscious volition impact the material world?"<sup>[121]</sup> Others however argue that "[consciousness](#) plays a far smaller role in human life than Western culture has tended to believe."<sup>[107]</sup>

[Compatibilism](#)[edit]

Main article: [Compatibilism](#)





[Thomas Hobbes](#) was a classical compatibilist.

Compatibilists maintain that determinism is compatible with free will. They believe freedom can be present or absent in a situation for reasons that have nothing to do with metaphysics. For instance, [courts of law](#) make judgments about whether individuals are acting under their own free will under certain circumstances without bringing in metaphysics. Similarly, [political liberty](#) is a non-metaphysical concept.<sup>[citation needed]</sup> Likewise, some compatibilists define free will as freedom to act according to one's determined motives without hindrance from other individuals. So for example Aristotle in his *Nicomachean Ethics*,<sup>[108]</sup> and the Stoic Chrysippus.<sup>[109]</sup> In contrast, the [incompatibilist](#) positions are concerned with a sort of "metaphysically free will", which compatibilists claim has never been coherently defined. Compatibilists argue that determinism does not matter; though they disagree among themselves about what, in turn, *does* matter. To be a compatibilist, one need not endorse any particular conception of free will, but only deny that determinism is at odds with free will.<sup>[110]</sup>

Although there are various impediments to exercising one's choices, free will does not imply freedom of action. Freedom of choice (freedom to select one's will) is logically separate from freedom to *implement* that choice (freedom to enact one's will), although not all writers observe this distinction.<sup>[21]</sup> Nonetheless, some philosophers have defined free will as the absence of various impediments. Some "modern compatibilists", such as [Harry Frankfurt](#) and [Daniel Dennett](#), argue free will is simply freely choosing to do what constraints allow one to do. In other words, a coerced agent's choices can still be free if such coercion coincides with the agent's personal intentions and desires.<sup>[32][111]</sup>

#### **Free will as lack of physical restraint**[\[edit\]](#)

Most "classical compatibilists", such as [Thomas Hobbes](#), claim that a person is acting on the person's own will only when it is the desire of that person to do the act, and also possible for the person to be able to do otherwise, *if the person had decided to*. Hobbes sometimes attributes such compatibilist freedom to each individual and not to some abstract notion of *will*, asserting, for example, that "no liberty can be inferred to the will, desire, or inclination, but the liberty of the man; which consisteth in this, that he finds no stop, in doing what he has the will, desire, or inclination to doe [*sic*]."<sup>[112]</sup> In articulating this crucial proviso, [David Hume](#) writes, "this hypothetical liberty is universally allowed to belong to every one who is not a prisoner and in chains."<sup>[113]</sup> Similarly, [Voltaire](#), in his *Dictionnaire philosophique*, claimed that "Liberty then is only and can be only the power to do what one will." He asked, "would you have everything at the pleasure of a million blind caprices?" For him, free will or liberty is "only the power of acting, what is this power? It is the effect of the constitution and present state of our organs."

#### **Free will as a psychological state**[\[edit\]](#)

Compatibilism often regards the agent free as virtue of their reason. Some explanations of free will focus on the internal causality of the mind with respect to higher-order brain processing – the interaction between conscious and unconscious brain activity.<sup>[114]</sup> Likewise, some modern compatibilists in [psychology](#) have tried to revive traditionally accepted struggles of free will with the formation of character.<sup>[115]</sup> Compatibilist free will has also been attributed to our natural [sense of agency](#), where one must believe they are an agent in order to function and develop a [theory of mind](#).<sup>[116][117]</sup>

The notion of levels of decision is presented in a different manner by Frankfurt.<sup>[111]</sup> Frankfurt argues for a version of compatibilism called the "hierarchical mesh". The idea is that an individual can have conflicting desires at a first-order level and also have a desire about the various first-order desires (a second-order desire) to the effect that one of the desires prevails over the others. A person's will is identified with their effective first-order desire, that is, the one they act on, and this will is free if it was the desire the person wanted to act upon, that is, the person's second-order desire was effective. So, for example, there are "wanton addicts", "unwilling addicts" and "willing addicts". All three groups may have the conflicting first-order desires to want to take the drug they are addicted to and to not want to take it.

The first group, *wanton addicts*, have no second-order desire not to take the drug. The second group, "unwilling addicts", have a second-order desire not to take the drug, while the third group, "willing addicts", have a second-order desire to take it. According to Frankfurt, the members of the first group are devoid of will and therefore are no longer persons. The members of the second group freely desire not to take the drug, but their will is overcome by the addiction. Finally, the members of the third group willingly take the drug they are addicted to. Frankfurt's theory can ramify to any number of levels. Critics of the theory point out that there is no certainty that conflicts will not arise even at the higher-order levels of desire and preference.<sup>[118]</sup> Others argue that Frankfurt offers no adequate explanation of how the various levels in the hierarchy mesh together.<sup>[119]</sup>

#### **Free will as unpredictability[edit]**

In *Elbow Room*, Dennett presents an argument for a compatibilist theory of free will, which he further elaborated in the book *Freedom Evolves*.<sup>[120]</sup> The basic reasoning is that, if one excludes God, an infinitely powerful *demon*, and other such possibilities, then because of *chaos* and epistemic limits on the precision of our knowledge of the current state of the world, the future is ill-defined for all finite beings. The only well-defined things are "expectations". The ability to do "otherwise" only makes sense when dealing with these expectations, and not with some unknown and unknowable future.

According to Dennett, because individuals have the ability to act differently from what anyone expects, free will can exist.<sup>[120]</sup> Incompatibilists claim the problem with this idea is that we may be mere "automata responding in predictable ways to stimuli in our environment". Therefore, all of our actions are controlled by forces outside ourselves, or by random chance.<sup>[121]</sup> More sophisticated analyses of compatibilist free will have been offered, as have other critiques.<sup>[110]</sup>

In the philosophy of *decision theory*, a fundamental question is: From the standpoint of statistical outcomes, to what extent do the choices of a conscious being have the ability to influence the future? *Newcomb's paradox* and other philosophical problems pose questions about free will and predictable outcomes of choices.

#### **The physical mind[edit]**

See also: *Neuroscience of free will*

*Compatibilist* models of free will often consider deterministic relationships as discoverable in the physical world (including the brain). Cognitive *naturalism*<sup>[122]</sup> is a *physicalist* approach to studying human *cognition* and *consciousness* in which the mind is simply part of nature, perhaps merely a feature of many very complex self-programming feedback systems (for example, *neural networks* and *cognitive robots*), and so must be studied by the methods of empirical science, such as the *behavioral* and *cognitive sciences* (i.e. *neuroscience* and *cognitive psychology*).<sup>[103][123]</sup> Cognitive naturalism stresses the role of neurological sciences. Overall brain health, *substance dependence*, *depression*, and various *personality disorders* clearly influence mental activity, and their impact upon *volition* is also important.<sup>[114]</sup> For example, an *addict* may experience a conscious desire to escape addiction, but be unable to do so. The "will" is disconnected from the freedom to act. This situation is related to an abnormal production and distribution of *dopamine* in the brain.<sup>[124]</sup> The neuroscience of free will places restrictions on both compatibilist and incompatibilist free will conceptions.

Compatibilist models adhere to models of mind in which mental activity (such as deliberation) can be reduced to physical activity without any change in physical outcome. Although compatibilism is generally aligned to (or is at least compatible with) physicalism, some compatibilist models describe the natural occurrences of deterministic deliberation in the brain in terms of the first person perspective of the conscious agent performing the deliberation.<sup>[12]</sup> Such an approach has been

considered a form of identity dualism. A description of "how conscious experience might affect brains" has been provided in which "the experience of conscious free will is the first-person perspective of the neural correlates of choosing."<sup>[121]</sup>

[Other views](#)<sup>[edit]</sup>

Some philosophers' views are difficult to categorize as either compatibilist or incompatibilist, hard determinist or libertarian. For example, [Ted Honderich](#) holds the view that "determinism is true, compatibilism and incompatibilism are both false" and the real problem lies elsewhere. Honderich maintains that determinism is true because quantum phenomena are not events or things that can be located in space and time, but are [abstract](#) entities. Further, even if they were micro-level events, they do not seem to have any relevance to how the world is at the macroscopic level. He maintains that incompatibilism is false because, even if indeterminism is true, incompatibilists have not provided, and cannot provide, an adequate account of origination. He rejects compatibilism because it, like incompatibilism, assumes a single, fundamental notion of freedom. There are really two notions of freedom: voluntary action and origination. Both notions are required to explain freedom of will and responsibility. Both determinism and indeterminism are threats to such freedom. To abandon these notions of freedom would be to abandon moral responsibility. On the one side, we have our intuitions; on the other, the scientific facts. The "new" problem is how to resolve this conflict.<sup>[125]</sup>

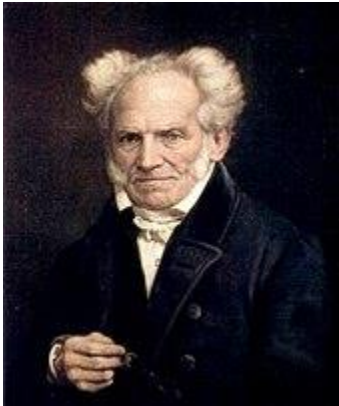
[Free will as an illusion](#)<sup>[edit]</sup>



Spinoza thought that there is no free will.

"Experience teaches us no less clearly than reason, that men believe themselves free, simply because they are conscious of their actions, and unconscious of the causes whereby those actions are determined." [Baruch Spinoza](#), *Ethics*<sup>[126]</sup>

David Hume discussed the possibility that the entire debate about free will is nothing more than a merely "verbal" issue. He suggested that it might be accounted for by "a false sensation or seeming experience" (a *velleity*), which is associated with many of our actions when we perform them. On reflection, we realize that they were necessary and determined all along.<sup>[127]</sup>



[Arthur Schopenhauer](#) claimed that phenomena have no free will but the will as [noumenon](#), is free.

[Arthur Schopenhauer](#) put the puzzle of free will and moral responsibility in these terms:

Everyone believes himself, *a priori*, perfectly free – even in his individual actions, and thinks that at every moment he can commence another manner of life. ... But *a posteriori*, through experience, he finds to his astonishment that he is not free, but subjected to necessity, that in spite of all his resolutions and reflections he does not change his conduct, and that from the beginning of his life to the end of it, he must carry out the very character which he himself condemns...<sup>[128]</sup>

In his essay [On the Freedom of the Will](#), Schopenhauer stated, "You can do what you will, but in any given moment of your life you can will only one definite thing and absolutely nothing other than that one thing."<sup>[129]</sup> According to Schopenhauer, [phenomena](#) do not have free will. However, [will](#) [urging, craving, striving, wanting, and desiring] as [noumenon](#) is free.

#### **Free will as "moral imagination"[edit]**

[Rudolf Steiner](#), who collaborated in a complete edition of Arthur Schopenhauer's work,<sup>[130]</sup> wrote [The Philosophy of Freedom](#), which focuses on the problem of free will. Steiner (1861–1925) initially divides this into the two aspects of freedom: *freedom of thought* and *freedom of action*. The controllable and uncontrollable aspects of decision making thereby are made logically separable, as pointed out in the introduction. This separation of *will* from *action* has a very long history, going back at least as far as [Stoicism](#) and the teachings of [Chrysippus](#) (279–206 BCE), who separated external *antecedent* causes from the internal disposition receiving this cause.<sup>[131]</sup>

Steiner then argues that inner freedom is achieved when we bridge the gap between our sensory impressions, which reflect the outer appearance of the world, and our thoughts, which give us access to the inner nature of the world. Acknowledging the many influences on our choice, he points to the impact of our becoming aware of just these determinants. Outer freedom is attained by permeating our deeds with *moral imagination*. Steiner aims to show that these two aspects of inner and outer freedom are integral to one another, and that true freedom is only achieved when they are united.<sup>[132]</sup>

#### **Free will as a pragmatically useful concept[edit]**

[William James'](#) views were ambivalent. While he believed in free will on "ethical grounds", he did not believe that there was evidence for it on scientific grounds, nor did his own introspections support it,<sup>[133]</sup> he did believe that the problem of free will was a metaphysical issue and, therefore, could not be settled by science. Moreover, he did not accept incompatibilism as formulated below; he did not believe that the indeterminism of human actions was a prerequisite of moral responsibility. In his work [Pragmatism](#), he wrote that "instinct and utility between them can safely be trusted to carry on the social business of punishment and praise" regardless of metaphysical theories.<sup>[134]</sup> He did believe that indeterminism is important as a "doctrine of relief" – it allows for the view that, although the world may be in many respects a bad place, it may, through individuals' actions, become a better one. Determinism, he argued, undermines [meliorism](#) – the idea that progress is a real concept leading to improvement in the world.<sup>[134]</sup>

#### **Free will and views of causality[edit]**

See also: [Principle of sufficient reason](#)

In 1739, [David Hume](#) in his [A Treatise of Human Nature](#) approached free will via the notion of causality. It was his position that causality was a mental construct used to explain the repeated association of events, and that one must examine more closely the relation between things *regularly succeeding* one another (descriptions of regularity in nature) and things that *result* in other things (things that cause or necessitate other things).<sup>[135]</sup> According to Hume, 'causation' is on weak grounds: "Once we realise that 'A must bring about B' is tantamount merely to 'Due to their constant conjunction, we are psychologically certain that B will follow A,' then we are left with a very weak notion of necessity."<sup>[136]</sup>

This empiricist view was often denied by trying to prove the so-called [apriority](#) of causal law (i.e. that it precedes all experience and is rooted in the construction of the perceivable world):

- [Kant's](#) proof in [Critique of Pure Reason](#) (which referenced time and time ordering of causes and effects)<sup>[137]</sup>

- [Schopenhauer](#)'s proof from *The Fourfold Root of the Principle of Sufficient Reason* (which referenced the so-called intellectuality of representations, that is, in other words, objects and [qualia](#) perceived with senses)<sup>[138]</sup>

In the 1780s [Immanuel Kant](#) suggested at a minimum our decision processes with moral implications lie outside the reach of everyday causality, and lie outside the rules governing material objects.<sup>[139]</sup>

"There is a sharp difference between moral judgments and judgments of fact.... Moral judgments ... must be *a priori* judgments."<sup>[140]</sup>

Freeman introduces what he calls "circular causality" to "allow for the contribution of self-organizing dynamics", the "formation of macroscopic population dynamics that shapes the patterns of activity of the contributing individuals", applicable to "interactions between neurons and neural masses ... and between the behaving animal and its environment".<sup>[141]</sup> In this view, mind and neurological functions are tightly coupled in a situation where feedback between collective actions (mind) and individual subsystems (for example, [neurons](#) and their [synapses](#)) jointly decide upon the behaviour of both.

#### **Free will according to Thomas Aquinas**[\[edit\]](#)

Thirteenth century philosopher [Thomas Aquinas](#) viewed humans as pre-programmed (by virtue of being human) to seek certain goals, but able to choose between routes to achieve these goals (our Aristotelian [telos](#)). His view has been associated with both compatibilism and libertarianism.<sup>[142][143]</sup>

In facing choices, he argued that humans are governed by *intellect*, *will*, and *passions*. The will is "the primary mover of all the powers of the soul ... and it is also the efficient cause of motion in the body."<sup>[144]</sup> Choice falls into five stages: (i) intellectual consideration of whether an objective is desirable, (ii) intellectual consideration of means of attaining the objective, (iii) will arrives at an intent to pursue the objective, (iv) will and intellect jointly decide upon choice of means (v) will elects execution.<sup>[145]</sup> Free will enters as follows: Free will is an "appetitive power", that is, not a cognitive power of intellect (the term "appetite" from Aquinas's definition "includes all forms of internal inclination").<sup>[146]</sup> He states that judgment "concludes and terminates counsel. Now counsel is terminated, first, by the judgment of reason; secondly, by the acceptance of the appetite [that is, the free-will]."<sup>[147]</sup>

A compatibilist interpretation of Aquinas's view is defended thus: "Free-will is the cause of its own movement, because by his free-will man moves himself to act. But it does not of necessity belong to liberty that what is free should be the first cause of itself, as neither for one thing to be cause of another need it be the first cause. God, therefore, is the first cause, Who moves causes both natural and voluntary. And just as by moving natural causes He does not prevent their acts being natural, so by moving voluntary causes He does not deprive their actions of being voluntary: but rather is He the cause of this very thing in them; for He operates in each thing according to its own nature."<sup>[148][149]</sup>

**Free will as a pseudo-problem**[\[edit\]](#)

Historically, most of the philosophical effort invested in resolving the dilemma has taken the form of close examination of definitions and ambiguities in the concepts designated by "free", "freedom", "will", "choice" and so forth. Defining 'free will' often revolves around the meaning of phrases like "[ability to do otherwise](#)" or "[alternative possibilities](#)". This emphasis upon words has led some philosophers to claim the problem is merely verbal and thus a pseudo-problem.<sup>[150]</sup> In response, others point out the complexity of decision making and the importance of nuances in the terminology.

#### **History of free will**[\[edit\]](#)

The problem of free will has been identified in [ancient Greek philosophical](#) literature. The notion of compatibilist free will has been attributed to both [Aristotle](#) (fourth century BCE) and [Epictetus](#) (1st century CE); "it was the fact that nothing hindered us from doing or choosing something that made us have control over them".<sup>[3][151]</sup> According to [Susanne Bobzien](#), the notion of incompatibilist free will is perhaps first identified in the works of [Alexander of Aphrodisias](#) (third century CE); "what makes us have control over things is the fact that we are causally undetermined in our decision and thus can freely decide between doing/choosing or not doing/choosing them".

#### **History of free will**[\[edit\]](#)

The problem of free will has been identified in [ancient Greek philosophical](#) literature. The notion of compatibilist free will has been attributed to both [Aristotle](#) (fourth century BCE) and [Epictetus](#) (1st century CE); "it was the fact that nothing hindered us from doing or choosing something that made us have control over them".<sup>[3][151]</sup> According to [Susanne Bobzien](#), the notion of incompatibilist free will is perhaps first identified in the works of [Alexander of Aphrodisias](#) (third century CE); "what makes us have control over things is the fact that we are causally undetermined in our decision and thus can freely decide between doing/choosing or not doing/choosing them".

The term "free will" (*liberum arbitrium*) was introduced by Christian philosophy (4th century CE). It has traditionally meant (until the Enlightenment proposed its own meanings) lack of necessity in

human will,<sup>[152]</sup> so that "the will is free" meant "the will does not have to be such as it is". This requirement was universally embraced by both incompatibilists and compatibilists.<sup>[153]</sup>

#### Scientific approaches[edit]

Science has contributed to the free will problem in at least three ways. First, physics has addressed the question whether nature is deterministic, which is viewed as crucial by incompatibilists (compatibilists, however, view it as irrelevant). Second, although free will can be defined in various ways, all of them involve aspects of the way people make decisions and initiate actions, which have been studied extensively by neuroscientists. Some of the experimental observations are widely viewed as implying that free will does not exist or is an illusion (but many philosophers see this as a misunderstanding). Third, psychologists have studied the beliefs that the majority of ordinary people hold about free will and its role in assigning moral responsibility.

#### Physics[edit]

Early scientific thought often portrayed the universe as deterministic – for example in the thought of [Democritus](#) or the [Cārvākans](#) – and some thinkers claimed that the simple process of gathering sufficient [information](#) would allow them to predict future events with perfect accuracy. Modern science, on the other hand, is a mixture of deterministic and [stochastic](#) theories.<sup>[154]</sup> [Quantum mechanics](#) predicts events only in terms of probabilities, casting doubt on whether the universe is deterministic at all, although evolution of the universal state vector is completely deterministic. Current physical theories cannot resolve the question of whether determinism is true of the world, being very far from a potential [Theory of Everything](#), and open to many different [interpretations](#).<sup>[155][156]</sup>

Assuming that an indeterministic interpretation of quantum mechanics is correct, one may still object that such indeterminism is for all practical purposes confined to microscopic phenomena.<sup>[157]</sup> This is not always the case: many macroscopic phenomena are based on quantum effects. For instance, some [hardware random number generators](#) work by amplifying quantum effects into practically usable signals. A more significant question is whether the indeterminism of quantum mechanics allows for the traditional idea of free will (based on a perception of free will). If a person's action is, however, only result of complete quantum randomness, and mental processes as experienced have no influence on the probabilistic outcomes (such as volition),<sup>[161]</sup> this in itself would mean that such traditional free will does not exist (because the action was not controllable by the physical being who claims to possess the free will).<sup>[158]</sup>

#### Genetics[edit]

Like physicists, [biologists](#) have frequently addressed questions related to free will. One of the most heated debates in biology is that of "[nature versus nurture](#)", concerning the relative importance of genetics and biology as compared to culture and environment in human behavior.<sup>[159]</sup> The view of many researchers is that many human behaviors can be explained in terms of humans' brains, genes, and evolutionary histories.<sup>[160][161][162]</sup> This point of view raises the fear that such attribution makes it impossible to hold others responsible for their actions. [Steven Pinker's](#) view is that fear of determinism in the context of "genetics" and "evolution" is a mistake, that it is "a confusion of *explanation* with *exculpation*". Responsibility doesn't require that behavior be uncaused, as long as behavior responds to praise and blame.<sup>[163]</sup> Moreover, it is not certain that environmental determination is any less threatening to free will than genetic determination.<sup>[164]</sup>

#### Neurophilosophy[edit]

*Main articles:* [Neurophilosophy](#) and [Neuroscience of free will](#)

*See also:* [Neurostimulation](#)

It has become possible to study the living [brain](#), and researchers can now watch the brain's decision-making process at work. A seminal experiment in this field was conducted by [Benjamin Libet](#) in the 1980s, in which he asked each subject to choose a random moment to flick their wrist while he measured the associated activity in their brain; in particular, the build-up of electrical signal called the [readiness potential](#) (after German [Bereitschaftspotential](#), which was discovered by [Kornhuber & Deecke](#) in 1965<sup>[165]</sup>). Although it was well known that the readiness potential reliably preceded the physical action, Libet asked whether it could be recorded before the conscious intention to move. To determine when subjects felt the intention to move, he asked them to watch the second hand of a

clock. After making a movement, the volunteer reported the time on the clock when they first felt the conscious intention to move; this became known as Libet's W time.<sup>[166]</sup>

Libet found that the *unconscious* brain activity of the readiness potential leading up to subjects' movements began approximately half a second before the subject was aware of a conscious intention to move.<sup>[166][167]</sup>

These studies of the timing between actions and the conscious decision bear upon the role of the brain in understanding free will. A subject's declaration of intention to move a finger appears *after* the brain has begun to implement the action, suggesting to some that unconsciously the brain has made the decision *before* the conscious mental act to do so. Some believe the implication is that free will was not involved in the decision and is an illusion. The first of these experiments reported the brain registered activity related to the move about 0.2 s before movement onset.<sup>[168]</sup> However, these authors also found that awareness of action was *anticipatory* to activity in the muscle underlying the movement; the entire process resulting in action involves more steps than just the *onset* of brain activity. The bearing of these results upon notions of free will appears complex.<sup>[169][170]</sup>

Some argue that placing the question of free will in the context of motor control is too narrow. The objection is that the time scales involved in motor control are very short, and motor control involves a great deal of unconscious action, with much physical movement entirely unconscious. On that basis "... free will cannot be squeezed into time frames of 150–350 ms; free will is a longer term phenomenon" and free will is a higher level activity that "cannot be captured in a description of neural activity or of muscle activation..."<sup>[171]</sup> The bearing of timing experiments upon free will is still under discussion.

More studies have since been conducted, including some that try to:

- support Libet's original findings
- suggest that the cancelling or "veto" of an action may first arise subconsciously as well
- explain the underlying brain structures involved
- suggest models that explain the relationship between conscious intention and action

[Benjamin Libet](#)'s results are quoted<sup>[172]</sup> in favor of epiphenomenalism, but he believes subjects still have a "conscious veto", since the readiness potential does not invariably lead to an action. In [Freedom Evolves](#), [Daniel Dennett](#) argues that a no-free-will conclusion is based on dubious assumptions about the location of consciousness, as well as questioning the accuracy and interpretation of Libet's results. [Kornhuber](#) & [Deecke](#) underlined that absence of conscious will during the early Bereitschaftspotential (termed BP1) is not a proof of the non-existence of free will, as also unconscious agendas may be free and non-deterministic. According to their suggestion, man has relative freedom, i.e. freedom in degrees, that can be in- or decreased through deliberate choices that involve both conscious and unconscious (panencephalic) processes.<sup>[173]</sup>

Others have argued that data such as the [Bereitschaftspotential](#) undermine epiphenomenalism for the same reason, that such experiments rely on a subject reporting the point in time at which a conscious experience occurs, thus relying on the subject to be able to consciously perform an action. That ability would seem to be at odds with early epiphenomenalism, which according to Huxley is the broad claim that consciousness is "completely without any power... as the steam-whistle which accompanies the work of a locomotive engine is without influence upon its machinery".<sup>[174]</sup>

Adrian G. Guggisberg and Annaïs Mottaz have also challenged those findings.<sup>[175]</sup>

A study by Aaron Schurger and colleagues published in the [Proceedings of the National Academy of Sciences](#) (PNAS)<sup>[176]</sup> challenged assumptions about the causal nature of the readiness potential itself (and the "pre-movement buildup" of neural activity in general), casting doubt on conclusions drawn from studies such as Libet's<sup>[166]</sup> and Fried's.<sup>[177]</sup>

[Neurology and psychiatry](#)[edit]

It has been shown that in several brain-related conditions, individuals cannot entirely control their own actions. Though the existence of such conditions does not directly refute the existence of free will. Neuroscientific studies are valuable tools in developing models of how humans experience free will.

For example, people with [Tourette syndrome](#) and related [tic disorders](#) make involuntary movements and utterances (called [tics](#)) despite the fact that they would prefer not to do so when it is socially inappropriate. Tics are described as semi-voluntary or *unvoluntary*,<sup>[178]</sup> because they are not strictly *involuntary*: they may be experienced as a *voluntary* response to an unwanted, premonitory urge. Tics are experienced as irresistible and must eventually be expressed.<sup>[178]</sup> People with Tourette syndrome are sometimes able to suppress their tics for limited periods, but doing so often results in an explosion of tics afterward. The control exerted (from seconds to hours at a time) may merely postpone and exacerbate the ultimate expression of the tic.<sup>[179]</sup>

In [alien hand syndrome](#), the afflicted individual's [limb](#) will produce unintentional movements without the will of the person. The affected limb effectively demonstrates 'a will of its own.' The [sense of agency](#) does not emerge in conjunction with the overt appearance of the purposeful act even though the sense of ownership in relationship to the body part is maintained. This phenomenon corresponds with an impairment in the premotor mechanism manifested temporally by the appearance of the readiness potential (see section on the Neuroscience of Free Will above) recordable on the scalp several hundred milliseconds before the overt appearance of a spontaneous willed movement. Using [functional magnetic resonance imaging](#) with specialized multivariate analyses to study the temporal dimension in the activation of the cortical network associated with voluntary movement in human subjects, an anterior-to-posterior sequential activation process beginning in the supplementary motor area on the medial surface of the frontal lobe and progressing to the primary motor cortex and then to parietal cortex has been observed.<sup>[180]</sup> The [sense of agency](#) thus appears to normally emerge in conjunction with this orderly sequential network activation incorporating premotor association cortices together with primary motor cortex. In particular, the supplementary motor complex on the medial surface of the frontal lobe appears to activate prior to primary motor cortex presumably in association with a preparatory pre-movement process. In a recent study using [functional magnetic resonance imaging](#), alien movements were characterized by a relatively isolated activation of the primary motor cortex contralateral to the alien hand, while voluntary movements of the same body part included the concomitant activation of motor association cortex associated with the premotor process.<sup>[181]</sup> The clinical definition requires "feeling that one limb is foreign or has a *will of its own*, together with observable involuntary motor activity" (emphasis in original).<sup>[182]</sup> This syndrome is often a result of damage to the [corpus callosum](#), either when it is severed to treat intractable [epilepsy](#) or due to a [stroke](#). The standard neurological explanation is that the felt will reported by the speaking left hemisphere does not correspond with the actions performed by the non-speaking right hemisphere, thus suggesting that the two hemispheres may have independent senses of will.<sup>[183][184]</sup>

In addition, one of the most important ("first rank") diagnostic symptoms of [schizophrenia](#) is the patient's delusion of being controlled by an external force.<sup>[185]</sup> People with schizophrenia will sometimes report that, although they are acting in the world, they do not recall initiating the particular actions they performed. This is sometimes likened to being a robot controlled by someone else. Although the neural mechanisms of schizophrenia are not yet clear, one influential hypothesis is that there is a breakdown in brain systems that compare motor commands with the feedback received from the body (known as [proprioception](#)), leading to attendant [hallucinations](#) and [delusions of control](#).<sup>[186]</sup>

Experimental psychology[[edit](#)]

See also: [Cognitive science](#), [Cognitive psychology](#), and [Neuroscience](#)

[Experimental psychology](#)'s contributions to the free will debate have come primarily through social psychologist [Daniel Wegner](#)'s work on conscious will. In his book, *The Illusion of Conscious Will*<sup>[187]</sup> Wegner summarizes what he believes is [empirical evidence](#) supporting the view that human perception of conscious control is an illusion. Wegner summarizes some empirical evidence that may suggest that the perception of conscious control is open to modification (or even manipulation). Wegner observes that one event is inferred to have caused a second event when two requirements are met:

1. The first event immediately precedes the second event, and
2. The first event is consistent with having caused the second event.



For example, if a person hears an explosion and sees a tree fall down that person is likely to infer that the explosion caused the tree to fall over. However, if the explosion occurs after the tree falls down (that is, the first requirement is not met), or rather than an explosion, the person hears the ring of a telephone (that is, the second requirement is not met), then that person is not likely to infer that either noise caused the tree to fall down.

Wegner has applied this principle to the inferences people make about their own conscious will. People typically experience a thought that is consistent with a behavior, and then they observe themselves performing this behavior. As a result, people infer that their thoughts must have caused the observed behavior. However, Wegner has been able to manipulate people's thoughts and behaviors so as to conform to or violate the two requirements for causal inference.<sup>[187][188]</sup> Through such work, Wegner has been able to show that people often experience conscious will over behaviors that they have not, in fact, caused – and conversely, that people can be led to experience a lack of will over behaviors they did cause. For instance, [priming](#) subjects with information about an effect increases the probability that a person falsely believes is the cause.<sup>[189]</sup> The implication for such work is that the perception of conscious will (which he says might be more accurately labelled as 'the emotion of authorship') is not tethered to the execution of actual behaviors, but is inferred from various cues through an intricate mental process, *authorship processing*. Although many interpret this work as a blow against the argument for free will, both psychologists<sup>[190][191]</sup> and philosophers<sup>[192][193]</sup> have criticized Wegner's theories.

[Emily Pronin](#) has argued that the subjective experience of free will is supported by the [introspection illusion](#). This is the tendency for people to trust the reliability of their own introspections while distrusting the introspections of other people. The theory implies that people will more readily attribute free will to themselves rather than others. This prediction has been confirmed by three of Pronin and Kugler's experiments. When college students were asked about personal decisions in their own and their roommate's lives, they regarded their own choices as less predictable. Staff at a restaurant described their co-workers' lives as more determined (having fewer future possibilities) than their own lives. When weighing up the influence of different factors on behavior, students gave desires and intentions the strongest weight for their own behavior, but rated personality traits as most predictive of other people.<sup>[194]</sup>

Psychologists have shown that reducing a person's belief in free will makes them less helpful and more aggressive.<sup>[195]</sup> This may occur because the subject loses a sense of [self-efficacy](#). Caveats have, however, been identified in studying a subject's awareness of mental events, in that the process of introspection itself may alter the experience.<sup>[196]</sup>

[J.B. Miles](#) contradicts the idea that free will has prosocial benefits, recognizing that many distinguished minds have already brought up the negative effects that such a belief would ensure.<sup>[197]</sup> The explanation for the commonality of this mix-up is a lack of knowledge regarding the free will debate in psychological research. Miles analyzed the methods of popular studies and concluded that such research purported to be examining associations between behavior and disbelief in free will are actually examining the associations between behavior and belief in fatalism. While evidence of the negative effects of a belief in fatalism is legitimate, the research fails to study the effects of belief on free will which they claim to discuss. This occurrence is due to an incorrect understanding and implication that fatalism accompanies determinism. Fatalism is distinguished by the idea that decisions lack effect on the future because everything is determined. Conversely, determinism is the belief that everything operates under cause and effect; every action determines a reaction. Determinism, therefore emphasizes the importance and responsibility one has in decision making as every choice will have an accompanying effect. Seeing this flaw throughout commonly cited research, Miles presents countering research which includes "evidence that the myth of free choice encourages immoral, unjust, prejudiced, and anti-intellectual behaviour." Miles suggests that while both extremes of fatalism and belief in free will result in negative social outcomes, determinism serves to encourage intentional, prosocial decision making. Ultimately, the point of this research is to encourage accurate knowledge of the free will debate when conducting and evaluating such studies in experimental psychology.

Regardless of the validity of, or benefit of, belief in free will, it may be beneficial to understand where the idea comes from. One contribution is randomness.<sup>[198]</sup> While it is established that that randomness is not the only factor in the perception of the free will, it has been shown that randomness can be mistaken as free will due to its indeterminacy. This misconception applies both when considering oneself and others. Another contribution is choice.<sup>[199]</sup> It has been demonstrated that people's belief in free will increases if presented with a simple level of choice. The specificity of the amount of choice is important, as too little or too great a degree of choice may negatively influence belief. It is also likely that the associative relationship between level of choice and perception of free will is influentially bidirectional. It is also possible that one's desire for control, or other basic motivational patterns, act as a third variable.

#### [Believing in free will\[edit\]](#)

In recent years, free will belief in individuals has been analysed with respect to traits in social behaviour. In general the concept of free will researched to date in this context has been that of the incompatibilist, or more specifically, the libertarian, that is freedom from determinism.

#### **What people believe[edit]**

Whether people naturally adhere to an incompatibilist model of free will has been questioned in the research. Eddy Nahmias has found that incompatibilism is not intuitive – it was not adhered to, in that determinism does not negate belief in moral responsibility (based on an empirical study of people's responses to moral dilemmas under a deterministic model of reality).<sup>[200]</sup> Edward Cokely has found that incompatibilism is intuitive – it was naturally adhered to, in that determinism does indeed negate belief in moral responsibility in general.<sup>[201]</sup> Joshua Knobe and Shaun Nichols have proposed that incompatibilism may or may not be intuitive, and that it is dependent to some large degree upon the circumstances; whether or not the crime incites an emotional response – for example if it involves harming another human being.<sup>[202]</sup> They found that belief in free will is a cultural universal, and that the majority of participants said that (a) our universe is indeterministic and (b) moral responsibility is not compatible with determinism.<sup>[203]</sup>

Studies indicate that peoples' belief in free will is inconsistent. Emily Pronin and Matthew Kugler found that people believe they have more free will than others.<sup>[204]</sup>

Studies also reveal a correlation between the likelihood of accepting a deterministic model of mind and personality type. For example, Adam Feltz and Edward Cokely found that people of an extrovert personality type are more likely to dissociate belief in determinism from belief in moral responsibility.<sup>[205]</sup>

[Roy Baumeister](#) and colleagues reviewed literature on the psychological effects of a belief (or disbelief) in free will. The first part of their analysis (which the only relevant part to this section) was not meant to discover the types of free will that actually exist. The researchers instead sought to identify what people believe, how many people believed it, and the effects of those beliefs. Baumeister found that most people tend to believe in a sort of "naive compatibilistic free will".<sup>[206][207]</sup> The researchers also found that people consider acts more "free" when they involve a person opposing external forces, planning, or making random actions.<sup>[208]</sup> Notably, the last behaviour, "random" actions, may not be possible; when participants attempt to perform tasks in a random manner (such as generating random numbers), their behaviour betrays many patterns.<sup>[209][210]</sup>

#### **Among philosophers[edit]**

A recent 2009 survey has shown that compatibilism is quite a popular stance among those who specialize in philosophy (59%). Belief in libertarianism amounted to 14%. More than a half of surveyed people were US Americans.<sup>[211]</sup>

#### **Among evolutionary biologists[edit]**

79 percent of evolutionary biologists said that they believe in free-will according to a survey conducted in 2007, only 14 percent chose no free will, and 7 percent did not answer the question.<sup>[212]</sup>

#### 4) Effects of the belief itself/*Self-efficacy* (Wikipedia)

An alternative explanation builds on the idea that subjects tend to confuse determinism with fatalism... What happens then when agents' self-efficacy is undermined? It is not that their basic desires and drives are defeated. It is rather, I suggest, that they become skeptical that they can control those desires; and in the face of that skepticism, they fail to apply the effort that is needed even to try. If they were tempted to behave badly, then coming to believe in fatalism makes them less likely to resist that temptation.

Baumeister and colleagues found that provoking disbelief in free will seems to cause various negative effects. The authors concluded, in their paper, that it is belief in [determinism](#) that causes those negative effects.<sup>[206]</sup> This may not be a very justified conclusion, however.<sup>[213]</sup> First of all, free will can at least refer to either [libertarian \(indeterministic\) free will](#) or [compatibilistic \(deterministic\) free will](#). Having participants read articles that simply "disprove free will" is unlikely to increase their understanding of determinism, or the compatibilistic free will that it still permits.<sup>[213]</sup>

In other words, "provoking disbelief in free will" probably causes a belief in [fatalism](#). As discussed earlier in this article, compatibilistic free will is illustrated by statements like "*my choices have causes, and an effect – so I affect my future*", whereas fatalism is more like "*my choices have causes, but no effect – I am powerless*". Fatalism, then, may be what threatens people's sense of [self-efficacy](#). Lay people should not confuse fatalism with determinism, and yet even professional philosophers occasionally confuse the two. It is thus likely that the negative consequences below can be accounted for by participants developing a belief in *fatalism* when experiments attack belief in "free will".<sup>[213]</sup> To test the effects of belief in determinism, future studies would need to provide articles that do not simply "attack free will", but instead focus on explaining determinism and compatibilism. Some studies have been conducted indicating that people react strongly to the way in which mental determinism is described, when reconciling it with moral responsibility. Eddy Nahmias has noted that when people's actions are framed with respect to their beliefs and desires (rather than their neurological underpinnings), they are more likely to dissociate determinism from moral responsibility.<sup>[214]</sup>

Various social behavioural traits have been correlated with the belief in deterministic models of mind, some of which involved the experimental subjection of individuals to libertarian and deterministic perspectives.

After researchers provoked volunteers to disbelieve in free will, participants lied, cheated, and stole more. Kathleen Vohs has found that those whose belief in free will had been eroded were more likely to cheat.<sup>[215]</sup> In a study conducted by Roy Baumeister, after participants read an article arguing against free will, they were more likely to lie about their performance on a test where they would be rewarded with cash.<sup>[216]</sup> Provoking a rejection of free will has also been associated with increased aggression and less helpful behaviour<sup>[217][218]</sup> as well as mindless conformity.<sup>[219]</sup> Disbelief in free will can even cause people to feel less guilt about transgressions against others.<sup>[220]</sup>

Baumeister and colleagues also note that volunteers disbelieving in free will are less capable of [counterfactual thinking](#).<sup>[206][221]</sup> This is worrying because counterfactual thinking ("If I had done something different...") is an important part of learning from one's choices, including those that harmed others.<sup>[222]</sup> Again, this cannot be taken to mean that belief in determinism is to blame; these are the results we would expect from increasing people's belief in fatalism.<sup>[213]</sup>

Along similar lines, Tyler Stillman has found that belief in free will predicts better job performance.<sup>[223]</sup>

[Eastern philosophy](#)[\[edit\]](#)

[Hindu philosophy](#)[\[edit\]](#)

See also: [Free will in theology § In Hinduism](#)

The six orthodox ([astika](#)) schools of thought in [Hindu philosophy](#) do not agree with each other entirely on the question of free will. For the [Samkhya](#), for instance, matter is without any freedom, and soul lacks any ability to control the unfolding of matter. The only real freedom (*kaivalya*) consists in realizing the ultimate separateness of matter and self.<sup>[224]</sup> For the [Yoga](#) school, only [Ishvara](#) is truly free, and its freedom is also distinct from all feelings, thoughts, actions, or wills, and is thus not at all

a freedom of will. The metaphysics of the [Nyaya](#) and [Vaisheshika](#) schools strongly suggest a belief in determinism, but do not seem to make explicit claims about determinism or free will.<sup>[225]</sup>

A quotation from [Swami Vivekananda](#), a [Vedantist](#), offers a good example of the worry about free will in the Hindu tradition.

Therefore we see at once that there cannot be any such thing as free-will; the very words are a contradiction, because will is what we know, and everything that we know is within our universe, and everything within our universe is moulded by conditions of time, space and causality. ... To acquire freedom we have to get beyond the limitations of this universe; it cannot be found here.<sup>[226]</sup>

However, the preceding quote has often been misinterpreted as Vivekananda implying that everything is predetermined. What Vivekananda actually meant by lack of free will was that the will was not "free" because it was heavily influenced by the law of cause and effect – "The will is not free, it is a phenomenon bound by cause and effect, but there is something behind the will which is free."<sup>[226]</sup> Vivekananda never said things were absolutely determined and placed emphasis on the power of conscious choice to alter one's past [karma](#): "It is the coward and the fool who says this is his [fate](#). But it is the strong man who stands up and says I will make my own fate."<sup>[226]</sup>

[Buddhist philosophy](#)[\[edit\]](#)

[Buddhism](#) accepts both freedom and determinism (or something similar to it), but in spite of its focus towards the human agency, rejects the western concept of a total agent from external sources.<sup>[227]</sup>

According to [the Buddha](#), "There is free action, there is retribution, but I see no agent that passes out from one set of momentary elements into another one, except the [connection] of those elements."<sup>[227]</sup> Buddhists believe in neither absolute free will, nor determinism. It preaches a middle doctrine, named [pratitya-samutpada](#) in [Sanskrit](#), often translated as "inter-dependent arising". This theory is also called "Conditioned Genesis" or "[Dependent Origination](#)". It teaches that every volition is a conditioned action as a result of ignorance. In part, it states that free will is inherently conditioned and not "free" to begin with. It is also part of the theory of [karma in Buddhism](#). The concept of karma in Buddhism is different from the notion of karma in Hinduism. In Buddhism, the idea of karma is much less deterministic. The Buddhist notion of karma is primarily focused on the cause and effect of moral actions in this life, while in Hinduism the concept of karma is more often connected with determining one's [destiny](#) in future lives.

In Buddhism it is taught that the idea of absolute freedom of choice (that is that any human being could be completely free to make any choice) is unwise, because it denies the reality of one's physical needs and circumstances. Equally incorrect is the idea that humans have no choice in life or that their lives are pre-determined. To deny freedom would be to deny the efforts of Buddhists to make moral progress (through our capacity to freely choose compassionate action). *Pubbekatahetuvada*, the belief that all happiness and suffering arise from previous actions, is considered a wrong view according to Buddhist doctrines. Because Buddhists also reject [agenthood](#), the traditional compatibilist strategies are closed to them as well. Instead, the Buddhist philosophical strategy is to examine the metaphysics of causality. Ancient India had many heated arguments about the nature of causality with [Jains](#), [Nyayists](#), [Samkhysts](#), [Cārvākans](#), and Buddhists all taking slightly different lines. In many ways, the Buddhist position is closer to a theory of "conditionality" than a theory of "causality", especially as it is expounded by [Nagarjuna](#) in the [Mūlamadhyamakakārikā](#).<sup>[227]</sup>

[In theology](#)[\[edit\]](#)

*Main article: [Free will in theology](#)*

[Christianity](#)[\[edit\]](#)

St. Augustine's view of free will and predestination would go on to have a profound impact on Christian theology

The notions of free will and predestination are heavily debated among Christians. Free will in the Christian sense is the ability to choose between good or evil. Among Catholics, there are those holding to [Thomism](#), adopted from what [Thomas Aquinas](#) put forth in the [Summa Theologica](#). There are also some holding to [Molinism](#) which was put forth by Jesuit priest [Luis de Molina](#). Among Protestants there is [Arminianism](#), held primarily by [Methodist](#) and some [Baptist](#), and formulated by Dutch theologian [Jacobus Arminius](#); and there is also [Calvinism](#) held by most in the [Reformed](#) tradition which was formulated by the French Reformed theologian, [John Calvin](#). John Calvin was

heavily influenced by [Augustine of Hippo](#) views on predestination put forth in his work *On the Predestination of the Saints*. [Martin Luther](#) seems to hold views on predestination similar to Calvinism in his *On the Bondage of the Will*, thus rejecting free will. In condemnation of Calvin and Luther views, the Council of Trent declared that "the free will of man, moved and excited by God, can by its consent co-operate with God, Who excites and invites its action; and that it can thereby dispose and prepare itself to obtain the grace of justification. The will can resist grace if it chooses. It is not like a lifeless thing, which remains purely passive. Weakened and diminished by Adam's fall, free will is yet not destroyed in the race (Sess. VI, cap. i and v)."

[Jesse Omoregie](#) detailed in '[Freewill: The degree of freedom within](#)' that, in Christianity, there are numerous occasions where 'man' lived life according to pre-written scripts; in one example, he detailed how in The Bible God commented that He loved Jacob and hated Esau, his twin brother even while he was still in his mother's womb.<sup>[228]</sup> Thus, Esau lived his life thinking he had power of real choice, whereas, he was living a script.

[Paul the Apostle](#) discusses Predestination in some of his Epistles.

*"For whom He foreknew, He also predestined to become conformed to the image of His Son, that He might be the first-born among many brethren; and whom He predestined, these He also called; and whom He called, these He also justified; and whom He justified, these He also glorified."* —[Romans](#) 8:29–30

*"He predestined us to adoption as sons through Jesus Christ to Himself, according to the kind intention of His will."* —[Ephesians](#) 1:5

The exact meaning of these verses has been debated by Christian theologians throughout history.

[Judaism](#)<sup>[edit]</sup>

Some views in [Jewish philosophy](#) stress that free will is a product of the intrinsic human soul, using the word *neshama* (from the [Hebrew root](#) *n.sh.m.* or *נ.ש.מ* meaning "breath"), but the ability to make a free choice is through *Yechida* (from Hebrew word "yachid", *י י*, singular), the part of the soul that is united with God, the only being that is not hindered by or dependent on cause and effect (thus, freedom of will does not belong to the realm of the physical reality, and inability of natural philosophy to account for it is expected). This understanding is developed in Kabbalistic circles from medieval times and later.

[Islam](#)<sup>[edit]</sup>

In [Islam](#) the theological issue is not usually how to reconcile free will with God's foreknowledge, but with God's *jabr*, or divine commanding power. [al-Ash'ari](#) developed an "acquisition" or "dual-agency" form of compatibilism, in which human free will and divine *jabr* were both asserted, and which became a cornerstone of the dominant [Ash'ari](#) position.<sup>[229]</sup> In [Shia](#) Islam, Ash'aris understanding of a higher balance toward [predestination](#) is challenged by most theologians.<sup>[230]</sup> Free will, according to Islamic doctrine is the main factor for man's accountability in his/her actions throughout life. Actions taken by people exercising free will are counted on the [Day of Judgement](#) because they are their own; however, the free will happens with the permission of God.<sup>[231]</sup>

[Others](#)<sup>[edit]</sup>

The philosopher [Søren Kierkegaard](#) claimed that divine omnipotence cannot be separated from divine goodness.<sup>[232]</sup> As a truly omnipotent and good being, God could create beings with true freedom over God. Furthermore, God would voluntarily do so because "the greatest good ... which can be done for a being, greater than anything else that one can do for it, is to be truly free."<sup>[233]</sup> [Alvin Plantinga](#)'s "[free will defense](#)" is a contemporary expansion of this theme, adding how God, free will, and [evil](#) are consistent.<sup>[234]</sup>

Some philosophers follow [William of Ockham](#) in holding that necessity and possibility are defined with respect to a given point in time and a given matrix of empirical circumstances, and so something that is merely possible from the perspective of one observer may be necessary from the perspective of an omniscient.<sup>[235]</sup> Some philosophers follow [Philo of Alexandria](#), a philosopher known for his homocentrism, in holding that free will is a feature of a human's [soul](#), and thus that non-human [animals](#) lack free will.<sup>[236]</sup>

## 5) Moral responsibility (Wikipedia)

In [philosophy](#), **moral responsibility** is the status of [morally deserving praise](#), [blame](#), [reward](#), or [punishment](#) for an act or omission, in accordance with one's [moral obligations](#).<sup>[1][2]</sup> Deciding what (if anything) counts as "morally obligatory" is a principal concern of [ethics](#).

Philosophers refer to people who have moral responsibility for an action as [moral agents](#). Agents have the capability to reflect upon their situation, to form [intentions](#) about how they will act, and then to carry out that action. The notion of [free will](#) has become an important issue in the debate on whether individuals are ever morally responsible for their actions and, if so, in what sense. [Incompatibilists](#) regard determinism as at odds with free will, whereas [compatibilists](#) think the two can coexist.

Moral responsibility does not necessarily equate to [legal responsibility](#). A person is legally responsible for an event when a legal system is liable to penalise that person for that event. Although it may often be the case that when a person is morally responsible for an act, they are also legally responsible for it, the two states do not always coincide.<sup>[citation needed]</sup>

## Yorum

### Philosophical stance[edit]

		Free will	
		"Free will" is impossible	"Free will" is possible
Determinism	Physical determinism is true	Hard determinism	Compatibilism
	Physical determinism is false	Hard incompatibilism	Libertarianism

Various philosophical positions exist, disagreeing over [determinism](#) and free will

Depending on how a philosopher conceives of [free will](#), they will have different views on moral responsibility.<sup>[3]</sup>

[Incompatibilism](#)[edit]

*Main article:* [Incompatibilism](#)

**Metaphysical libertarianism**[edit]

*Main article:* [Libertarianism \(metaphysics\)](#)

[Metaphysical libertarians](#) think actions are not always causally determined, allowing for the possibility of free will and thus moral responsibility. All libertarians are also incompatibilists; they think that if causal determinism were true of human action; people would not have free will. Accordingly, libertarians subscribe to the principle of alternate possibilities, which posits that moral responsibility requires that people could have acted differently.<sup>[4]</sup>

Phenomenological considerations are sometimes invoked by incompatibilists to defend a libertarian position. In daily life, we feel as though choosing otherwise is a viable option. Although this feeling doesn't firmly establish the existence of free will, some incompatibilists claim the phenomenological feeling of alternate possibilities is a prerequisite for free will.<sup>[5]</sup>

[Jean-Paul Sartre](#) suggested that people sometimes avoid incrimination and responsibility by hiding behind determinism: "...we are always ready to take refuge in a belief in determinism if this freedom weighs upon us or if we need an excuse".<sup>[6]</sup>

A similar view has it that individual moral culpability lies in individual character. That is, a person with the character of a murderer has no choice other than to murder, but can still be punished because it is right to punish those of bad character. How one's character was determined is irrelevant from this perspective. Robert Cummins, for example, argues that people should not be judged for their individual actions, but rather for how those actions "reflect on their character". If character (however defined) is the dominant causal factor in determining one's choices, and one's choices are morally

wrong, then one should be held accountable for those choices, regardless of genes and other such factors.<sup>[7][8]</sup>

In law, there is a known exception to the assumption that moral culpability lies in either individual character or freely willed acts. The [insanity defense](#)—or its corollary, [diminished responsibility](#) (a sort of appeal to the [fallacy of the single cause](#))—can be used to argue that the guilty deed was not the product of a guilty mind.<sup>[9]</sup> In such cases, the legal systems of most Western societies assume that the person is in some way not at fault, because his actions were a consequence of abnormal brain function (implying brain function is a deterministic causal agent of mind and motive).

#### **The argument from luck[edit]**

The argument from luck is a criticism against the libertarian conception of moral responsibility. It suggests that any given action, and even a person's character, is the result of various forces outside that person's control. It may not be reasonable, then, to hold that person solely morally responsible.<sup>[10]</sup> [Thomas Nagel](#) suggests that four different types of luck (including genetic influences and other external factors) end up influencing the way that a person's actions are evaluated morally. For instance, a person driving drunk may make it home without incident, and yet this action of *drunk driving* might seem more morally objectionable if someone happens to jaywalk along his path (getting hit by the car).<sup>[11]</sup>

This argument can be traced back to [David Hume](#). If physical indeterminism is true, then those events that are not determined are scientifically described as probabilistic or random. It is therefore argued that it is doubtful that one can praise or blame someone for performing an action generated randomly by his nervous system (without there being any non-physical agency responsible for the observed probabilistic outcome).<sup>[12]</sup>

#### **Hard determinism[edit]**

*Main article: [Hard determinism](#)*

[Hard determinists](#) (not to be confused with [Fatalists](#)) often use [liberty](#) in practical moral considerations, rather than a notion of a free will. Indeed, faced with the possibility that determinism requires a completely different moral system, some proponents say "So much the worse for free will!".<sup>[13]</sup> [Clarence Darrow](#), the famous defense attorney, pleaded the innocence of his clients, [Leopold and Loeb](#), by invoking such a notion of hard determinism.<sup>[14]</sup> During his summation, he declared:

What has this boy to do with it? He was not his own father; he was not his own mother; he was not his own grandparents. All of this was handed to him. He did not surround himself with governesses and wealth. He did not make himself. And yet he is to be compelled to pay.<sup>[14]</sup>

[Paul the Apostle](#), in his [Epistle to the Romans](#) addresses the question of moral responsibility as follows: "Hath not the potter power over the clay, of the same lump to make one vessel unto honour, and another unto dishonour?"<sup>[15]</sup> In this view, individuals can still be dishonoured for their acts even though those acts were ultimately completely determined by God.

Joshua Greene and Jonathan Cohen, researchers in the emerging field of [neuroethics](#), argue, on the basis of such cases, that our current notion of moral responsibility is founded on libertarian (and [dualist](#)) intuitions.<sup>[16]</sup> They argue that [cognitive neuroscience](#) research (e.g. [neuroscience of free will](#)) is undermining these intuitions by showing that the brain is responsible for our actions, not only in cases of florid [psychosis](#), but also in less obvious situations. For example, damage to the [frontal lobe](#) reduces the ability to weigh uncertain risks and make prudent decisions, and therefore leads to an increased likelihood that someone will commit a violent crime.<sup>[17]</sup> This is true not only of patients with damage to the frontal lobe due to accident or stroke, but also of adolescents, who show reduced frontal lobe activity compared to adults,<sup>[18]</sup> and even of children who are chronically neglected or mistreated.<sup>[19]</sup> In each case, the guilty party can, they argue, be said to have less responsibility for his actions.<sup>[16]</sup> Greene and Cohen predict that, as such examples become more common and well known, jurors' interpretations of free will and moral responsibility will move away from the intuitive libertarian notion that currently underpins them.



David Eagleman explains that nature and nurture cause all criminal behavior. He likewise believes that science demands that change and improvement, rather than guilt, must become the focus of the legal justice system.<sup>[20]</sup>

Greene and Cohen also argue that the legal system does not require this libertarian interpretation. Rather, they suggest that only retributive notions of [justice](#), in which the goal of the legal system is to punish people for misdeeds, require the libertarian intuition. Many forms of [ethically realistic](#) and [consequentialist](#) approaches to justice, which are aimed at promoting future welfare rather than retribution, can survive even a hard determinist interpretation of free will. Accordingly, the legal system and notions of justice can thus be maintained even in the face of emerging neuroscientific evidence undermining libertarian intuitions of free will.

Neuroscientist [David Eagleman](#) maintains similar ideas. Eagleman says that the legal justice system ought to become more forward looking. He says it is wrong to ask questions of narrow culpability, rather than focusing on what is important: what needs to change in a criminal's behavior and brain. Eagleman is not saying that no one is responsible for their crimes, but rather that the "sentencing phase" should correspond with modern neuroscientific evidence. To Eagleman, it is damaging to entertain the illusion that a person can make a single decision that is somehow, suddenly, independent of their physiology and history. He describes what scientists have learned from brain damaged patients, and offers the case of a school teacher who exhibited escalating [pedophilic](#) tendencies on two occasions—each time as results of growing tumors.<sup>[21]</sup> Eagleman also warns that less attractive people and minorities tend to get longer sentencing—all of which he sees as symptoms that more science is needed in the legal system.<sup>[20]</sup>

#### **Hard incompatibilism[edit]**

[Derk Pereboom](#) defends a skeptical position about free will he calls [hard incompatibilism](#). In his view, we cannot have free will if our actions are causally determined by factors beyond our control, or if our actions are indeterministic events—if they happen by chance. Pereboom conceives of free will as the control in action required for moral responsibility in the sense involving deserved blame and praise, punishment and reward.<sup>[22]</sup> While he acknowledges that libertarian agent causation, the capacity of agents as substances to cause actions without being causally determined by factors beyond their control, is still a possibility, he regards it as unlikely against the backdrop of the most defensible physical theories. Without libertarian agent causation, Pereboom thinks the free will required for moral responsibility in the desert-involving sense is not in the offing.<sup>[23]</sup> However, he also contends that by contrast with the backward-looking, desert-involving sense of moral responsibility, forward-looking senses are compatible with causal determination. For instance, causally determined agents who act badly might justifiably be blamed with the aim of forming faulty character, reconciling impaired relationships, and protecting others from harm they are apt to cause.<sup>[24]</sup>

Pereboom proposes that a viable criminal jurisprudence is compatible with the denial of deserved blame and punishment. His view rules out retributivist justifications for punishment, but it allows for incapacitation of dangerous criminals on the analogy with quarantine of carriers of dangerous diseases. Isolation of carriers of the Ebola virus can be justified on the ground of the right to defend against threat, a justification that does not reference desert. Pereboom contends that the analogy holds for incapacitation of dangerous criminals. He also argues that the less serious the threat, the more moderate the justifiable method of incapacitation; for certain crimes only monitoring may be needed. In addition, just as we should do what we can, within reasonable bounds, to cure the carriers of the Ebola virus we quarantine, so we should aim to rehabilitate and reintegrate the criminals we



incapacitate. Pereboom also proposes that given hard incompatibilism, punishment justified as general deterrence may be legitimate when the penalties don't involve undermining an agent's capacity to live a meaningful, flourishing life, since justifying such moderate penalties need not invoke desert.<sup>[25]</sup>

[Compatibilism\[edit\]](#)

Main article: [Compatibilism](#)



Some forms of compatibilism suggest the term *free will* should only be used to mean something more like liberty.

Compatibilists contend that even if determinism were true, it would still be possible for us to have free will. The Hindu text [The Bhagavad Gita](#) offers one very early compatibilist account. Facing the prospect of going to battle against kinsmen to whom he has bonds, Arjuna despairs. Krishna attempts to assuage Arjuna's anxieties. He argues that forces of nature come together to produce actions, and it is only vanity that causes us to regard ourselves as the agent in charge of these actions. However, Krishna adds this caveat: "... [But] the Man who knows the relation between the forces of Nature and actions, witnesses how some forces of Nature work upon other forces of Nature, and becomes [not] their slave..." When we are ignorant of the relationship between forces of Nature, we become passive victims of nomological facts. Krishna's admonition is intended to get Arjuna to perform his duty (i.e., fight in the battle), but he is also claiming that being a successful moral agent requires being mindful of the wider circumstances in which one finds oneself.<sup>[26]</sup> Paramahansa Yogananda also said, "Freedom means the power to act by soul guidance, not by the compulsions of desires and habits. Obeying the ego leads to bondage; obeying the soul brings liberation."<sup>[27]</sup>

In the Western tradition, Baruch Spinoza echoes the *Bhagavad Gita's* point about agents and natural forces, writing "men think themselves free because they are conscious of their volitions and their appetite, and do not think, even in their dreams, of the causes by which they are disposed to wanting and willing, because they are ignorant [of those causes]."<sup>[23]</sup> Krishna is hostile to the influence of passions on our rational faculties, speaking up instead for the value of heeding the dictates of one's own nature: "Even a wise man acts under the impulse of his nature. Of what use is restraint?"<sup>[26]</sup> Spinoza similarly identifies the taming of one's passions as a way to extricate oneself from merely being passive in the face of external forces and a way toward following our own natures.<sup>[28]</sup>

[Other views\[edit\]](#)

[Daniel Dennett](#) asks why anyone would care about whether someone had the property of responsibility and speculates that the idea of moral responsibility may be "a purely metaphysical hankering".<sup>[29]</sup>

[Experimental research\[edit\]](#)

Mauro suggests that a sense of personal responsibility does not operate or evolve universally among humankind. He argues that it was absent in the successful civilization of the [Iroquois](#).<sup>[30]</sup>

In recent years, research in [experimental philosophy](#) has explored whether people's untutored intuitions about determinism and moral responsibility are compatibilist or incompatibilist.<sup>[31]</sup> Some experimental work has included cross-cultural studies.<sup>[32]</sup> However, the debate about whether people naturally have compatibilist or incompatibilist intuitions has not come out overwhelmingly in favor of one view or the other, finding evidence for both views. For instance, when people are presented with abstract cases that ask if a person could be morally responsible for an immoral act when they could not have done otherwise, people tend to say no, or give *incompatibilist* answers. When presented

with a specific immoral act that a specific person committed, people tend to say that that person is morally responsible for their actions, even if they were determined (that is, people also give *compatibilist* answers).<sup>[33]</sup>

The neuroscience of free will investigates various experiments that might shed light on free will.

#### [Collective](#)[\[edit\]](#)

*Main article:* [Collective responsibility](#)

When people attribute moral responsibility, they usually attribute it to individual moral agents.<sup>[34]</sup> However, Joel Feinberg, among others, has argued that corporations and other groups of people can have what is called 'collective moral responsibility' for a state of affairs.<sup>[35]</sup> For example, when [South Africa](#) had an [apartheid](#) regime, the country's government might have been said to have had collective moral responsibility for the violation of the rights of non-European South Africans.

#### [Lack of sense of responsibility of psychopaths](#)[\[edit\]](#)

One of the attributes defined for [psychopathy](#) is "failure to accept responsibility for own actions".<sup>[36]</sup>

#### [Artificial systems](#)[\[edit\]](#)

The emergence of [automation, robotics and related technologies](#) prompted the question, 'Can an artificial system be morally responsible?'<sup>[37][38][39]</sup> The question has a closely related variant, 'When (if ever) does moral responsibility transfer from its human creator(s) to the system?'<sup>[40][41]</sup>

The questions *arguably* adjoin with but are distinct from [machine ethics](#), which is concerned with the moral behavior of artificial systems. Whether an artificial system's behavior qualifies it to be morally responsible has been a key focus of debate.

#### [Arguments that artificial systems cannot be morally responsible](#)[\[edit\]](#)

Batya Friedman and Peter Kahn Jr posited that [intentionality](#) is a necessary condition for moral responsibility, and that computer systems as conceivable in 1992 in material and structure could not have intentionality.<sup>[42]</sup>

Arthur Kuflik asserted that humans must bear the ultimate moral responsibility for a computer's decisions, as it is humans who design the computers and write their programs. He further proposed that humans can never relinquish oversight of computers.<sup>[41]</sup>

Frances Grodzinsky et al. considered artificial systems that could be modelled as [finite state machines](#). They posited that if the machine had a fixed state transition table, then it could not be morally responsible. If the machine could modify its table, then the machine's designer still retained some moral responsibility.<sup>[40]</sup>

Patrick Hew argued that for an artificial system to be morally responsible, its rules for behaviour and the mechanisms for supplying those rules must not be supplied entirely by external humans. He further argued that such systems are a substantial departure from technologies and theory as extant in 2014. An artificial system based on those technologies will carry zero responsibility for its behaviour. Moral responsibility is apportioned to the humans that created and programmed the system.<sup>[43]</sup>

(A more extensive review of arguments may be found in.<sup>[43]</sup>)

#### [Arguments that artificial systems can be morally responsible](#)[\[edit\]](#)

Colin Allen et al. proposed that an artificial system may be morally responsible if its behaviours are functionally indistinguishable from a moral person, coining the idea of a 'Moral Turing Test'.<sup>[37]</sup> They subsequently disavowed the Moral Turing Test in recognition of controversies surrounding the [Turing Test](#).<sup>[38]</sup>

Andreas Matthias described a 'responsibility gap' where to hold humans responsible for a machine would be an injustice, but to hold the machine responsible would challenge 'traditional' ways of ascription. He proposed three cases where the machine's behaviour ought to be attributed to the machine and not its designers or operators. First, he argued that modern machines are inherently unpredictable (to some degree), but perform tasks that need to be performed yet cannot be handled by simpler means. Second, that there are increasing 'layers of obscurity' between manufacturers and system, as hand coded programs are replaced with more sophisticated means. Third, in systems that have rules of operation that can be changed during the operation of the machine.<sup>[44]</sup>

(A more extensive review of arguments may be found in.<sup>[43]</sup>)

## 5) Self-deception (Wikipedia)

**Self-deception** is a process of [denying](#) or [rationalizing](#) away the relevance, significance, or importance of opposing [evidence](#) and [logical argument](#). Self-deception involves convincing oneself of a truth (or lack of truth) so that one does not reveal any [self-knowledge](#) of the [deception](#).

[Theorization](#)[\[edit\]](#)

[Analysis](#)[\[edit\]](#)

The traditional paradigm of self-deception is modeled after *interpersonal* deception, where *A* intentionally gets *B* to believe some proposition *p*, all the while knowing or believing truly  $\neg p$  (not *p*).<sup>[1]</sup> Such deception is intentional and requires the deceiver to know or believe  $\neg p$  and the deceived to believe *p*. On this traditional mode, self-deceivers must (1) hold contradictory beliefs and (2) intentionally get themselves to hold a belief they know or believe truly to be false.<sup>[1]</sup>

The process of [rationalization](#), however, can obscure the intent of self-deception. Brian McLaughlin illustrates that such rationalizations in certain circumstances permit the phenomenon. When a person, who disbelieves *p*, intentionally tries to make himself believe or continue believing *p* by engaging in such activities, and, as a result unintentionally misleads himself into believing or continuing to believe *p* via biased thinking, he deceives himself in a way appropriate for self-deception. No deceitful intention is required for this.<sup>[2]</sup>

[Psychology](#)[\[edit\]](#)

Self-deception calls into question the nature of the individual, specifically in a [psychological](#) context and the nature of "self". Irrationality is the foundation upon which the argued paradoxes of self-deception stem, and it is argued<sup>[weasel word]</sup> that not everyone has the "special talents" and capacities for self-deception.<sup>[3]</sup> However, rationalization is influenced by a myriad of factors, including socialization, personal biases, fear, and cognitive repression. Such rationalization can be manipulated in both positive and negative fashions; convincing one to perceive a negative situation optimistically and vice versa. In contrast, rationalization alone cannot effectively clarify the dynamics of self-deception, as reason is just one adaptive form mental processes can take.<sup>[4]</sup>

[Paradoxes](#)[\[edit\]](#)

The works of philosopher [Alfred R. Mele](#) have provided insight into some of the more prominent paradoxes regarding self-deception. Two of these paradoxes include the self-deceiver's state of mind and the dynamics of self-deception, coined the "static" paradox and the "dynamic/strategic" paradox, respectively.

Mele formulates an example of the "static" paradox as the following:

If ever a person *A* deceives a person *B* into believing that something, *p*, is true, *A* knows or truly believes that *p* is false while causing *B* to believe that *p* is true. So when *A* deceives *A* (i.e., himself) into believing that *p* is true, he knows or truly believes that *p* is false while causing himself to believe that *p* is true. Thus, *A* must simultaneously believe that *p* is false and believe that *p* is true. But how is this possible?<sup>[5]</sup>

Mele then describes the "dynamic/strategy" paradox:

In general, *A* cannot successfully employ a deceptive strategy against *B* if *B* knows *A*'s intention and plan. This seems plausible as well when *A* and *B* are the same person. A potential self-deceiver's knowledge of his intention and strategy would seem typically to render them ineffective. On the other hand, the suggestion that self-deceivers typically successfully execute their self-deceptive strategies without knowing what they are up to may seem absurd; for an agent's effective execution of his plans seems generally to depend on his cognizance of them and their goals. So how, in general, can an agent deceive himself by employing a self-deceptive strategy?<sup>[5]</sup>

These models call into question how one can simultaneously hold contradictory beliefs ("static" paradox) and deceive oneself without rendering one's intentions ineffective ("dynamic/strategic" paradox). Attempts at a resolution to these have created two schools of thought: one that maintains that paradigmatic cases of self-deception are intentional and one that denies the notion—*intentionalists* and *non-intentionalists*, respectively.<sup>[1]</sup>

Intentionalists tend to agree that self-deception is intentional, but divide over whether it requires the holding of contradictory beliefs.<sup>[1]</sup> This school of thought incorporates elements of temporal

partitioning (extended over time to benefit the self-deceiver, increasing the chance of forgetting the deception altogether) and psychological partitioning (incorporating various aspects of the "self").

Non-intentionalists, in contrast, tend to believe that cases of self-deception are not necessarily accidental, but motivated by desire, anxiety, or some other emotion regarding  $p$  or related to  $p$ .<sup>[1]</sup> This notion distinguishes self-deception from misunderstanding. Furthermore, "wishful thinking" is distinguished from self-deception in that the self-deceivers recognize evidence against their self-deceptive belief or possess, without recognizing, greater counterevidence than wishful thinkers.<sup>[1]</sup>

Numerous questions and debates remain in play with respect to the paradoxes of self-deception, and a consensual paradigm has yet to appear.

#### [Trivers' theory\[edit\]](#)

It has been theorized that humans are susceptible to self-deception because most people have emotional attachments to beliefs, which in some cases may be [irrational](#). Some [evolutionary](#) biologists, such as [Robert Trivers](#), have suggested<sup>[6][page needed]</sup> that [deception](#) plays a significant part in human behavior, and in animal behavior, more generally speaking. One deceives oneself to trust something that is not true as to better convince others of that truth. When a person convinces himself of this untrue thing, they better mask the signs of deception.<sup>[7]</sup>

This notion is based on the following [logic](#): deception is a fundamental aspect of communication in nature, both between and within species. It has evolved so that one can have an advantage over another. From alarm calls to mimicry, animals use deception to further their survival. Those who are better able to perceive deception are more likely to survive. As a result, self-deception evolved to better mask deception from those who perceive it well, as Trivers puts it: "Hiding the truth from yourself to hide it more deeply from others." In humans, [awareness](#) of the fact that one is acting deceptively often leads to tell-tale signs of deception, such as nostrils flaring, clammy skin, quality and tone of voice, eye movement, or excessive blinking. Therefore, if self-deception enables someone to believe her or his own distortions, they will not present such signs of deception and will therefore appear to be telling the truth.

Self-deception can be used both to act greater or lesser than one actually is. For example, one can act overconfident to attract a mate or act under-confident to avoid a predator or threat. If a person is capable of concealing their true feelings and intentions well, then they are more likely to successfully deceive others.

It may also be argued that the ability to deceive, or self-deceive, is not the selected trait but a by-product of a more primary trait called [abstract thinking](#). Abstract thinking allows many evolutionary advantages such as more flexible, adaptive behaviors and innovation. Since a lie is an [abstraction](#), the mental process of creating a lie can only occur in animals with enough brain complexity to permit abstract thinking.<sup>[citation needed]</sup> Moreover, self-deception lowers cognitive cost; that is to say, if one has convinced oneself that that very thing is indeed true, it is less complicated for one to behave or think in a certain manner. The mind will not have to think constantly of the true thing and then the false thing, but simply convince itself that the false thing is true.

#### [Evolutionary implications\[edit\]](#)

Because there is deceit, there exists a strong selection to recognize when deception occurs. As a result, self-deception evolves so as to better hide the signs of deception from others. The presence of deception explains the existence of an innate ability to commit self-deception to hide the indications of deceptions. Humans deceive themselves in order to better deceive others and thus have an advantage over them. In the three decades since Trivers introduced his adaptive theory of self-deception, there has been an ongoing debate over the question of such behavior having a genetic basis.

The explanation of deception and self-deception as innate characteristics is perhaps true, but there are very many other explanations for this pattern of behavior. It is possible that the ability to self-deceive is not innate, but a learned trait, acquired through experience. For example, a person could have been caught being deceitful by revealing their knowledge of information they were trying to hide. Their nostrils flared, indicating that they were lying to the other person, and thus did not get what they wanted. Next time, to better achieve success, the person will more actively deceive himself of having knowledge to better hide the signs of deception. People, therefore, could have the capacity

to learn self-deception. However, simply because something is learned does not mean that it is not innate; what is learned and what is innate work in conjunction<sup>[8]</sup>. This is outlined in many introductory textbooks in evolutionary psychology.<sup>[9]</sup> For example, [preparedness \(learning\)](#) occurs in learning to explain why some behaviours are more easily learned in others. Certain attributes, while they may be learned, are also innate.<sup>[10]</sup> Evolutionary psychologists argue that there are learning mechanisms that allow learning to occur<sup>[11]</sup>. Thus, while self-deception may be learned, this does not negate that is evolutionary nor genetic.<sup>[12]</sup>

[Medicine](#)[\[edit\]](#)

Self-deception has a prominent role in several medical conditions, such as [borderline personality disorder](#), [narcissistic personality disorder](#), and [histrionic personality disorder](#).<sup>[13]</sup>

[Examples](#)[\[edit\]](#)

Simple instances of self-deception include common occurrences such as: the alcoholic who is self-deceived in believing that his drinking is under control, the husband who is self-deceived in believing that his wife is not having an affair, the jealous colleague who is self-deceived in believing that her colleague's greater professional success is due to ruthless ambition.

An example of self-deception is provided by [Robert Trivers](#) and [Huey P. Newton](#) published<sup>[14]</sup> in the form of an analysis of the role of flight crew self-deception in the crash of [Air Florida Flight 90](#).

## 6) Personal identity (Wikipedia)

In [philosophy](#), the matter of **personal identity**<sup>[1]</sup> deals with such questions as, "What makes it true that a person at one time is the same thing as a person at another time?" or "What kinds of things are we persons?" The term "identity" in "personal identity" refers to "numerical identity," where saying that X and Y are numerically identical just means that X and Y are the same thing. Personal identity is not the same as personality, though some theories of personal identity maintain that continuity of personality may be required for one to persist through time.

Generally, personal identity is the unique [numerical identity](#) of a [person](#) in the course of time.<sup>[2][3]</sup> That is, the necessary and sufficient conditions under which a person at one time and a person at another time can be said to be the *same* person, persisting through time;<sup>[note 1]</sup>

In contemporary [metaphysics](#), the matter of personal identity is referred to as the *diachronic problem* of personal identity.<sup>[note 2][4]</sup> The *synchronic problem* concerns the question of: What features and traits characterize a person at a given time.<sup>[note 3]</sup> In [Continental philosophy](#) and in [Analytic philosophy](#), enquiry to the nature of Identity is common. Continental philosophy deals with conceptually maintaining identity when confronted by different philosophic [propositions](#), [postulates](#), and [presuppositions](#) about the world and its nature.<sup>[5][6]</sup>

[Theories](#)[\[edit\]](#)

[Continuity of substance](#)[\[edit\]](#)

**Bodily substance**[\[edit\]](#)

*Further information:* [Materialism](#)

One concept of personal persistence over time is simply to have continuous bodily existence.<sup>[7]</sup> However, as the [Ship of Theseus](#) problem illustrates, even for inanimate objects there are difficulties in determining whether one physical body at one time is the same thing as a physical body at another time. With humans, over time our bodies age and grow, losing and gaining matter, and over sufficient years will not consist of most of the matter they once consisted of. It is thus problematic to ground persistence of personal identity over time in the continuous existence of our bodies. Nevertheless, this approach has its supporters which define humans as a biological organism and [asserts](#) the [proposition](#) that a [psychological relation](#) is not necessary for personal continuity.<sup>[note 4]</sup> This personal identity [ontology](#) assumes the [relational theory](#)<sup>[8]</sup> of [life-sustaining processes](#) instead of bodily continuity.

[Derek Parfit](#) presents a [thought experiment](#) designed to bring out [intuitions](#) about the corporeal continuity. This thought experiment discusses cases in which a person is [teletransported](#) from Earth to Mars.<sup>[note 5]</sup> Ultimately, the inability to specify where on a spectrum does the transmitted person

stop being identical to the initial person on Earth appears to show that having a numerically identical physical body is not the criterion for personal identity<sup>[9][note 6]</sup>

See also: [Physicalism](#)

**Mental substance**[\[edit\]](#)

Further information: [Dualism](#), [Monism](#), and [Mind-body dichotomy](#)

In another concept of [mind](#), the set of [cognitive faculties](#)<sup>[note 7]</sup> are considered to consist of an [immaterial substance](#), separate from and independent of the body.<sup>[10]</sup> If a person is then identified with their mind, rather than their body—if a person is considered to *be* their mind—and their mind is such a non-physical substance, then personal identity over time may be grounded in the persistence of this non-physical substance, despite the continuous change in the substance of the body it is associated with. The [mind-body problem](#)<sup>[11][12][13][14]</sup> concerns the explanation of the relationship, if any, that exists between minds, or [mental processes](#), and bodily states or processes. One of the aims of philosophers who work in this area is to explain how a non-material mind can influence a material body and vice versa.

However, this is not uncontroversial or unproblematic, and adopting it as a solution raises questions. [Perceptual experiences](#) depend on [stimuli](#) which arrive at various [sensory organs](#) from the external world and these stimuli cause changes in [mental states](#); ultimately causing [sensation](#).<sup>[note 8]</sup> A [desire](#) for food, for example, will tend to cause a person to move their body in a manner and in a direction to obtain food. The question, then, is how it can be possible for conscious experiences to arise out of an organ (the [human brain](#)) possessing electrochemical properties. A related problem is to explain how [propositional attitudes](#) (e.g. beliefs and desires) can cause [neurons](#) of the brain to fire and muscles to contract in the correct manner. These comprise some of the puzzles that have confronted [epistemologists](#) and [philosophers of mind](#) from at least the time of [René Descartes](#).

See also: [Idealism](#) and [Pluralism \(philosophy\)](#)

Continuity of consciousness[\[edit\]](#)

**Locke's conception**[\[edit\]](#)

## Madrid Declaration on Ethical Standards for Psychiatric Practice

World **Psychiatric** Association- Transcultural Psychiatry Section. Retrieved 26 December 2016. "Madrid Declaration on **Ethical Standards for Psychiatric** Practice

### Madrid Declaration on Ethical Standards for Psychiatric Practice

Approved by the General Assembly of the World Psychiatric Association in Madrid, Spain, on August 25, 1996, and enhanced by the WPA General Assemblies in Hamburg, Germany on August 8, 1999, in Yokohama, Japan, on August 26, 2002, in Cairo, Egypt, on September 12, 2005, and in Buenos Aires, Argentina, on September 21, 2011.

#### DECLARATION OF MADRID

In 1977, the World Psychiatric Association approved the Declaration of Hawaii which set out ethical guidelines for the practice of psychiatry. The Declaration was updated in Vienna in 1983. To reflect the impact of changing social attitudes and new medical developments on the psychiatric profession, the World Psychiatric Association has once again undertaken a review of ethical standards that should be abided to by all its members and all persons practicing psychiatry.

Medicine is both a healing art and a science. The dynamics of this combination are best reflected in psychiatry, the branch of medicine that specializes in the care and protection of those who are ill or infirm, because of a mental disorder or impairment. Although there may be cultural, social and national differences, the need for ethical conduct and continual review of ethical standards is universal.

As practitioners of medicine, psychiatrists must be aware of the ethical implications of being a physician, and of the specific ethical demands of the specialty of psychiatry. As members of society, psychiatrists must advocate for fair and equal treatment of the mentally ill, for social justice and equity for all.

Ethical practice is based on the psychiatrist's individual sense of responsibility to the patient and judgment in determining what is correct and appropriate conduct. External standards and influences such as professional codes of conduct, the study of ethics, or the rule of law by themselves will not guarantee the ethical practice of medicine.

Psychiatrists should keep in mind at all times the boundaries of the psychiatrist-patient relationship, and be guided primarily by the respect for patients and concern for their welfare and integrity.

It is in this spirit that the World Psychiatric Association approved at the General Assembly on August 25th, 1996, amended on August 8th 1999 and on August 26th 2002 the following ethical standards that should govern the practice of psychiatrists universally.

**1.** Psychiatry is a medical discipline concerned with the prevention of mental disorders in the population, the provision of the best possible treatment for mental disorders, the rehabilitation of individuals suffering from mental illness and the promotion of mental health. Psychiatrists serve patients by providing the best therapy available consistent with accepted scientific knowledge and ethical principles. Psychiatrists should devise therapeutic interventions that are least restrictive to the freedom of the patient and seek advice in areas of their work about which they do not have primary expertise. While doing so, psychiatrists should be aware of and concerned with the equitable allocation of health resources.

**2.** It is the duty of psychiatrists to keep abreast of scientific developments of the specialty and to convey updated knowledge to others. Psychiatrists trained in research should seek to advance the scientific frontiers of psychiatry.

**3.** The patient should be accepted as a partner by right in the therapeutic process. The psychiatrist-patient relationship must be based on mutual trust and respect to allow the patient to make free and informed decisions. It is the duty of psychiatrists to provide the patient with all relevant information so as to empower the patient to come to a rational decision according to personal values and preferences.

**4.** When the patient is gravely disabled, incapacitated and/or incompetent to exercise proper judgment because of a mental disorder, the psychiatrists should consult with the family and, if appropriate, seek legal counsel, to safeguard the human dignity and the legal rights of the patient. No treatment should be provided against the patient's will, unless withholding treatment would endanger the life of the patient and/or the life of others. Treatment must always be in the best interest of the patient.

**5.** When psychiatrists are requested to assess a person, it is their duty first to inform and advise the person being assessed about the purpose of the intervention, the use of the findings, and the possible repercussions of the assessment. This is particularly important when psychiatrists are involved in third party situations.

**6.** Information obtained in the therapeutic relationship is private to the patient and should be kept in confidence and used, only and exclusively, for the purpose of improving the mental health of the patient. Psychiatrists are prohibited from making use of such information for personal reasons, or

personal benefit. Breach of confidentiality may only be appropriate when required by law (as in obligatory reporting of child abuse) or when serious physical or mental harm to the patient or to a third person would ensue if confidentiality were maintained; whenever possible, psychiatrists should first advise the patient about the action to be taken.

**7. Research** that is not conducted in accordance with the canons of science and that is not scientifically valid is unethical. Research activities should be approved by an appropriately constituted ethics committee. Psychiatrists should follow national and international rules for the conduct of research. Only individuals properly trained for research should undertake or direct it. Because psychiatric patients constitute a particularly vulnerable research population, extra caution should be taken to assess their competence to participate as research subjects and to safeguard their autonomy and their mental and physical integrity. Ethical standards should also be applied in the selection of population groups, in all types of research including epidemiological and sociological studies and in collaborative research involving other disciplines or several investigating centres.

#### **GUIDELINES CONCERNING SPECIFIC SITUATIONS**

The World Psychiatric Association Ethics Committee recognizes the need to develop a number of specific guidelines on a number of specific situations. The first five were approved by the General Assembly in Madrid, Spain, on August 25, 1996, the 6 through 8 by the General Assembly in Hamburg, Germany, on August 8, 1999, the 9 through 12 by the General Assembly in Yokohama, Japan, on August 26, 2002, the 13 through 15 at the General Assembly in Cairo, Egypt, on September 12, 2005, and the 16 at the General Assembly in Buenos Aires, Argentina, on September 21, 2011.

##### **1. Euthanasia:**

A physician's duty, first and foremost, is the promotion of health, the reduction of suffering, and the protection of life. The psychiatrist, among whose patients are some who are severely incapacitated and incompetent to reach an informed decision, should be particularly careful of actions that could lead to the death of those who cannot protect themselves because of their disability. The psychiatrist should be aware that the views of a patient may be distorted by mental illness such as depression. In such situations, the psychiatrist's role is to treat the illness.

##### **2. Torture:**

Psychiatrists shall not take part in any process of mental or physical torture, even when authorities attempt to force their involvement in such acts.

##### **3. Death Penalty:**

Under no circumstances should psychiatrists participate in legally authorized executions nor participate in assessments of competency to be executed.

##### **4. Selection of Sex:**

Under no circumstances should a psychiatrist participate in decisions to terminate pregnancy for the purpose of sex selection.

##### **5. Organ Transplantation:**

The role of the psychiatrist is to clarify the issues surrounding organ donations and to advise on religious, cultural, social and family factors to ensure that informed and proper decisions be made by all concerned. The psychiatrists should not act as a proxy decision maker for patients nor use psychotherapeutic skills to influence the decision of a patient in these matters. Psychiatrists should seek to protect their patients and help them exercise self-determination to the fullest extent possible in situations of organ transplantation.

##### **6. Psychiatrists addressing the media:**



In all contacts with the media psychiatrists shall ensure that people with mental illness are presented in a manner which preserves their dignity and pride, and which reduces stigma and discrimination against them.

An important role of psychiatrists is to advocate for those people who suffer from mental disorders. As the public perception of psychiatrists and psychiatry reflects on patients, psychiatrists shall ensure that in their contact with the media they represent the profession of psychiatry with dignity.

Psychiatrists shall not make announcements to the media about presumed psychopathology on any individuals.

In presenting research findings to the media, psychiatrists shall ensure the scientific integrity of the information given and be mindful of the potential impact of their statements on the public perception of mental illness and on the welfare of people with mental disorders.

#### **7. Psychiatrists and discrimination on ethnic or cultural grounds:**

Discrimination by psychiatrists on the basis of ethnicity or culture, whether directly or by aiding others is unethical. Psychiatrists shall never be involved or endorse, directly or indirectly, any activity related to ethnic cleansing.

#### **8. Psychiatrists and genetic research and counseling:**

Research on the genetic bases of mental disorders is rapidly increasing and more people suffering from mental illness are participating in such research.

Psychiatrists involved in genetic research or counseling shall be mindful of the fact that the implication of genetic information are not limited to the individual from whom it was obtained and that its disclosure can have negative and disruptive effects on the families and communities of the individuals concerned.

Psychiatrist shall therefore ensure that:

- People and families who participate in genetic research do so with a fully informed consent;
- Any genetic information in their possession is adequately protected against unauthorized access, misinterpretation or misuse;
- Care is taken in communication with patients and families to make clear that current genetic knowledge is incomplete and may be altered by future findings. Psychiatrists shall only refer people to facilities for diagnostic genetic testing if that facility has:
- Demonstrated satisfactory quality assurance, procedures for such testing;
- Adequate and easily accessible resources for genetic counseling.

Genetic counseling with regard to family planning or abortion shall be respectful of the patients' value system, while providing sufficient medical and psychiatric information to aid patients make decisions they consider best for them.

#### **9. Ethics of Psychotherapy in Medicine:**

Medical treatments of any nature should be administered under the provisions of good practice guidelines regarding their indications, effectiveness, safety, and quality control. Psychotherapy, in its broadest sense, is an accepted component of many medical interactions. In a more specific and restricted sense, psychotherapy utilizes techniques involving verbal and non-verbal communication and interaction to achieve specified treatment goals in the care of specific disorders. Psychiatrists providing specific forms of psychotherapy must have appropriate training in such techniques. The general guidelines that apply to any medical treatment also apply to specific forms of psychotherapy in regard to its indications and outcomes, positive or negative. The effectiveness of psychotherapy and its place in a treatment plan are important subjects for both researchers and clinicians.

Psychotherapy by psychiatrists is a form of treatment for mental and other illnesses and emotional problems. The treatment approach utilized is determined in concert by the doctor and patient and/or the patient's family and/or guardians following a careful history and examination employing all relevant clinical and laboratory studies. The approach employed should be specific to the disease and

patient's needs and sensitive to personal, familial, religious and cultural factors. It should be based on sound research and clinical wisdom and have the purpose of removing, modifying or retarding symptoms or disturbed patterns of behavior. It should promote positive adaptations including personal growth and development.

Psychiatrists and other clinicians responsible for a patient have to ensure that these guidelines are fully applied. Therefore, the psychiatrist or other delegated qualified clinician should determine the indications for psychotherapy and follow its development. In this context the essential notion is that the treatment is the consequence of a diagnosis and both are medical acts performed to take care of an ill person. These two levels of decisions, interventions and responsibilities are similar to other situations in clinical medicine; however, this does not exclude other interventions such as rehabilitation, which can be administered by non-medical personnel.

**1.** Like any other treatment in medicine, the prescription of psychotherapy should follow accepted guidelines for obtaining informed consent prior to the initiation of treatment as well as updating it in the course of treatment if goals and objectives of treatment are modified in a significant way.

**2.** If clinical wisdom, long standing and well-established practice patterns (this takes into consideration cultural and religious issues) and scientific evidence suggest potential clinical benefits to combining medication treatment with psychotherapy this should be brought to the patient's attention and fully discussed.

**3.** Psychotherapy explores intimate thoughts, emotions and fantasies, and as such may engender intense transference and counter-transference. In a psychotherapy relationship the power is unequally shared between the therapist and patient, and under no circumstances shall the psychotherapist use this relationship to personal advantage or transgress the boundaries established by the professional relationship.

**4.** At the initiation of psychotherapy, the patient shall be advised that information shared and health records will be kept in confidence except where the patient gives specific informed consent for release of information to third parties, or where a court order may require the production of records. The other exception is where there is a legal requirement to report certain information as in the case of child abuse.

#### **10. Conflict of Interest in Relationship with Industry:**

Although most organizations and institutions, including the WPA, have rules and regulations governing their relationship with industry and donors, individual physicians are often involved in interactions with the pharmaceutical industry, or other granting agencies that could lead to ethical conflict. In these situations psychiatrists should be mindful of and apply the following guidelines.

**1.** The practitioner must diligently guard against accepting gifts that could have an undue influence on professional work.

**2.** Psychiatrists conducting clinical trials are under an obligation to disclose to the Ethics Review Board and their research subjects their financial and contractual obligations and benefits related to the sponsor of the study. Every effort should be made to set up review boards composed of researchers, ethicists and community representatives to assure the rights of research subjects are protected.

**3.** Psychiatrists conducting clinical trials have to ensure that their patients have understood all aspects of the informed consent. The level of education or sophistication of the patient is no excuse for bypassing this commitment. If the patient is deemed incompetent the same rules would apply in obtaining informed consent from the substitute decision maker. Psychiatrists must be cognizant that covert commercial influence on the trial design, promotion of drugs trials without scientific value, breach of confidentiality, and restrictive contractual clauses regarding publication of results may each in different ways encroach upon the freedom of science and scientific information.

#### **11. Conflicts Arising with Third Party Players:**

The obligations of organizations toward shareholders or the administrator regarding maximization of profits and minimization of costs can be in conflict with the principles of good practice Psychiatrists working in such potentially conflicting environments, should uphold the rights of the patients to receive the best treatment possible.

**1.** In agreement with the UN Resolution 46/119 of the “Principles for the Protection of Persons with Mental Illness, psychiatrists should oppose discriminatory practices which limit their benefits and entitlements, deny parity curb the scope of treatment, or limit their access to proper medications for patients with a mental disorder.

**2.** Professional independence to apply best practice guidelines and clinical wisdom in upholding the welfare of the patient should be the primary considerations for the psychiatrist. It is also the duty of the psychiatrist to protect the patient privacy and confidentiality as part of preserving the sanctity and healing potential of the doctor-patient relationship.

### **12. Violating the Clinical Boundaries and Trust between Psychiatrists and Patients:**

The psychiatrist-patient relationship may be the only relationship that permits an exploration of the deeply personal and emotional space, as granted by the patient. Within this relationship, the psychiatrist’s respect for the humanity and dignity of the patient builds a foundation of trust that is essential for a comprehensive treatment plan. The relationship encourages the patient to explore deeply held strengths, weaknesses, fears, and desires, and many of these might be related to sexuality. Knowledge of these characteristics of the patient places the psychiatrist in a position of advantage that the patient allows on the expectation of trust and respect. Taking advantage of that knowledge by manipulating the patient’s sexual fears and desires in order to obtain sexual access is a breach of the trust, regardless of consent. In the therapeutic relationship, consent on the part of the patient is considered vitiated by the knowledge the psychiatrists possesses about the patient and by the power differential that vests the psychiatrist with special authority over the patient. Consent under these circumstances will be tantamount to exploitation of the patient.

The latent sexual dynamics inherent in all relationships can become manifest in the course of the therapeutic relationship and if they are not properly handled by the therapist can produce anguish to the patient. This anguish is likely to become more pronounced if seductive statements and inappropriate non-verbal behavior are used by the therapist. Under no circumstances, therefore, should a psychiatrist get involved with a patient in any form of sexual behavior, irrespective of whether this behavior is initiated by the patient or the therapist.

### **13. Protection of the Rights of Psychiatrists:**

**1.** Psychiatrists need to protect their right to live up to the obligations of their profession and to the expectations the public has of them to treat and to advocate for the welfare of their patients.

**2.** Psychiatrists ought to have the right to practice their specialty at the highest level of excellence by providing independent assessments of a persons’ mental condition and by instituting effective treatment and management protocols in accordance to best practices and evidence-based medicine.

**3.** There are aspects in the history of psychiatry and in present working expectations in some totalitarian political regimes and profit driven economical systems that increase psychiatrists’ vulnerabilities to be abused in the sense of having to acquiesce to inappropriate demands to provide inaccurate psychiatric reports that help the system, but damage the interests of the person being assessed.

**4.** Psychiatrists also share the stigma of their patients and, similarly, can become victims of discriminatory practices. It should be the right and the obligation of psychiatrists to practice their profession and to advocate for the medical needs and the social and political rights of their patients without suffering being outcast by the profession, being ridiculed in the media or persecuted.

### **14. Disclosing the Diagnosis of Alzheimer’s Disease (AD) and Other Dementias:**

AD patient's right to know is now a well-established priority, recognised by healthcare professionals. Most patients want all information available and to be actively involved in making decision about treatments. At the same time, patients have the right also not to know if that is their wish. All must be given the opportunity to learn as much or as little as they want to know.

The alteration of patient's cognition makes the ability to make judgements and insight more difficult. Patients with dementia are also often brought by family members which introduces into the doctor-patient relationship a third partner.

Doctors, patients and families who share the responsibilities for fighting and coping with Alzheimer's disease for years all require access to information on the disease, including the diagnosis.

In addition to the "patient's right to know", telling the patient has many benefits. Patients and/or families should be told the diagnosis as early as possible in the disease process. Having family (or informal carer) involved in the discussion of the disclosure process is highly beneficial.

The physician should give accurate and reliable information, using simple language. He also should assess the patient's and the family's understanding of the situation. As usual, the bad news should be accompanied by information on a treatment and management plan. Information on physical or speech therapy, support groups, day care centres, and other interventions should be provided. It should also be emphasised that a reorganised family network can alleviate the carer's burden and maintain quality of life as far as possible.

There are some exceptions, some of them transitory, to the disclosure of the diagnosis to a patient with dementia: **(1)** severe dementia where understanding the diagnosis is unlikely; **(2)** when a phobia about the condition is likely, or **(3)** when a patient is severely depressed;

#### **15. Dual Responsibilities of Psychiatrists:**

These situations may arise as part of legal proceedings (i.e. fitness to stand trial, criminal responsibility, dangerousness, testamentary capacity) or other competency related needs, such as for insurance purposes when evaluating claims for benefits, or for employment purposes when evaluating fitness to work or suitability for a particular employment or specific task.

During therapeutic interactions conflicting situations may arise if the physician's knowledge of the patient's condition cannot be kept private or when clinical notes or medical records are part of a larger employment dossier, hence not confidential to the clinical personnel in charge of the case (i.e. the military, correctional systems, medical services for employees of large corporations, treatment protocols paid by third parties).

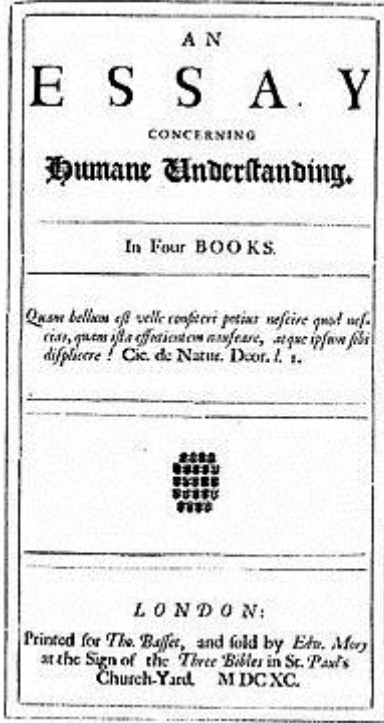
It is the duty of a psychiatrist confronted with dual obligations and responsibilities at assessment time to disclose to the person being assessed the nature of the triangular relationship and the absence of a therapeutic doctor-patient relationship, besides the obligation to report to a third party even if the findings are negative and potentially damaging to the interests of the person under assessment. Under these circumstances, the person may choose not to proceed with the assessment.

Additionally, psychiatrists should advocate for separation of records and for limits to exposure of information such that only elements of information that are essential for purposes of the agency can be revealed.

#### **16. Working with patients and carers**

- 1.** Legislation, policy and clinical practice relevant to the lives and care of people living with mental disorders, whenever possible, should be developed in collaboration with patients and carers.
- 2.** The international psychiatric community should promote and support the development of patients' organizations and carers' organizations.
- 3.** International and local psychiatric organizations, including WPA through its programs and member societies, are expected to seek the involvement of patients and carers in their activities where appropriate.

4. The best clinical care of any person in acute or rehabilitation situations is done in collaboration between the patient, the carers and the clinicians.
5. WPA member societies and other psychiatric organizations should collaborate with patients' organizations, carers' organizations and other community organizations to lobby governments for political will and action for better funding of services, community education and fighting stigma.
6. Each country needs specific guidelines in order to apply these recommendations.



[An Essay Concerning Human Understanding](#) in four books (1690) by [John Locke](#) (1632-1704) [John Locke](#) considered personal identity<sup>[15]</sup> (or the [self](#)) to be founded on [consciousness](#) (viz. [memory](#)), and not on the [substance](#) of either the [soul](#) or the [body](#). Book II Chapter XXVII entitled "[On Identity and Diversity](#)" in [An Essay Concerning Human Understanding](#) (1689) has been said to be one of the first modern conceptualizations of consciousness as the repeated self-identification of [oneself](#). Through this identification, [moral responsibility](#) could be attributed to the [subject](#) and punishment and [guilt](#) could be justified, as critics such as [Nietzsche](#) would point out.

According to Locke, personal identity (the self) "*depends on consciousness, not on substance*" nor on the soul. We are the same person to the extent that we are conscious of the past and future thoughts and actions in the same way as we are conscious of present thoughts and actions. If consciousness is this "*thought*" which "*goes along with the substance ... which makes the same person*", then personal identity is only founded on the repeated act of consciousness: "*This may show us wherein personal identity consists: not in the identity of substance, but... in the identity of consciousness*". For example, one may claim to be a [reincarnation](#) of Plato, therefore having the same soul substance. However, one would be the same person as Plato only if one had the same consciousness of Plato's thoughts and actions that he himself did. Therefore, self-identity is not based on the soul. One soul may have various personalities.

Neither is self-identity founded on the body substance, argues Locke, as the body may change while the person remains the same. Even the identity of animals is not founded on their body: "*animal identity is preserved in identity of life, and not of substance*", as the body of the animal grows and changes during its life. On the other hand, identity of humans is based on their consciousness.<sup>[note 9]</sup>

But this interesting border-case leads to this problematic thought that since personal identity is based on consciousness, and that only oneself can be aware of his consciousness, exterior human judges may never know if they really are judging – and punishing – the same person, or simply the same body. In other words, Locke argues that may be judged only for the acts of the body, as this is what is apparent to all but God; however, are in truth only responsible for the acts for which are conscious. This forms the basis of the [insanity defense](#): one cannot be held accountable for acts from which one was [unconscious](#) – and therefore leads to interesting philosophical questions:

*personal identity consists [not in the identity of substance] but in the identity of consciousness, wherein if Socrates and the present mayor of Queenborough agree, they are the same person: if the same Socrates waking and sleeping do not partake of the same consciousness, Socrates waking and sleeping is not the same person. And to punish Socrates waking for what sleeping Socrates thought, and waking Socrates was never conscious of, would be no more right, than to punish one twin for what his brother-twin did, whereof he knew nothing, because their outsides were so like, that they could not be distinguished; for such twins have been seen.*<sup>[16]</sup>

Or again:

*PERSON, as I take it, is the name for this self. Wherever a man finds what he calls himself, there, I think, another may say is the same person. It is a forensic term, appropriating actions and their merit; and so belong only to intelligent agents, capable of a law, and happiness, and misery. This personality extends itself beyond present existence to what is past, only by consciousness, --whereby it becomes concerned and accountable; owns and imputes to itself past actions, just upon the same ground and for the same reason as it does the present. All which is founded in a concern for happiness, the unavoidable concomitant of consciousness; that which is conscious of pleasure and pain, desiring that that self that is conscious should be happy. And therefore whatever past actions it cannot reconcile or APPROPRIATE to that present self by consciousness, it can be no more concerned in it than if they had never been done: and to receive pleasure or pain, i.e. reward or punishment, on the account of any such action, is all one as to be made happy or miserable in its first being, without any demerit at all. For, supposing a MAN punished now for what he had done in another life, whereof he could be made to have no consciousness at all, what difference is there between that punishment and being CREATED miserable? And therefore, conformable to this, the apostle tells us, that, at the great day, when every one shall 'receive according to his doings, the secrets of all hearts shall be laid open.' The sentence shall be justified by the consciousness all person shall have, that THEY THEMSELVES, in what bodies soever they appear, or what substances soever that consciousness adheres to, are the SAME that committed those actions, and deserve that punishment for them.*<sup>[17]</sup>

Henceforth, Locke's conception of personal identity founds it not on the substance or the body, but in the "same continued consciousness", which is also distinct from the soul since the soul may have no consciousness of itself (as in [reincarnation](#)). He creates a third term between the soul and the body - and Locke's thought may certainly be meditated by those who, following a [scientist ideology](#),<sup>[note 10]</sup> would identify too quickly the brain to consciousness. For the brain, as the body and as any substance, may change, while consciousness remains the same.<sup>[18][19]</sup> Therefore, personal identity is not in the brain, but in consciousness.

However, [Locke's theory of self](#) reveals<sup>[20][note 11]</sup> [debt](#) to [theology](#) and to [apocalyptic "great day"](#),<sup>[21][22][23][24]</sup> which by [advance excuse](#)<sup>[note 12]</sup> any [failings](#) of [human justice](#) and therefore [humanity's miserable state](#).<sup>[note 13]</sup> The problem of personal identity is at the center of discussions about [life after death](#) and, to a lesser extent, [immortality](#). In order to [exist](#) after [death](#), there has to be a person after death who is the same person as the person who died.

See also: [spiritual enlightenment](#), [existentialism](#), and [metaphysics](#)

#### **Philosophical intuition[edit]**

[Bernard Williams](#) presents a thought experiment appealing to the [intuitions](#) about what it is to be the same person in the [future](#).<sup>[25]</sup> The thought experiment consists of two approaches to the same experiment.

For the *first approach* Williams suggests that suppose that there is some process by which subjecting two persons to it can result in the two persons have "[exchanged](#)" bodies. The process has put into the body of person B the [memories](#), [behavioral dispositions](#), and [psychological characteristics](#) of the

person who prior to undergoing the process belonged to [person A](#); and conversely with [person B](#). To show this one is to suppose that before undergoing the process person A and B are asked to which resulting person, A-Body-Person or B-Body-Person, they wish to receive a punishment and which a reward. Upon undergoing the process and receiving either the punishment or reward, it appears to that A-Body-Person expresses the memories of choosing who gets which treatment as if that person was person B; conversely with B-Body-Person.

This sort of approach to the thought experiment appears to show that since the person who expresses the psychological characteristics of person A to be person A, then intuition is that *psychological continuity* is the criterion for personal identity.

The *second approach* is to suppose that someone is told that one will have [memories erased](#) and then one will be [tortured](#). Does one need to be [afraid](#) of being tortured? The intuition is that people will be afraid of being tortured, since it will still be one despite not having one's memories. Next, Williams asked one to consider several similar [scenarios](#).<sup>[note 14]</sup> Intuition is that in all the scenarios one is to be afraid of being tortured, that it is still one's self despite having one's memories erased and receiving new memories. However, the last scenario is an [identical](#) scenario to the one in the first scenario.<sup>[note 15]</sup>

In the first approach, intuition is to show that one's *psychological continuity* is the criterion for personal identity, but in second approach, intuition is that it is one's *bodily continuity* that is the criterion for personal identity. To resolve this conflict Williams feels one's intuition in the second approach is stronger and if he was given the choice of distributing a punishment and a reward he would want his body-person to receive the reward and the other body-person to receive the punishment, even if that other body-person has his memories.

#### **Psychological continuity[edit]**

In [psychology](#), personal continuity, also called *personal persistence*, is the uninterrupted connection concerning a particular person of his or her private life and [personality](#). Personal continuity is the union affecting the facets arising from personality in order to avoid [discontinuities](#) from one moment of [time](#) to another time.<sup>[note 16][26]</sup> Personal continuity is an important part of [identity](#); this is the process of ensuring that the qualities of the mind, such as [self-awareness](#), [sentience](#), [sapience](#), and the ability to [perceive](#) the relationship between oneself and one's environment, are consistent from one moment to the next. Personal continuity is the property of a continuous and connected period of time<sup>[27][28]</sup> and is intimately related to do with a person's body or physical being in a single [four-dimensional continuum](#).<sup>[29]</sup> [Associationism](#), a theory of how ideas combine in the mind, allows events or views to be associated with each other in the mind, thus leading to a form of learning. Associations can result from [contiguity](#), similarity, or contrast. Through contiguity, one associates ideas or events that usually happen to occur at the same time. Some of these events form an [autobiographical memory](#) in which each is a personal representation of the general or specific events and personal facts.

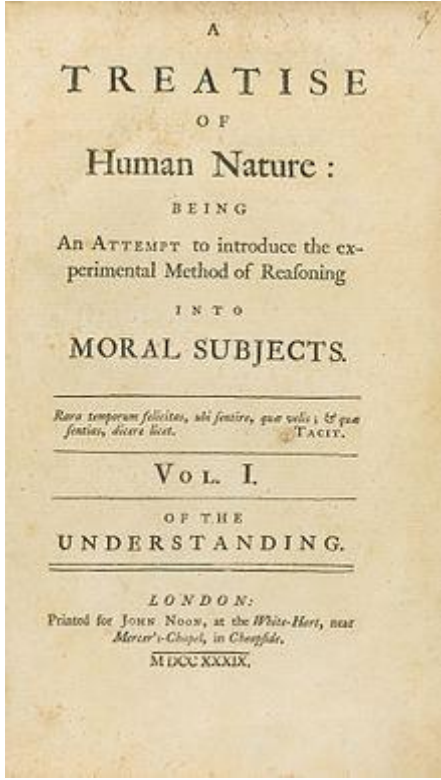
Ego integrity is the psychological concept of the [ego](#)'s accumulated assurance of its capacity for order and meaning. Ego identity is the accrued [confidence](#) that the inner [sameness](#) and continuity prepared in the past are matched by the sameness and continuity of one's meaning for others, as evidenced in the promise of a career. [Body and ego](#) control organ expressions.<sup>[30][31][32][33][34]</sup> and of the other attributes of the dynamics of a physical system to face the [emotions](#) of [ego death](#)<sup>[35][36]</sup> in circumstances which can summon, sometimes anti-[theonymistic](#), [self-abandonment](#).<sup>[30][37][38][39][40][41]</sup>

#### **Identity continuum[edit]**

See also: [§ The no-self theory](#), and [Self-discovery](#)

It has been argued that from the nature of [sensations](#) and [ideas](#) there is no such thing as a permanent identity.<sup>[42]</sup> Daniel Shapiro asserts that one of four major views on identity does not recognize a "permanent identity" and instead thinks of "thoughts without a thinker" – "a consciousness shell with drifting emotions and thoughts but no essence". According to him this view is based on the Buddhist concept of [Anatta](#) – "a continuously evolving flow of awareness".<sup>[43]</sup> [Malcolm David Eckel](#) states that "the self changes at every moment and has no permanent identity"<sup>[44]</sup> – it is a "constant process of changing or becoming", a "fluid ever-changing self".<sup>[45]</sup>

The bundle theory of the self[[edit](#)]



A Treatise Of Human Nature: Being An Attempt To Introduce The Experimental Method Of Reasoning Into Moral Subjects. For John Noon, 1739

[David Hume](#) undertook looking at the [mind-body problem](#). Hume also investigated a person's character, the relationship between human and animal nature, and the nature of agency. Hume pointed out that we tend to think that we are the same person we were five years ago. Though we've changed in many respects, the same person appears present as was present then. We might start thinking about which features can be changed without changing the underlying self. Hume, however, denies that there is a distinction between the various features of a person and the mysterious self that supposedly bears those features. When we start introspecting, "we are never intimately conscious of anything but a particular perception; man is a [bundle](#) or collection of different perceptions which succeed one another with an inconceivable rapidity and are in perpetual flux and movement".<sup>[46]</sup>

It is plain that in the course of our thinking, and in the constant revolution of our ideas, our imagination runs easily from one idea to any other that resembles it, and that this quality alone is to the fancy a sufficient bond and association. It is likewise evident that as the senses, in changing their objects, are necessitated to change them regularly, and take them as they lie contiguous to each other, the imagination must by long custom acquire the same method of thinking, and run along the parts of space and time in conceiving its objects.<sup>[47]</sup>

Note in particular that, in Hume's view, these perceptions do not *belong to* anything. Hume, similar to the [Buddha](#),<sup>[48]</sup> compares the soul to a [commonwealth](#), which retains its identity not by virtue of some enduring core substance, but by being composed of many different, related, and yet [constantly changing elements](#). The question of personal identity then becomes a matter of characterizing the [loose cohesion](#)<sup>[note 17]</sup> of one's [personal experience](#).<sup>[note 18]</sup>

In short, what matters for Hume is not that 'identity' exists but that the relations of causation, contiguity, and resemblances obtain among the perceptions. [Critics](#) of Hume state in order for the various states and processes of the mind to seem unified, there must be something which perceives their unity, the existence of which would be no less mysterious than a personal identity. Hume solves this by considering substance as engendered by the *togetherness* of its properties.



### The no-self theory<sup>[edit]</sup>

The "*no-self theory*"<sup>[note 19]</sup> holds that the self **cannot be reduced** to a bundle because the concept of a self is incompatible with the idea of a **bundle**. **Propositionally**, the idea of a bundle implies the notion of bodily or psychological relations that do not in fact exist. **James Giles**, a principal exponent of this view, argues that the *no-self* or *eliminativist theory* and the bundle or **reductionist** theory agree about the non-existence of a **substantive** self. The reductionist theory, according to Giles, mistakenly **resurrects the idea**<sup>[note 20]</sup> of the self<sup>[49]</sup> in terms of various accounts about **psychological relations**.<sup>[note 21]</sup> The no-self theory, on the other hand, "*lets the self lie where it has fallen*".<sup>[50]</sup> This is because the no-self theory rejects all theories of the self, even the bundle theory. On Giles' reading, Hume is actually a no-self theorist and it is a mistake to attribute to him a reductionist view like the bundle theory. Hume's **assertion** that personal identity is a **fiction** supports this reading, according to Giles. The Buddhist view of personal identity is also a no-self theory rather than a reductionist theory, because **the Buddha** rejects attempts to **reconstructions in terms of consciousness, feelings, or the body in notions of an eternal/permanent, unchanging Self**<sup>[51]</sup> since our thoughts, personalities and bodies are never the same from moment to moment.<sup>[52]</sup>

According to this line of criticism, the **sense of self** is an **evolutionary artifact**,<sup>[note 22]</sup> which saves time in the circumstances it evolved for. But sense of self breaks down when considering some events such as **memory loss**,<sup>[note 23]</sup> **split personality disorder**, **brain damage**, **brainwashing**, and various **thought experiments**.<sup>[53]</sup> When presented with **imperfections** in the intuitive sense of self and the consequences to this concept which rely on the **strict concept** of self, a tendency to **mend the concept** occurs, possibly because of **cognitive dissonance**.<sup>[note 24]</sup>

### See also<sup>[edit]</sup>

- [Right to personal identity](#)

#### Identity

[Abstract object](#), [Nominal identity](#), [Open individualism](#), [Personal life](#), [Self-Schema](#), [Self \(philosophy\)](#), [Self-concept](#), [Identity and change](#), [Mind/brain identity](#), [Ship of Theseus](#), [Narrative identity](#)

#### Continuity

[Mindstream](#), [Consciousness](#), [Dependent origination](#), [Introspect](#), [Meme](#), [Mnemonic](#), [Percept](#), [Perdurantism](#), [Synchronicity](#), [Noumena](#), [Neuroplasticity \(Spike-timing-dependent plasticity\)](#), [Hebbian theory](#), [Dogen \(being and time\)](#), [process philosophy](#)

#### People

[Søren Kierkegaard](#), [Philip K. Dick](#), [Daniel Kolak](#), [Gottlob Frege](#), [Derek Parfit](#), [Anthony Quinton](#), [David Wiggins](#), [Sydney Shoemaker](#), [Bernard Williams](#), [Peter van Inwagen](#), [Carl Jung](#), [Erik Erikson](#), [Hugo Münsterberg](#), [Wilhelm Wundt](#), [Paul Ricœur](#), [James Marcia](#), [Mario Rodríguez Cobos](#)

#### Other

[Metaphysical necessity](#), [Otium](#), [Personally identifiable information](#), [Personal life](#), [Privacy](#), [immaterialism](#), [Personhood](#), [Gender systems \(Social construction of gender difference\)](#), [The Persistence of Memory \(short story\)](#), [The Persistence of Memory](#), [Transhumanism](#)

### Ethical Standards for Psychiatric Practice

#### Ethical Standards for Psychiatric Practice Ethics

See also: [Ethical issues in psychiatry \(disambiguation\)](#)

Like other purveyors of **professional ethics**, the **World Psychiatric Association** issues an **ethical code** to govern the conduct of psychiatrists. The psychiatric code of ethics, first set forth through the Declaration of Hawaii in 1977, has been expanded through a 1983 Vienna update and, in 1996, the broader Madrid Declaration. The code was further revised during the organization's general assemblies in 1999, 2002, 2005, and 2011.<sup>[19]</sup> The World Psychiatric Association code covers such

matters as patient assessment, up-to-date knowledge, the [human dignity](#) of incapacitated patients, [confidentiality](#), research ethics, sex selection, [euthanasia](#),<sup>[20]</sup> organ transplantation, [torture](#),<sup>[21][22]</sup> the [death penalty](#), media relations, genetics, and ethnic or cultural discrimination.<sup>[19]</sup>

In establishing such ethical codes, the profession has responded to a number of controversies about the practice of psychiatry, for example, surrounding the use of [lobotomy](#) and [electroconvulsive therapy](#). Discredited psychiatrists who operated outside the norms of [medical ethics](#) include [Harry Bailey](#), [Donald Ewen Cameron](#), [Samuel A. Cartwright](#), [Henry Cotton](#), and [Andrei Snezhnevsky](#).<sup>[23][page needed]</sup>

Madrid Declaration on Ethical Standards for Psychiatric Practice

### **Madrid Declaration on Ethical Standards for Psychiatric Practice**

Approved by the General Assembly of the World Psychiatric Association in Madrid, Spain, on August 25, 1996, and enhanced by the WPA General Assemblies in Hamburg, Germany on August 8, 1999, in Yokohama, Japan, on August 26, 2002, in Cairo, Egypt, on September 12, 2005, and in Buenos Aires, Argentina, on September 21, 2011.

### **DECLARATION OF MADRID**

In 1977, the World Psychiatric Association approved the Declaration of Hawaii which set out ethical guidelines for the practice of psychiatry. The Declaration was updated in Vienna in 1983. To reflect the impact of changing social attitudes and new medical developments on the psychiatric profession, the World Psychiatric Association has once again undertaken a review of ethical standards that should be abided to by all its members and all persons practicing psychiatry.

Medicine is both a healing art and a science. The dynamics of this combination are best reflected in psychiatry, the branch of medicine that specializes in the care and protection of those who are ill or infirm, because of a mental disorder or impairment. Although there may be cultural, social and national differences, the need for ethical conduct and continual review of ethical standards is universal.

As practitioners of medicine, psychiatrists must be aware of the ethical implications of being a physician, and of the specific ethical demands of the specialty of psychiatry. As members of society, psychiatrists must advocate for fair and equal treatment of the mentally ill, for social justice and equity for all.

Ethical practice is based on the psychiatrist's individual sense of responsibility to the patient and judgment in determining what is correct and appropriate conduct. External standards and influences such as professional codes of conduct, the study of ethics, or the rule of law by themselves will not guarantee the ethical practice of medicine.

Psychiatrists should keep in mind at all times the boundaries of the psychiatrist-patient relationship, and be guided primarily by the respect for patients and concern for their welfare and integrity.

It is in this spirit that the World Psychiatric Association approved at the General Assembly on August 25th, 1996, amended on August 8th 1999 and on August 26th 2002 the following ethical standards that should govern the practice of psychiatrists universally.

**1.** Psychiatry is a medical discipline concerned with the prevention of mental disorders in the population, the provision of the best possible treatment for mental disorders, the rehabilitation of individuals suffering from mental illness and the promotion of mental health. Psychiatrists serve patients by providing the best therapy available consistent with accepted scientific knowledge and ethical principles. Psychiatrists should devise therapeutic interventions that are least restrictive to the freedom of the patient and seek advice in areas of their work about which they do not have primary expertise. While doing so, psychiatrists should be aware of and concerned with the equitable allocation of health resources.

**2.** It is the duty of psychiatrists to keep abreast of scientific developments of the specialty and to convey updated knowledge to others. Psychiatrists trained in research should seek to advance the scientific frontiers of psychiatry.

**3.** The patient should be accepted as a partner by right in the therapeutic process. The psychiatrist-patient relationship must be based on mutual trust and respect to allow the patient to make free and informed decisions. It is the duty of psychiatrists to provide the patient with all relevant information so as to empower the patient to come to a rational decision according to personal values and preferences.

**4.** When the patient is gravely disabled, incapacitated and/or incompetent to exercise proper judgment because of a mental disorder, the psychiatrists should consult with the family and, if appropriate, seek legal counsel, to safeguard the human dignity and the legal rights of the patient. No treatment should be provided against the patient's will, unless withholding treatment would endanger the life of the patient and/or the life of others. Treatment must always be in the best interest of the patient.

**5.** When psychiatrists are requested to assess a person, it is their duty first to inform and advise the person being assessed about the purpose of the intervention, the use of the findings, and the possible repercussions of the assessment. This is particularly important when psychiatrists are involved in third party situations.

**6.** Information obtained in the therapeutic relationship is private to the patient and should be kept in confidence and used, only and exclusively, for the purpose of improving the mental health of the patient. Psychiatrists are prohibited from making use of such information for personal reasons, or personal benefit. Breach of confidentiality may only be appropriate when required by law (as in obligatory reporting of child abuse) or when serious physical or mental harm to the patient or to a third person would ensue if confidentiality were maintained; whenever possible, psychiatrists should first advise the patient about the action to be taken.

**7.** Research that is not conducted in accordance with the canons of science and that is not scientifically valid is unethical. Research activities should be approved by an appropriately constituted ethics committee. Psychiatrists should follow national and international rules for the conduct of research. Only individuals properly trained for research should undertake or direct it. Because psychiatric patients constitute a particularly vulnerable research population, extra caution should be taken to assess their competence to participate as research subjects and to safeguard their autonomy and their mental and physical integrity. Ethical standards should also be applied in the selection of population groups, in all types of research including epidemiological and sociological studies and in collaborative research involving other disciplines or several investigating centres.

#### **GUIDELINES CONCERNING SPECIFIC SITUATIONS**

The World Psychiatric Association Ethics Committee recognizes the need to develop a number of specific guidelines on a number of specific situations. The first five were approved by the General Assembly in Madrid, Spain, on August 25, 1996, the 6 through 8 by the General Assembly in Hamburg, Germany, on August 8, 1999, the 9 through 12 by the General Assembly in Yokohama, Japan, on August 26, 2002, the 13 through 15 at the General Assembly in Cairo, Egypt, on September 12, 2005, and the 16 at the General Assembly in Buenos Aires, Argentina, on September 21, 2011.

**1. Euthanasia:**

A physician's duty, first and foremost, is the promotion of health, the reduction of suffering, and the protection of life. The psychiatrist, among whose patients are some who are severely incapacitated and incompetent to reach an informed decision, should be particularly careful of actions that could lead to the death of those who cannot protect themselves because of their disability. The psychiatrist should be aware that the views of a patient may be distorted by mental illness such as depression. In such situations, the psychiatrist's role is to treat the illness.

**2. Torture:**

Psychiatrists shall not take part in any process of mental or physical torture, even when authorities attempt to force their involvement in such acts.

**3. Death Penalty:**

Under no circumstances should psychiatrists participate in legally authorized executions nor participate in assessments of competency to be executed.

**4. Selection of Sex:**

Under no circumstances should a psychiatrist participate in decisions to terminate pregnancy for the purpose of sex selection.

**5. Organ Transplantation:**

The role of the psychiatrist is to clarify the issues surrounding organ donations and to advise on religious, cultural, social and family factors to ensure that informed and proper decisions be made by all concerned. The psychiatrists should not act as a proxy decision maker for patients nor use psychotherapeutic skills to influence the decision of a patient in these matters. Psychiatrists should seek to protect their patients and help them exercise self-determination to the fullest extent possible in situations of organ transplantation.

**6. Psychiatrists addressing the media:**

In all contacts with the media psychiatrists shall ensure that people with mental illness are presented in a manner which preserves their dignity and pride, and which reduces stigma and discrimination against them.

An important role of psychiatrists is to advocate for those people who suffer from mental disorders. As the public perception of psychiatrists and psychiatry reflects on patients, psychiatrists shall ensure that in their contact with the media they represent the profession of psychiatry with dignity.

Psychiatrists shall not make announcements to the media about presumed psychopathology on any individuals.

In presenting research findings to the media, psychiatrists shall ensure the scientific integrity of the information given and be mindful of the potential impact of their statements on the public perception of mental illness and on the welfare of people with mental disorders.

**7. Psychiatrists and discrimination on ethnic or cultural grounds:**

Discrimination by psychiatrists on the basis of ethnicity or culture, whether directly or by aiding others is unethical. Psychiatrists shall never be involved or endorse, directly or indirectly, any activity related to ethnic cleansing.

**8. Psychiatrists and genetic research and counseling:**

Research on the genetic bases of mental disorders is rapidly increasing and more people suffering from mental illness are participating in such research.

Psychiatrists involved in genetic research or counseling shall be mindful of the fact that the implication of genetic information are not limited to the individual from whom it was obtained and that its disclosure can have negative and disruptive effects on the families and communities of the individuals concerned.

Psychiatrist shall therefore ensure that:

- People and families who participate in genetic research do so with a fully informed consent;
- Any genetic information in their possession is adequately protected against unauthorized access, misinterpretation or misuse;
- Care is taken in communication with patients and families to make clear that current genetic knowledge is incomplete and may be altered by future findings. Psychiatrists shall only refer people to facilities for diagnostic genetic testing if that facility has:
  - Demonstrated satisfactory quality assurance, procedures for such testing;
  - Adequate and easily accessible resources for genetic counseling.

Genetic counseling with regard to family planning or abortion shall be respectful of the patients' value system, while providing sufficient medical and psychiatric information to aid patients make decisions they consider best for them.

#### **9. Ethics of Psychotherapy in Medicine:**

Medical treatments of any nature should be administered under the provisions of good practice guidelines regarding their indications, effectiveness, safety, and quality control. Psychotherapy, in its broadest sense, is an accepted component of many medical interactions. In a more specific and restricted sense, psychotherapy utilizes techniques involving verbal and non-verbal communication and interaction to achieve specified treatment goals in the care of specific disorders. Psychiatrists providing specific forms of psychotherapy must have appropriate training in such techniques. The general guidelines that apply to any medical treatment also apply to specific forms of psychotherapy in regard to its indications and outcomes, positive or negative. The effectiveness of psychotherapy and its place in a treatment plan are important subjects for both researchers and clinicians.

Psychotherapy by psychiatrists is a form of treatment for mental and other illnesses and emotional problems. The treatment approach utilized is determined in concert by the doctor and patient and/or the patient's family and/or guardians following a careful history and examination employing all relevant clinical and laboratory studies. The approach employed should be specific to the disease and patient's needs and sensitive to personal, familial, religious and cultural factors. It should be based on sound research and clinical wisdom and have the purpose of removing, modifying or retarding symptoms or disturbed patterns of behavior. It should promote positive adaptations including personal growth and development.

Psychiatrists and other clinicians responsible for a patient have to ensure that these guidelines are fully applied. Therefore, the psychiatrist or other delegated qualified clinician should determine the indications for psychotherapy and follow its development. In this context the essential notion is that the treatment is the consequence of a diagnosis and both are medical acts performed to take care of an ill person. These two levels of decisions, interventions and responsibilities are similar to other situations in clinical medicine; however, this does not exclude other interventions such as rehabilitation, which can be administered by non-medical personnel.

**1.** Like any other treatment in medicine, the prescription of psychotherapy should follow accepted guidelines for obtaining informed consent prior to the initiation of treatment as well as updating it in the course of treatment if goals and objectives of treatment are modified in a significant way.

**2.** If clinical wisdom, long standing and well-established practice patterns (this takes into consideration cultural and religious issues) and scientific evidence suggest potential clinical benefits

to combining medication treatment with psychotherapy this should be brought to the patient's attention and fully discussed.

**3.** Psychotherapy explores intimate thoughts, emotions and fantasies, and as such may engender intense transference and counter-transference. In a psychotherapy relationship the power is unequally shared between the therapist and patient, and under no circumstances shall the psychotherapist use this relationship to personal advantage or transgress the boundaries established by the professional relationship.

**4.** At the initiation of psychotherapy, the patient shall be advised that information shared and health records will be kept in confidence except where the patient gives specific informed consent for release of information to third parties, or where a court order may require the production of records. The other exception is where there is a legal requirement to report certain information as in the case of child abuse.

**10. Conflict of Interest in Relationship with Industry:**

Although most organizations and institutions, including the WPA, have rules and regulations governing their relationship with industry and donors, individual physicians are often involved in interactions with the pharmaceutical industry, or other granting agencies that could lead to ethical conflict. In these situations psychiatrists should be mindful of and apply the following guidelines.

**1.** The practitioner must diligently guard against accepting gifts that could have an undue influence on professional work.

**2.** Psychiatrists conducting clinical trials are under an obligation to disclose to the Ethics Review Board and their research subjects their financial and contractual obligations and benefits related to the sponsor of the study. Every effort should be made to set up review boards composed of researchers, ethicists and community representatives to assure the rights of research subjects are protected.

**3.** Psychiatrists conducting clinical trials have to ensure that their patients have understood all aspects of the informed consent. The level of education or sophistication of the patient is no excuse for bypassing this commitment. If the patient is deemed incompetent the same rules would apply in obtaining informed consent from the substitute decision maker. Psychiatrists must be cognizant that covert commercial influence on the trial design, promotion of drugs trials without scientific value, breach of confidentiality, and restrictive contractual clauses regarding publication of results may each in different ways encroach upon the freedom of science and scientific information.

**11. Conflicts Arising with Third Party Players:**

The obligations of organizations toward shareholders or the administrator regarding maximization of profits and minimization of costs can be in conflict with the principles of good practice. Psychiatrists working in such potentially conflicting environments, should uphold the rights of the patients to receive the best treatment possible.

**1.** In agreement with the UN Resolution 46/119 of the "Principles for the Protection of Persons with Mental Illness, psychiatrists should oppose discriminatory practices which limit their benefits and entitlements, deny parity, curb the scope of treatment, or limit their access to proper medications for patients with a mental disorder.

**2.** Professional independence to apply best practice guidelines and clinical wisdom in upholding the welfare of the patient should be the primary considerations for the psychiatrist. It is also the duty of the psychiatrist to protect the patient privacy and confidentiality as part of preserving the sanctity and healing potential of the doctor-patient relationship.

**12. Violating the Clinical Boundaries and Trust between Psychiatrists and Patients:**

The psychiatrist-patient relationship may be the only relationship that permits an exploration of the deeply personal and emotional space, as granted by the patient. Within this relationship, the psychiatrist's respect for the humanity and dignity of the patient builds a foundation of trust that is essential for a comprehensive treatment plan. The relationship encourages the patient to explore

deeply held strengths, weaknesses, fears, and desires, and many of these might be related to sexuality. Knowledge of these characteristics of the patient places the psychiatrist in a position of advantage that the patient allows on the expectation of trust and respect. Taking advantage of that knowledge by manipulating the patient's sexual fears and desires in order to obtain sexual access is a breach of the trust, regardless of consent. In the therapeutic relationship, consent on the part of the patient is considered vitiated by the knowledge the psychiatrists possesses about the patient and by the power differential that vests the psychiatrist with special authority over the patient. Consent under these circumstances will be tantamount to exploitation of the patient.

The latent sexual dynamics inherent in all relationships can become manifest in the course of the therapeutic relationship and if they are not properly handled by the therapist can produce anguish to the patient. This anguish is likely to become more pronounced if seductive statements and inappropriate non-verbal behavior are used by the therapist. Under no circumstances, therefore, should a psychiatrist get involved with a patient in any form of sexual behavior, irrespective of whether this behavior is initiated by the patient or the therapist.

### **13. Protection of the Rights of Psychiatrists:**

1. Psychiatrists need to protect their right to live up to the obligations of their profession and to the expectations the public has of them to treat and to advocate for the welfare of their patients.

2. Psychiatrists ought to have the right to practice their specialty at the highest level of excellence by providing independent assessments of a persons' mental condition and by instituting effective treatment and management protocols in accordance to best practices and evidence-based medicine.

3. There are aspects in the history of psychiatry and in present working expectations in some totalitarian political regimes and profit driven economical systems that increase psychiatrists' vulnerabilities to be abused in the sense of having to acquiesce to inappropriate demands to provide inaccurate psychiatric reports that help the system, but damage the interests of the person being assessed.

4. Psychiatrists also share the stigma of their patients and, similarly, can become victims of discriminatory practices. It should be the right and the obligation of psychiatrists to practice their profession and to advocate for the medical needs and the social and political rights of their patients without suffering being outcast by the profession, being ridiculed in the media or persecuted.

### **14. Disclosing the Diagnosis of Alzheimer's Disease (AD) and Other Dementias:**

AD patient's right to know is now a well-established priority, recognised by healthcare professionals. Most patients want all information available and to be actively involved in making decision about treatments. At the same time, patients have the right also not to know if that is their wish. All must be given the opportunity to learn as much or as little as they want to know.

The alteration of patient's cognition makes the ability to make judgements and insight more difficult. Patients with dementia are also often brought by family members which introduces into the doctor-patient relationship a third partner.

Doctors, patients and families who share the responsibilities for fighting and coping with Alzheimer's disease for years all require access to information on the disease, including the diagnosis.

In addition to the "patient's right to know", telling the patient has many benefits. Patients and/or families should be told the diagnosis as early as possible in the disease process. Having family (or informal carer) involved in the discussion of the disclosure process is highly beneficial.

The physician should give accurate and reliable information, using simple language. He also should assess the patient's and the family's understanding of the situation. As usual, the bad news should be accompanied by information on a treatment and management plan. Information on physical or speech therapy, support groups, day care centres, and other interventions should be provided. It should also be emphasised that a reorganised family network can alleviate the carer's burden and maintain quality of life as far as possible.

There are some exceptions, some of them transitory, to the disclosure of the diagnosis to a patient with dementia: **(1)** severe dementia where understanding the diagnosis is unlikely; **(2)** when a phobia about the condition is likely, or **(3)** when a patient is severely depressed;

#### **15. Dual Responsibilities of Psychiatrists:**

These situations may arise as part of legal proceedings (i.e. fitness to stand trial, criminal responsibility, dangerousness, testamentary capacity) or other competency related needs, such as for insurance purposes when evaluating claims for benefits, or for employment purposes when evaluating fitness to work or suitability for a particular employment or specific task.

During therapeutic interactions conflicting situations may arise if the physician's knowledge of the patient's condition cannot be kept private or when clinical notes or medical records are part of a larger employment dossier, hence not confidential to the clinical personnel in charge of the case (i.e. the military, correctional systems, medical services for employees of large corporations, treatment protocols paid by third parties).

It is the duty of a psychiatrist confronted with dual obligations and responsibilities at assessment time to disclose to the person being assessed the nature of the triangular relationship and the absence of a therapeutic doctor-patient relationship, besides the obligation to report to a third party even if the findings are negative and potentially damaging to the interests of the person under assessment. Under these circumstances, the person may choose not to proceed with the assessment.

Additionally, psychiatrists should advocate for separation of records and for limits to exposure of information such that only elements of information that are essential for purposes of the agency can be revealed.

## Yaşam Hakkı (Kaynak: MAA, EÇ, ÖŞ: Yaşam Hakkı, Hukuk Boyutu, 2015)

### ★ Yaşam varlık oluşumu için olmaz ise olmazdır

Yaşam canlılar kadar cansız olanlar içinde yaşam varsa, varlık var demektir. Yaşam yok ise, varlıkta yok anlamındadır. Elinde altın yok ise, altından söz etmen ancak hayal ve masal gibi bedeli olmayan, anlamı olmayan bir sözel konuşma olacaktır. Bu açıdan birçok hukuk yapısında kaldırılmıştır.

Birleşmiş Milletler Genel Kurulu, 2007, 2008 ve 2010'da ölüm cezalarını uygulamama çağrısı yapan kararlar almıştır. Avrupa Birliği'nde, Avrupa Birliği Temel Haklar Bildirgesi'nin 2. maddesi gereği ölüm cezası kullanımı yasaktır. Avrupa Birliği'ne ek olarak, Türkiye ve Rusya'nın da üyesi olduğu Avrupa Konseyi de üyelerinin ölüm cezasını kullanmasını yasaklamaktadır. Bu doğrultuda Türkiye'de ölüm cezası 1984'ten beri uygulanmamakta, 2004'ten beri hukuk sisteminde mevcut bulunmamaktadır.

Hukuk yapılanması yanında hukuk algısında da yine küreselleşen evrende yeniden yapılandırılması gündemdedir. 2008 yılında Avrupa İnsan Hakları Mahkemesinin "civil liberties" ilk temel ilke ve başvuru nedeni olarak sunması ile tüm yasalar değiştirilmeye başlamış ve idamın kaldırılması ile de somutlaştırılmıştır.

### ★ Ölüm kavramı bireylere ve topluma göre farklı algılanabilmektedir.

Felsefe açısından ÖLÜM kavramı 4 aşamalı olarak incelenmektedir.

- ÖLÜM ve ÖLMEK ne demektir? Yokluk mudur, yoksa yaşamın sonlanması mıdır? Baki kalanların; a) Miras, b) Eser, c) Bilim, d) Evlat, nesillerin anlamı nelerdir?
- ÖLÜME HAZIRLIK: İnsanların ölüme hazırlanması kavramı, "bugün ölecek gibi hazır ol, hiç ölmeyecek gibi çalış" gibi felsefelerin anlamı nedir?



- **ÖLÜM ANI:** Bireyin ölür iken, özellikle ağır tedavisiz hasta ise, ölüm talebi, tedavi ret etmesi gibi durumlar ve törenler
  - **ÖLÜMDEN SONRA:** Öldükten sonra törenler, her yıl düzenlenen mevlitler, anmalar, Şebi Aruzlar gibi yaklaşımlar ve birey le toplumsal tutum ve algılar
- Bu açıdan idam, ölüm gibi durumlar, sadece birey değil, tüm toplumu, toplumları ilgilendiren bir Sosyal Antropolojik açıdan bir AŞAMA TÖRENİDİR.

### ★ Yargıtay Kararları Temelinde Bakış

(1) Yasal temsilciden ya da mahkemeden izin alınması zaman gerektirecek ve hastaya hemen işlem yapılmadığında yaşamı ya da yaşamsal organlarından biri tehlikeye girecekse izin aranmaz.

2) Ancak, kuruluşu değiştirmenin yaşamını tehlikeye atıp atmayacağı ve hastalığının daha da ağırlaşmış ağırlaşmayacağı konularında hastanın doktor yanından aydınlatılması ve yaşamsal tehlike bakımından sağlık kuruluşunun değiştirilmesinde tıp açısından bir sakınca görülmemesi temeldir.

3) Bedensel, ruhsal ve toplumsal yönden tam bir iyilik durumunda;

a) yaşama hakkının en temel insan hakkı olduğu, hizmetin her aşamasında her zaman göz önünde bulundurulur.

b) Herkesin yaşama, maddesel ve tinsel varlığını koruma ve geliştirme hakkının olduğu ve

c) hiçbir kurum ya da kişinin bu hakkı ortadan kaldırmak yetkisinin olmadığı bilinerek, hastaya insanca davranışta bulunulur.

d) Tıbbi zorunluluklar ve yasalarda yazılı durumlar dışında, onayı olmaksızın kişinin beden bütünlüğüne ve diğer kişilik haklarına dokunulamaz

### ★ Mortalite ve Morbidite *Letting to Die* kapsamında artış göstermiştir

**Tablo: 1980-2000 yılları arasındaki ABD Mortalite ve Morbidite (Nüfus Dairesi-Mezarlık kayıtları- MMWR), 12 July 2002)**

Kökene Göre	Mortalite GENEL			Morbidite 2500 g altı			Morbidite 1500 g altı		
	Afrika %	Kafkas %	Toplam %	Afrika %	Kafkas %	Toplam %	Afrika %	Kafkas %	Toplam %
1980	22.2	10.9	12.6	12.7	5.7		2.48	0.9	
1990									
2000	14	5.7	6.9	13	6.5		3.07	1.14	
1980-1990				+%6.3	-/+	+%	+%	+%	+%
						12.7	19	5.6	
1990-2000				-%	+%	-%	+%	+%	
				2.3	14	12.4	5.1	20	
+ Artma	-%	-%	-%	+%	+%	+%	+%	+%	+%
- Azalma	36.9	47.7	45.2	2.4	14	11.8	23.8	26.7	24.3

NOT: 1500 gram altında doğum ağırlığı olan bebeklerde ölüm oranlarının a) Binde 0.9 dan %1.14 artış (%26.7) ile %0.248 den %0.307 artış (%23.8) artış olmasına karşın yayınlarda sunulan veriler farklıdır.

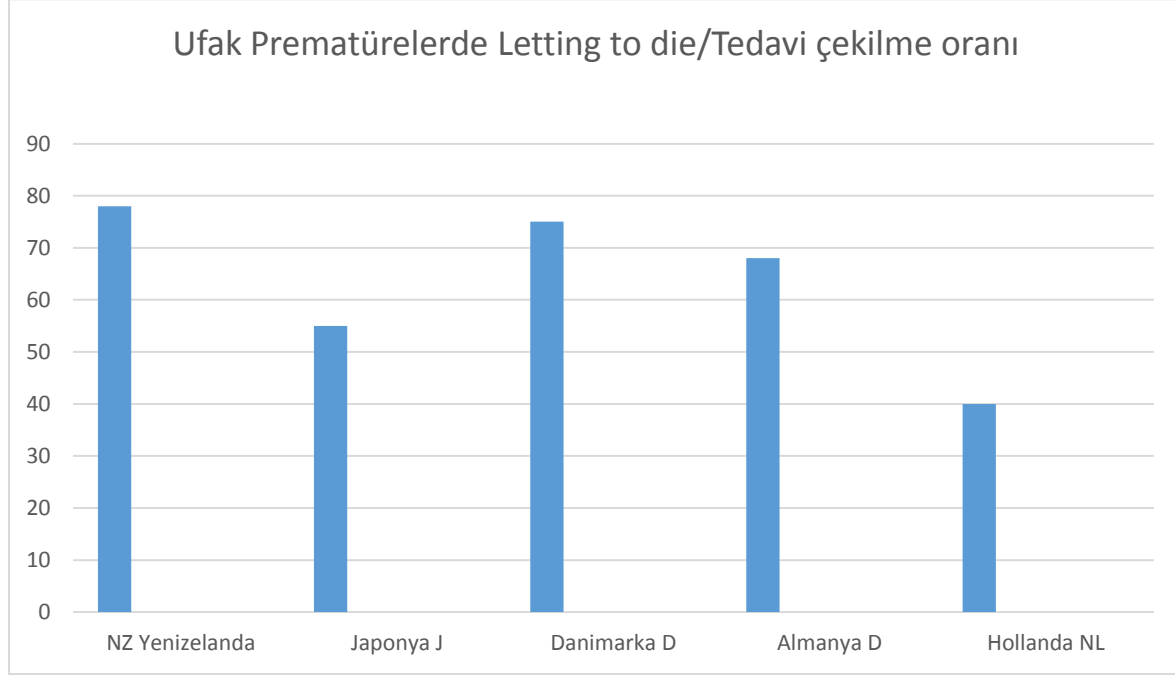
Eğer ağır hasta ve yaşam düzeyi düşük örneğin APGAR puanlaması (Doğumda canlılık kriterleri olan puanlama, 10 üzerinden yapılmaktadır ve 5 parametresi vardır) 4 ve altı ise canlı kabul edilmemektedir.

DNRO kavramında "... in the event of my cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not to be initiated" ifadesi ile kalp durmuş ise yaşatılmamalıdır anlamı olmaktadır.

Teknolojideki gelişmeye karşılık, yaşam konusunda yaşam kalitesi (Quality of Life), Mükemmel yaşam (Perfect Life), yaşam hakkı olması (Right to life) gibi sorunlar ile ölüme izin verilme boyutu ile istatistiksel veri ile gerçek mezarlık rakamları farklıdır.

### ★ Tedavinin Çekilme Oranları

Tablo: Yu V. [www.medicine.org.hk/guild/profyu.htm](http://www.medicine.org.hk/guild/profyu.htm) Tedavinin çekilmesi



NOT: Ülkelere göre tedavinin çekilmesi "letting to die" konseptinin ufak prematürelere oranları

### ★ DNRO (Do Not Resuscitate Order) Canlandırma Yapılmaması

- DNR %10-25,
- Futile %40-42-50
- Tam tedavi %25-35



NOT: 1500 gram ve altı doğum ağırlıklı ile 2500 gram ve altındakilerde DNRO ile "letting to die" oranları farklılaşmaktadır. Buna göre tam tedavi edilme oranı da %25-35 gibi bir oran olmaktadır. Ülkemizde ise tam tedavi dışındaki yaklaşımlar yasal değildir.

### ★ Terminasyon bakıldığı zaman, toplumlar arası oldukça farklılıklar görülmektedir.

**Ethical Dilemmas in Prenatal Diagnosis** adlı kitaptan, (Fischman T, Springer, 2011) bazı alıntılar aşağıda sunulmaktadır.

NOT: İlk 10 hafta embriyo döneminde ailenin gebeliği sonlandırma hakkı varken (anne ve bebek hakkında bütünlük, aileye karar verme hakkı verilmektedir), 4-6 aylıkta bebekteki 1983 yılında yasa/Yönetmelik ile belirtilen hastalıklarda gebelik sonlandırılmakta, 7-9 aylıkta fetus yaşayabilir olduğu için, TCK göre 20 haftadan sonra tahliye ancak anne yaşamı ile sonlanabileceği belirtilirken, birçok ülkede %23.5 gibi dörtte bir oranda yapıldığı görülmektedir. Bu doğrudan bebeği anne karnında ilaç vererek öldürme/fetosit yapıldıktan sonra gerçekleştirilmektedir.

Yunanistan'da olmamasında, inanç (Ortodoks ve Müslüman) neden olarak gösterilmektedir.

**Tablo: Ülkeler ve gebelik haftasına göre terminasyon/tahliye oranları**

Ülke	1-3 ay	4-6 aylık	7-9 aylık
1.İsrailde	41.2	35.3	23.5
2.İtalyada	69.6	28.2	2.2
3.Alamayada	74.9	22.9	2.2
4.Yunanistan	82.1	17.9	-

★ **Bu vurguların temel dayanakları başlıca aşağıdaki şekilde özetlenebilir.**

1) **Ötenazi:** Her bireyin yaşamını şerefi ve en üstün düzeyde yaşamaya hakkı vardır. Bu açıdan şerefsiz, sağlıksız ve ağır sekelli ve acı içinde yaşaması durumunda buna kendi rızası ile yaşamını sonlandırma hakkı verilmelidir (ötenazi). Temel vurgu, ümitsiz, giderilemeyen bir eziyetin varlığı olmalıdır. Bunun çocuklara da yansıtılması ve ailelerin rızalarının alınması temeline gidilebilmelidir. Bu konuda ötenazi sadece Hollanda ve Belçika da yasal boyutta, belirli kurallar altında işletilmektedir ve tedavi çekilmesi kabul gören devletler içinde en düşük ülkeler arasındadır. Ülkemizde bu eylem yasa dışıdır.

2) **DNRO (Do Not Resuscitate Order):** Florida Eyaleti Yüksek Mahkemesi tarafından oluşturulan Canlandırma Yapmayın Talimatının oluşturulmasıdır. Bu talimat ölmeden önce bireyler tarafından imzalanarak verilmektedir. Bu talimatta "... in the event of my cardiac or respiratory arrest, efforts at cardiopulmonary resuscitation not to be initiated" yapılan vurgu "Eğer Kalp ve solunum durması olur ise/eğer dolaşım açısından ölmüş isem, bu durumda canlandırma yapmayın vurgusudur.

Aynı şekilde APGAR (Doğumda Canlılık kriterleri) puanlaması 10 üzerinden 4 ve daha düşük olursa canlandırma işlemi yapılmaması önerilen yayınlar vardır. Burada kalp hafif atsa bile canlandırma yapılmamalı anlamında kavram genişletilmiş olmaktadır.

**Aynı şekilde olmak üzere wrongful life ve BEST INTEREST STANDART yaklaşımları da ailelerin lehine değil, hekimlerin lehine yorumlanmalıdır.**

3) **Ölüm Oruçları:** Bir birey isteği doğrultusunda ölüm orucu tutabilmelidir. Bu durum bilinci yitirilene kadar sürdürülmektedir. Bilinç yitirilmesi ile müebbet/ıdam hükmü alanların salındıkları (Wernicke-Korsakoff sendromu (Korsakov psikozu)(Wernicke hastalığı) gibi hastalık geliştirenlerin) bilinmektedir. 1991 tarihli Malta Bildirgesi'nde açlık grevi, "zihinsel olarak ehliyetli ve kendi iradesiyle açlık grevine karar vermiş kimsenin belirli bir zaman için yiyecek ve/veya sıvı almayı reddetmesi" şeklinde tanımlanmıştır. Açlık grevi eyleminden farklı olarak, ölüm orucu eyleminde hiçbir gıda alınmaz. Genellikle açlık grevi eylemiyle sonuç alınmadığında, daha etkili bir eylem biçimi olduğu düşünülen ölüm orucu eylemine geçilir.

4) **Pasif Ötenazi; Letting to Die, temelindeki Ekonomik Nedenler:** Gerek maliyet, gerek mükemmel sağlık yaşamının sağlanamayacağı nedeniyle Kamu tedavi ücretlerini Etik Kurulların onayı ile ödememekte ve aileler bu masrafı karşılayamayacağı için, pasif ötenazi, letting to die yapılmaktadır.

★ **Başlıca temel alınan Dayanaklar aşağıda sunulmaktadır.**

**1) Groningen Protokolü (2005)**

Hollanda Kamu Savcısı 12 yaş altındaki çocuklarda yaşamın sonlanmasının aşağıdaki 4 gereksinimin tam olarak karşılanması durumunda kabul görmektedir.

- **Ümitsiz ve giderilemeyen, dayanılmaz eziyetin varlığı**
- **Ailenin yaşamı sonlandırma bilgilenme sonrası rızalarının olması**
- **Tıbbi danışmanlığın yapılmış olması**
- **Yaşam sonlanmasının dikkatli ve usule uygun yapılması**

NOT: Bu yaklaşımın dava açılmasına engel olmayacağı belirgindir.

## Yorum

Savcılık Hukukta iddia, suçlayıcı makam olmaktadır. Bu makamın bazı durumlarda hekimi ve aileyi suçlamaması not edilmektedir. Bu arada tüm Dünya’da ötenazi yasal olmamasına karşın yaşamı sonlandırma oranı özellikle 1500 gram altında %78 oranına ulaşırken, Hollanda da ise %40-60 oranlarındadır. Kısaca daha az uygulanmaktadır. Hukuk sorgusu yapılması nedeniyle oran daha az olduğu düşünülebilir.

### 2) ABD Baby Doe Davası

- 1982 Yılında Down Sendromlu, özefageal atrezili, trakeo özefageal fistülü olan olgunun, besin ve sıvı verilmesi kesilerek, ölüme terk edilmesidir (Letting to die).
  - 1982 yılında Başkan Reagan, kendileri konuşmadığı, kendilerini ifade edemeyenler için Etik Kurulların devreye girmesini ve “Sağlık Bakım Kararlarının Oluşturulmasını” etik kurullara bırakılması
  - Savcı 1973 Rehabilitasyon Yasasını çocuk istismarı nedeniyle bu işlemlere karşın suç duyurusunda bulunmuştur. Bu nedenle yasanın yürürlüğe girmesi gecikmiştir.
  - 1984 KARAR, 1985 yürürlüğe girmiştir. 1986 yılında ABD Supreme Court/Yargıtay’ bu işlem ancak, bebek geriye dönülmez olarak komada veya “gerçekten yarasız/anlamsız” tedavi ise yapılabileceği ve ancak Yargıtay’ın kararında Tedavisi varsa Tedavi geri çekilemez denilmektedir.
- NOT: Tedavi edilmeme eylemini hukuk ancak tedavisi yok ise onay vermektedir. Hekim veya hasta ailesi yerine bağımsız ve bu konuda uzman kuruluşların karar vermesi, hastane etik kurullarının karar oluşturması/Konsey kararı ile aileye bilgi sunması ve rıza istenmesi yapısı oluşturulmuştur.

## Yorum

O dönem için, Trizomi 21 tedavisi ve tıbbi yaklaşımı olmadığı ve gebelikte sonlanmasının önerildiği bir olgu olması yanında cerrahi yaklaşımın başarılı olma olasılığının düşük olması gerekçesi ile ailenin ameliyat olmasını istediği kabul görmüştür. Kabul eden makam mahkemedir. Başkan Reagan **tüm özürülülerin ölmeden önce ameliyat hakkı vardır** ilkesi ile Başkanlık olarak Hukuka katkıda bulunmuştur. Supreme Court bu ilkedir, uygulamada bireysel özellikler dikkate alınır anlamında vurgu yapmıştır.

### 3) ABD (American Academy of Pediatrics = Amerikan Çocuk Akademisi) 2002 Çocuk İstismarı

- Çocuk İstismarı Hakkında 2002 yılında Canlı Doğan Bebeklerin Korunma Yasası; tüm canlı doğanlar koruma altına almıştır.
  - 2004 yılında YASAL kuralların eşit olmadığı ve soyut kavramlar olduğunu tanımlanmıştır.
  - 2007 Amerikan Pediatri Akademisi “*best interests standard –ilgiliye en iyi standardını*” koymuştur. Bu sağlanmadığı durumda anlamsız futile treatment kavramı getirilmektedir.
- NOT: ABD Supreme Court, ne olursa olsun, tedavisi var ise yapılmalıdır görüşünü vurgulamaktadır.

### 4) ACOG Amerikan Kadın-Doğum Birliği

Recommendations for end-of-life care in the intensive care unit: a consensus statement by the American College of Critical Care Medicine.

- Crit Care Med 2008
- National Consensus Project for Quality Palliative Care; 2009
- 2009 ACOG Life-limiting illnesses or conditions

NOT: Bu tebliğler ile Derneklerin kararları ile hukuk tanımları genişlemektedir.

## Yorum

Best interest standard tanımı ile yaşamda sağlıklı olmanın amaçlandığı, bunun sağlanmaması durumunda yaşamın sonlanabileceği algısı edinilmektedir. Ancak gerek AMA Etik İlkeler ve diğer yazılı parametrelerin bunun aksi olduğu anlaşılacaktır. Uygulama da farklılıklar olsa bile Ülkemizde tek yaklaşım esastır; Yaşam Hakkı sınırlandırılmazdır.

## ★ Wrongful Life Wikipedia

A type of **Medical Malpractice** claim brought on behalf of a child born with birth defects, alleging that the child would not have been born but for negligent advice to, or treatment of, the parents.

Since the early 1970s, TORT actions for wrongful life have been filed in U.S. courts. In a typical wrongful life action, the parents of a child born with birth defects sue on behalf of the child. Generally, the parents sue their doctor or a medical testing company for **Negligence**, claiming that the failure to diagnose an illness in the mother—for example, rubella in the early stages of pregnancy—prevented the opportunity for the mother to have an **Abortion**. As a result, the child is born with impaired health. Essentially, the child alleges that because of the defect, he would have been better off not being born at all. To bring a wrongful life action, the defect must be one that could only have been averted by preventing the birth of the child; otherwise the child would bring an ordinary negligence action. Other types of defects that can be diagnosed early in pregnancy include Tay-Sachs disease, sickle cell anemia, neurofibromatosis, and Down's syndrome.

Only a small number of states permit wrongful life actions. The many courts that have rejected wrongful life claims have cited two general reasons. First, the courts are reluctant to hold that a plaintiff can recover damages for being alive when the law and civilization in general have placed a high value on the presence of human life, not on its absence. Second, the basic rule of tort compensation is that the plaintiff is to be put in the position that she would have been in if the defendant had not been negligent. This is impossible in wrongful life actions because the contention is not that in the absence of negligence by the defendant, the plaintiff would have had a healthy, unimpaired life, but rather that if the defendant had not been negligent, the plaintiff would not have been born.

The computation of damages in a wrongful life action is based on the claim that the value of the life of the disabled child is less than the value of never having been born. The California Supreme Court, in *Turpin v. Sortini*, 31 Cal.3d 220, 182 Cal. Rptr. 337, 643 P.2d 954 (1982), stated that the wrongful life action is another form of a medical **Malpractice** action, and that recovery should not be allowed for pain and suffering and other general damages, but rather only for those extraordinary medical and other expenses incurred during the child's lifetime.

### Definition

Typically a child and the parents will sue a doctor or a hospital for failing to provide information about the disability during the pregnancy, or a genetic disposition before the pregnancy. Had the mother been aware of this information, it is argued, she would have had an abortion, or chosen not to conceive at all.

### History

Historically, only parents could sue for their *own* damages incurred as a result of the birth of a disabled child (e.g., the mother's own pregnancy medical bills and cost of psychiatric treatment for both parents' emotional distress resulting from the realization that their child was disabled). This cause of action is known as wrongful birth. But the child could not sue for his or her own damages, which were often much more substantial, in terms of the cost of round-the-clock personal care and special education.

In four U.S. states, the child is allowed to bring a wrongful life cause of action for such damages. In a 1982 case involving hereditary deafness, the Supreme Court of California was the first state supreme court to endorse the child's right to sue for wrongful life, but in the same decision, limited the child's recovery to special damages.<sup>[1][2]</sup> This rule implies that the child can recover objectively provable economic damages, but cannot recover general damages like subjective "pain and suffering"—that is, monetary compensation for the entire experience of having a disabled life versus having a healthy mind and/or body.

The Supreme Court of California's 1982 decision, in turn, was based on the landmark California Court of Appeal decision in *Curlender v. Bio-Science Laboratories* (1980).<sup>[3]</sup> The *Curlender* decision involved a child who was allegedly born with Tay-Sachs disease after the parents relied upon the defendants' representations about the reliability of their genetic tests in refraining from proceeding with amniocentesis.

The most famous passage<sup>[4][5]</sup> from the *Curlender* opinion is as follows:

“ The circumstance that the birth and injury have come hand in hand has caused other courts to deal with the problem by barring recovery. The reality of the 'wrongful-life' concept is that such a ”

plaintiff both exists and suffers, due to the negligence of others. It is neither necessary nor just to retreat into meditation on the mysteries of life. We need not be concerned with the fact that had defendants not been negligent, the plaintiff might not have come into existence at all. The certainty of genetic impairment is no longer a mystery. In addition, a reverent appreciation of life compels recognition that plaintiff, however impaired she may be, has come into existence as a living person with certain rights.

*Curlender* was not the first appellate decision to authorize a cause of action for wrongful life—it noted that a 1977 decision of the intermediate appellate court of New York had taken the same position, and was promptly overruled by the highest court of that state a year later. However, *Curlender* stands as the first such appellate decision which was *not* later overruled.

Most other jurisdictions, including New York,<sup>[6]</sup> England,<sup>[7]</sup> Ontario,<sup>[8]</sup> and Australia<sup>[9]</sup> have refused to allow the wrongful life cause of action.

In Germany, the Federal Constitutional Court declared wrongful life claims unconstitutional. The court reasoned that such a claim implies that the life of a disabled person is less valuable than that of a non-disabled one. Therefore, claiming damages for one's life as such violates the human dignity principle codified in the first article of the German Basic Law.<sup>[10]</sup>

In 2005, the Dutch Supreme Court fully upheld a wrongful life claim in the Netherlands' first wrongful life case ever.<sup>[11]</sup>

#### **Wrongful**

**Forensic medicine** An adjective with considerable medico-legal currency, used in several contexts. See **Negligence**.

#### **Wrongful**

**Wrongful death** An event that is usually regarded as negligent. See **Negligence**.

**Wrongful birth** An event resulting from the failure of a contraceptive or sterilization procedure, eg fallopian tube ligation, failure to diagnose pregnancy, or an unsuccessful attempt to abort a conceptus.

**Wrongful life** An event in which legal action may be taken by—or on behalf of the baby suffering from a hereditary or congenital defect, eg Down syndrome or other disease, eg rubella, who would not have been born had the parents had the knowledge to opt for an abortion; WL represents either the failure to diagnose in utero a condition that would lead to a major life-long handicap or recognize such a condition in a sibling, allowing a 2<sup>o</sup>, similarly afflicted, child to be born; the child is the defendant named in a lawsuit initiated to defray the incurred and anticipated medical, nursing and related health expenses; in both WB and WL, the defendant may be liable for support and care of the infant from 'cradle to grave'

### Yorum

Burada Ülkemiz için, gebelikte 10-20 gebelik haftasında yaşamı olanaksız veya ağır hasarlı olacak olan, beyin, kalp ve böbrek gibi sistemler yaşamı temin edemiyorsa, hekim önerisi ve hasta rızası ile yapılmaktadır. Tecavüz olguları da hâkim, hekim ve aile rızası ile 20 haftadan önce yapılabilmektedir. Bundan sonra yaşayabileceği için Terminasyon olmamaktadır. Özürlü olması yaşamsal sorun yaratmıyorsa gebelik sonlandırılmaz.

### ★ BEST INTEREST STANDARD Wikipedia

**Best interests** or **best interests of the child** is the doctrine used by most courts to determine a wide range of issues relating to the well-being of children. The most important of these issues concern questions that arise upon the divorce or separation of the children's parents. Here are some examples:

- With whom will the children live?
- How much contact (previously termed "access" or, in some jurisdictions, "visitation") will the parents, legal guardian, or other parties be allowed (or required) to have?
- To whom and by whom will child support be paid and in what amount?

## History

The use of the best interests doctrine represented a 20th-century shift in public policy. The best interests doctrine is an aspect of parens patriae, and in the United States it has replaced the Tender Years Doctrine, which rested on the basis that children are not resilient, and almost any change in a child's living situation would be detrimental to their well-being.

Until the early 1900s, fathers were given custody of the children in case of divorce. Many U.S. states then shifted from this standard to one that completely favored the mother as the primary caregiver. In the 1970s, the Tender Years Doctrine was replaced by the best interests of the child as determined by family courts. Because many family courts continued to give great weight to the traditional role of the mother as the primary caregiver, application of this standard in custody historically tended to favor the mother of the children.

The "best interests of the child" doctrine is sometimes used in cases where non-parents, such as grandparents, ask a court to order non-parent visitation with a child. Some parents, usually those who are not awarded custody, say that using the "best interests of the child" doctrine in non-parent visitation cases fails to protect a fit parent's fundamental right to raise their child in the manner they see fit. Troxel v Granville, 530 US 57; 120 S Ct 2054; 147 LE2d 49 (2000).

## Assessing the best interests of the child

In proceedings involving divorce or the dissolution of a common-law marriage or a civil union, family courts are directed to assess the best interests of any children of these unions.

The determination is also used in proceedings which determine legal obligations and entitlements, such as when a child is born outside of marriage, when grandparents assert rights with respect to their grandchildren, and when biological parents assert rights with respect to a child who was given up for adoption.

It is the doctrine usually employed in cases regarding the potential emancipation of minors. Courts will use this doctrine when called upon to determine who should make medical decisions for a child where the parents disagree with healthcare providers or other authorities.

In determining the best interests of the child or children in the context of a separation of the parents, the court may order various investigations to be undertaken by social workers, Family Court Advisors from CAFCASS, psychologists and other forensic experts, to determine the living conditions of the child and his custodial and non-custodial parents. Such issues as the stability of the child's life, links with the community, and stability of the home environment provided by each parent may be considered by a court in deciding the child's residency in custody and visitation proceedings. In English law, section 1(1) Children Act 1989 makes the interests of any child the paramount concern of the court in all proceedings and, having indicated in s1(2) that delay is likely to prejudice the interests of any child, it requires the court to consider the "welfare checklist", i.e. the court must consider:

1. The ascertainable wishes and feelings of each child concerned (considered in light of their age and understanding)
2. Physical, emotional and/or educational needs now and in the future
3. The likely effect on any change in the circumstances now and in the future
4. Age, sex, background and any other characteristics the court considers relevant
5. Any harm suffered or at risk of suffering now and in the future
6. How capable each parent, and other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs
7. The range of powers available to the court under the Children Act 1989 in the proceedings in question

The welfare checklist considers the needs, wishes and feelings of the child and young person and this analysis is vital to ensure that the human rights of children are always in the forefront of all consideration. The welfare checklist provides a comprehensive list of issues that need to be considered to ensure that young people who come into court proceedings are safeguarded fully and their rights as citizens are promoted.

## Criticism of the best interests standard

*Main article: Fathers' rights movement*

The Best Interests standard has received considerable criticism by certain groups within the privacy rights and family law reform movement, particularly with regard to how it unlawfully marginalizes children from one of their parents absent a compelling government interest, and often cultivates protracted litigation. Critics argue that a higher evidentiary standard should be applied to fit parents, and that the Best Interests standard should only be applied in cases where a termination of parental rights has already occurred.

The Best Interests standard has also come under criticism by parents of young children who are not yet able to voice or have difficulty expressing that they have been abused. If a child has been physically or sexually abused and the abuser is a parent, the child will be unprotected from the abuser when that abuser cannot be prosecuted. This can and has happened recently, even when the child has said previously that abuse had taken place. This situation has the potential to happen quite frequently because of the young age of the child and possible inconsistent testimony. Instead, the rights of the parent to raise the child take priority over the well-being of the child who is forced to live with the abuser, even in cases of joint custody where an abuse-free environment is possible. Until recently, children would be taken out of the home of the abuser and placed with the non-abusive parent, but the courts have begun to focus on the rights of the parent to raise the child when the abuse cannot be legally recognized by the court (i.e., the abuser is not convicted). In many cases, the voice of the child is ignored because they have not become old enough for their opinion as to their living situation to matter. When the children are too young to have a voice, it is felt by some parents of young children that the courts are acting with regard to parental rights which, until the child is old enough, seem to replace the right of the child to live in an appropriate environment

## Yorum

**1-Hekimin Görevi İnsanı insan olarak görmektir.** Hekimin görevi olarak Deontoloji Nizamnamesinde: “Hekimin öncelikli görevi, hastalıkları önlemeye ve bilimsel gerekleri yerine getirerek hastaları iyileştirmeye çalışarak insanın yaşamını ve sağlığını korumaktır. Meslek uygulaması sırasında insan onurunu gözetmesi de hekimin öncelikli ödevidir. Hekim, bu yükümlülüklerini yerine getirebilmek için, gelişmeleri yakından izler.” denilmektedir. Bu vurgu aynı yapıda olmasını vurgulamaktadır.

**2-Wrongful life action malpraktistir/hak edilmeyen yaşam Tıbbi Taksir suçudur** (Amerikan Yargıtay Kararı- **The California Supreme Court**)

The California Supreme Court, in *Turpin v. Sortini*, 31 Cal.3d 220, 182 Cal. Rptr. 337, 643 P.2d 954 (1982), stated that the wrongful life action is another form of a medical Malpractice action, ifadesinde, bu yaklaşım MAHKEME KARARLARINA GÖRE TIBBİ TAKSİRDİR. Yanlış/Hatalı Yaşam yaklaşımı Tıbbi Taksirin bir türü olarak kayda geçmektedir.

BEST INTEREST STANDARDI çocuğun en iyi ortamda yetiştirilmesi anlamında olup, ailenin isteği anlamında yorumlanmadığı belirgindir.

AMA eğer onam/rıza alınmamış ise, mahkemelere başvurularak, ailenin savcılığa şikâyet edilmesi gerektiği vurgulanmaktadır.

HUKUK Yaşam Hakkı çerçevesinde tek bir aykırı kararı olmadığı görülecektir. Yorumlamalarda farklılık olsa bile Hukuk Maddeleri açık, kesin ve nettir.

**3-Yaşam Hakkı En Yüce Haktır**

Aşağıda sunulanlar açık olarak Yaşam Hakkının en üst hak olduğu ve başka haklar ile karşılaştırılamayacağını belirtmektedir.



## BİRLEŞMİŞ MİLLETLER, İNSAN HAKLARI EVRENSEL BİLDİRGESİ 10 Aralık 1948

- Başlangıç: İnsanlık ailesinin bütün üyelerinde bulunan onurun ve onların eşit ve vazgeçilmez haklarının tanınmasına,
- Madde 3: Yaşamak, özgürlük ve kişi güvenliği herkesin hakkıdır.
- Bölüm 1; Madde 2: 1-Herkesin yaşama hakkı kanunla korunur.
- Kısım 1; Madde 6: 1-Taraf Devletler, her çocuğun temel yaşama hakkına sahip olduğunu kabul ederler.
- İlke2: Çocuk, özel olarak korunur, yasalar ve başka yollarla sağlıklı ve normal biçimde, özgürlük ve saygılık koşullarında bedensel, zihinsel, ahlak, manevi ve toplumsal olarak gelişmesine olanak sağlayacak fırsat ve kolaylıklardan yararlanır. Bu amaçla çıkarılacak yasalarda, çocuğun çıkarları önde gelir.
- İlke4: Çocuk toplumsal güvenlik olanaklarında yararlanır. Sağlık içinde ve yetiştirme hakkı vardır. Bu amaçla kendisine ve annesine özel bakım ve korunma olanakları sağlanır. Bu olanaklar doğum öncesi ve doğum sonrası bakımı da içerir. Çocuğun, yeterli beslenme, barınma, eğlenme ve sağlık hizmetlerine hakkı vardır.
- Madde 12
- 1-Bu Sözleşmeye Taraf Devletler, herkesin erişilebilir en yüksek bedensel ve ruhsal sağlık standardından yararlanma hakkını tanırlar.
- 2-Bu Sözleşmeye Taraf Devletlerce bu hakkı tam olarak gerçekleştirmek üzere yapılacak girişimler:
  - Ölüm doğum oranı ve çocuk ölümlerinin azaltılması ve çocuğun sağlıklı gelişmesi için önlemler alınması;
  - Çevre ve endüstri sağlığının her bakımından iyileştirilmesi;
  - Salgın ve yöresel hastalıklarla, meslek hastalıkları ve öteki hastalıkların önlenmesi, bakımı ve denetlenmesi;
  - Hastalık durumunda herkese tıbbi hizmet ve bakım sağlayacak koşulların yaratılması için gerekli olan önlemleri içerir.
- Madde 24
- 1-Taraf Devletler, çocuğun olabilecek en iyi sağlık düzeyine kavuşma, tıbbi bakım ve rehabilitasyon hizmetlerini veren kuruluşlardan yararlanma hakkını tanırlar. Taraf Devletler, hiçbir çocuğun bu tür tıbbi bakım hizmetlerinden yararlanması hakkında yoksun bırakılmamasını güvence altına almak için çaba gösterirler.
- 2-Taraf Devletler, bu hakkın tam olarak uygulanmasını takip ederler ve özellikle:
  - Bebek ve çocuk ölüm oranlarının düşürülmesi;
  - Bütün çocuklara gerekli tıbbi yardımın ve tıbbi bakımın; temel sağlık hizmetlerinin geliştirilmesini önem verilerek sağlanması;
  - Temel sağlık hizmetleri çerçevesinde ve başka olanakların yanı sıra, kolayca bulunabilen tekniklerin kullanılması ve besleyici yiyecekler ve temiz içme suyu sağlanması yoluyla ve çevre kirlenmesinin tehlike ve zararlarını göz önüne alarak, hastalık ve yetersiz beslenmeye karşı mücadele edilmesi;
  - Anneye doğum öncesi ve sonrası uygun bakımın sağlanması;
  - Bütün toplum kesimlerinin özellikle ana-babalar ve çocukların, çocuk sağlığı ve beslenmesi, anne sütü ile beslenmenin yararları, toplum ve çevre sağlığı ve kazaların önlenmesi konusunda temel bilgileri elde etmeleri ve bu bilgileri kullanmalarına yardımcı olunması;

- Koruyucu sağlık bakımlarının, ana-babaya rehberliğini, aile planlaması eğitimi ve hizmetlerinin geliştirilmesi; amaçlarıyla uygun önlemleri alırlar.

Acil durumlar ile, hastanın reşit olmaması veya bilincinin kapalı olduğu ya da karar veremeyeceği durumlarda yasal temsilcisinin izni alınır. Hekim temsilcinin izin vermemesinin kötü niyete dayandığını düşünüyor ve bu durum hastanın yaşamını tehdit ediyorsa, durum adli mercilere bildirilerek izin alınmalıdır. Bunun mümkün olmaması durumunda, hekim başka bir meslektaşına danışmaya çalışır ya da yalnızca yaşamı kurtarmaya yönelik girişimlerde bulunur. Acil durumlarda müdahale etmek hekimin takdirindedir. Tedavisi yasalarla zorunlu kılınan hastalıklar toplum sağlığını tehdit ettiği için hasta veya yasal temsilcisinin aydınlatılmış onamı alınmasa da gerekli tedavi yapılır. Hasta vermiş olduğu aydınlatılmış onamı dilediği zaman geri alabilir.

### **Avrupa Konsey Kılavuzu (2006)**

- Yaşam hakkı ilk sayılan hak. Alındıktan sonra geri verilemez
- İlgili Madde katı şekilde yorumlanmalıdır
- Doğmamışın yaşamı da korunmalıdır
- Ölüm olayları araştırılmalı (Yükümlülük)
- Yaşamın ne olduğu, ne zaman başladığı ve sona erdiği konuları açıklığa kavuşmamıştır
- Hamileliğin sonlanması sadece annenin özel hayatının bir meselesi şeklinde değerlendirilemez
- Kişi aksini tercih etmedikçe, ölüme yaklaşmış veya ölmek üzere olan bir kişiye yan etkisi bireyin yaşamını kısaltsa dahi yeteri kadar ağrı kesici verilmeli ve hafifletici tedavi uygulanmalıdır.
- Ölüme yaklaşmış veya ölmek üzere olan kişilerin ölme arzularının tek başına ölümü amaçlayan eylemleri icra etmeyi hukuken haklı göstermeyeceğini tanıyarak
- Yaşam tehlikede olmadıkça ölümcül güç kullanılamaz (mülkü korumak amaçlı öldürme kabul edilemez)
- Güç kullanma mutlak şekilde gerekli olandan daha fazla olmamalıdır.
- Yaşam hakkını koruma yükümlülüğü hastaneler açısından hastalarını korumak denetim ve yönetiminin olması şartı ve hastanelerde meydana gelen ve ilgili tıbbi kişinin sorumluluğunu gerektirebilecek ölüm nedeninin tespit edilmesinde etkili bir uyarı sisteminin oluşturulması yükümlülüğünü de içermektedir.

### **Avrupa Anayasasında ilk (birinci) “TEMEL”i temsil eden Temel Haklar Ana Sözleşmesi,**

- Bu haklar vatandaşlığın üzerindedir ve kişilere aynı şekilde bağlanmaktadır. 51.maddeye göre ulusal kanunlar Nice Statüsüne uygun olmalıdır... ulusal anayasayı geçersiz kılmamalıdır (Madde 53).

Sonuç olarak, Nice Statüsünde öne sürülen şartlardaki açıkların kapatılabilmesi için bazı haklar geniş kapsamlı olarak yorumlanmalıdır.

- Statünün 35. maddesi sağlığı koruma hakkı vermektedir “ koruyucu sağlık tedavisi hakkı ve ulusal kanun ve uygulamalar tarafından oluşan şartlar kapsamında tedaviden yararlanma hakkı”. 35. madde Birliğin “insan sağlığının yüksek düzeyde korunmasını” garanti etmesi gerektiğini belirtir. Burada sağlık hem bir birey ve sosyal iyilik olarak hem de sağlık tedavisi anlamına gelmektedir. Bu tanım (formül) ulusal hükümetler için bir yönlendirme (kılavuz)

standartı ortaya sermektedir: hizmet açısından çeşitli sistemlerin kapasite farklarına bakmaksızın “garanti edilen minimum standartlar” katında durmayın her zaman hedefiniz en yüksek düzey olsun.

### **Uluslararası İnsan Hakları İnsan Hakları Avrupa Sözleşmesi**

**İnsan Haklarına Saygı Zorunluğu:** Her bireyin hür ve eşit onuru ve hakları olduğu belirtilmektedir. Birbirleri ile kardeşlik bağı ile bağlı olduğu belirtilmektedir. **HER BİREY AYNIDIR, HAKLARDA EŞİTTİRLER. HER BİREY AYNI TÜRÜN ELEMANIDIR.**

Her bireyin yaşam hakkı, hürriyeti/özgürlüğü ve birey olarak güvenliği olmalıdır. İşkencenin yasaklanması da bu kapsamdadır.

1. “yaşam”ın ne olduğu ya da ne zaman başlayıp ne zaman sona erdiği –açıklığa kavuşturulmamıştır
2. Eğer biri yaşam hakkından keyfi olarak mahrum bırakılırsa diğer tüm haklar anlamsız olacaktır
3. devletler ölüm olaylarını araştırma “pozitif yükümlülük”
4. doğmamış yaşama kapsamında koruma yolları verildiği açıktır
5. hamileliğin sonlanması sadece annenin özel hayatının bir meselesi olduğu şeklinde yorumlanamaz

### **1995 Bali**

*Özellikle tedavi bakımından hizmet sınırlılığı olan durumlarda potansiyel hastalar arasında bir seçim yapılması gerekiyorsa, bu seçimin bütün hastaların hakkını dikkate alarak eşit bir şekilde yapılması gerekir. Bu seçim tıbbi ölçütlere göre ve ayırım yapılmaksızın yapılmalıdır*

### **2001 Barcelona**

*Uluslararası İnsan Hakları Bildirgesindeki insan hakları yaşamın tüm evrelerini tanımlar Gebe bir kadının yaşama bağdaşmayan anomalili bebeği taşıyorsa, gebeliğe devam etme hakkı veya her ülkede yasal sınırlar içinde gebeliğin tahliyesine, rıza gösterme hakkı vardır Yaşam sınırları altında olan immatür herhangi bir yenidoğanı canlı tutmak için gayret gösterilmemelidir. Bu olgularda, doğumun yapıldığı yerel, sosyal ve ekonomik durumlar hukuksal hak edişe başvurmadan önce dikkate alınmalıdır.*

### **2011 Türk Ticaret Kanunu Madde 1530**

*Aksine bir hüküm bulunmadığı takdirde, ticari hükümlerle yasaklanmış işlemler ve şartlar batıldır*

### **Deontoloji Nizamnamesi**

*Yeter derecede tecrübe ederek faydalı olduğuna veya zararlı neticeler tevhit etmeyeceğine kanaat getirmediği, tatbik veya tavsiye edemez  
Hastanın hayatını kurtarmak ve sıhhatini korumak mümkün olmadığı takdirde dahi, ıstırabını azaltmaya veya dindirmeye çalışmakla mükelleftir  
Ananın hayatını kurtarmak için yegâne çare teşkil ettiği takdirde, abortman yapılması caizdir*

### **Helsinki Bildirgesi**

*Hastanın sağlığı benim ilk önceliğimdir" cümlesiyle hekimi bağlar*

*Uluslararası Tıp Etiği Kodu "Tıbbi hizmetleri verirken, hekimin yalnızca hastanın yararına göre davranması gerektiği"ni bildirir*

**Hukuk Yaşam Hakkını korumaktadır.** Bireyler kendi dernek, organizasyon ve buna benzer yaklaşımlar ile bazı gerekçeler ileri sürerek, bireyin yaşamamasını öngörebilirler, ancak hukuk yaşam hakkının en yüce hak olduğunu ve idam dâhil hiçbir mahkeme kararı bile olsa, yaşam hakkının canlıların elinden alınamayacağını ifade etmektedirler. Aykırı bir yasal mevzuat olmadığı da dikkatlerden kaçmamalıdır.

### Yaşam Hakkında Düşünceler, Yorumlar

Yaşamı birçok yorumlara göre ele almak, ancak bireylerin düşünceleri ve inanışları gibi birçok faktörlere bağlıdır.

Başlıca vurgular:

- Ana tema yaşam var ise, varlık var anlamındadır. Tüm Yaşamın anlamı kavramları da bundan sonra oluşmaktadır. Bu açıdan ilk planda biyolojik yaşamın oluşturulması gereklidir.
- Her birey kendi otonomisi içinde, kendisi ile ilgili tam sorumluluk taşımaktadır. Değerlendirme ve gerekirse yargılama bireyin tutum ve davranışlarına göre yapılmaktadır. İyilik veya kötülük durumlarında da ödül veya cezada sorumluluk bireyseldir.
- Birey kendi iradesini, belirli bilgi ve bilgili olanlardan alacağı görüşlerle kullanır. Rıza ancak bilgilendikten sonra kullanılmalıdır. Suç kapsamında olanlarda bilmemek mazeret olamaz.
- Hiçbir birey veya mahkeme yaşamın sonlanması kararını veremez. İdam kararı yerine bireylerin terbiye, ıslahı veya ibret olarak cezalandırması ile toplumsal yaşamın ve düzenin sağlanması hedeflenmektedir. Varlık olursa, toplum oluşabilir anlamındadır.
- Kıyas; yaşamı kurtarmak ve nefsi müdafaa dışında saldırgan öldürülemez. İnsan savaşta bile ancak düşman öldürmek üzere hücum ettiğinde ölüm bir hak olarak tanımlanır. Hırsız ölüme kast etmemiş ise öldürülemez. Polis önce uyarır, sonra havaya, sonra ayağına ve sonra vurmak için ateş eder prensibi belirtilir ama cana kast yok ise insana ateş edemez.
- Ölüme yakın veya ölümcül boyutta olunma durumunda, yaşamak eziyet ve onursuzluk ise bireyler ölümü talep edebilirler. Savaşa giderken, örneğin Çanakkale’de son namazı kılınıp, vatani için canlarını feda edenler, ölüme, savaşa gittiler. Bir onur ve bir amaç için ölümü talep etmektedirler. Ölüm orucu tutmada aynı kapsamda ele alınması gerektiği belirtilmektedir. Bilinç yitirilince ancak tedavi edilebilmektedirler. Savaşta da yaralı olmak durumunda savaş ve ölüm düşünülmemelidir.
- İntihar değil, ölümü isteme farklı kavramlardır. Faydasız ve anlamsız tedavi durumunda, kanser veya benzeri hastalıklardan mustarip olanların, kendi ve ancak kendi rızaları ile tedavi kabul etmemeleri hakları olarak görülebilmektedir.
  - Aktif olarak yaşamı sonlandırma, tedavisi olmayan durumlarda da söz konusu olamaz. Sadece tedavi, daha doğrusu anlamsız tedavi ret etme rızası sunulmaktadır.
  - Gebelikte de yaşamı olanaksız veya beyin, kalp işlevleri gibi yaşamı bir bakıma imkânsız olan durumlarda aileye gebeliği sonlandırma tercihini sunmak yasal açıdan da gereklidir. Ancak fetus yaşayabilecek duruma gelince bu rıza olsa bile söz konusu olamaz.

- Anne yaşamı tehlikede ise, bebeğin yaşamı ikinci plana itilebilmektedir.
- Beyin ölümü olunca organ nakli için yaşamın sonlandırması yine yasal olarak olanaklı olmaktadır.
- Yaşamda bazı temel etik ilkeler önem kazanmaktadır. Bu durum ölüm kavramı için de geçerli olması beklenir. Bunlar: Temel ilkeler; a) güven, b) sadakat ve c) sır saklama temelinde olmalıdır. Uyması gereken etik ilkeler; a) Yararlılık, b) zarar vermeme, c) özerkliğe saygı ve d) adalet kapsamında olmalıdır. Ölüm kültürel anlamda; doğum, evlenme ve diğer sosyal olaylar gibi bir AŞAMA TÖRENİDİR. Her toplumda, her inanışlarda farklı törensel boyutu vardır.
- Ölümde tüm hukuki haklar son bulur. İnsan hayatının tamamen tükenmesi olan ölümle hukuki şahsiyet (kişilik) sona erer. Ölen kimse herhangi bir borç altına giremez ve hak sahibi olamaz. Tüm malları mirasçılar tarafından yasalara göre paylaşılır.
- Konu palyatif tedavi hakkında karar almazdır. Yaşam Hakkı değil, Ölüme yakın olma durumu için geçerlidir. “yaşam kalitesini iyileştirmeye yönelik palyatif tedavi verildiği dönem ele alınmaktadır”
- Hekimin Özerklik, özellikle seçtiği tedavi, tıbbi durumuna uygun olmadığı hallerde bile, hastanın, istediği her türlü tedaviyi alma hakkı anlamına gelmez
- Yaşam Hakkı ile insanlık ve onuru bütünleşen kavramlardır. “Normatif düzeyde, Avrupa İnsan Hakları Sözleşmesi’nin 2. maddesinde düzenlenen Yaşama Hakkı ile İnsan Hakları ve Biyotıp Sözleşmesi’nin 3. Maddesi’nde düzenlenen, insanlık dışı ve insan onurunu zedeleyen müdahalelerden korunma hakkı ile bağlantılıdır. Ayrıca, İnsan Hakları ve Biyotıp Sözleşmesi’nin 2. Maddesi’nde hükme bağlanan, insanın tek ve biricik olma özelliğini, bilimin ve toplumun çıkarlarının üstünde tutulması ilkesine ve 4. Maddesinde düzenlenen mesleki yükümlülük ve ilkelere uyma sorumluluğuna dayanır.” “Başka deyişle, hastaya içinde bulunduğu duruma uygun ve onunla uyumlu tedavi verilmelidir. Ayrıca, hastanın acılarını dindirmek, uygun bakım ve destek sağlamak ta hekimin görevlerindedir”. Ayrıca “Eğer mevcut olguda, uygulanmak istenen ya da uygulanmakta olan tedavi biçimi, hastanın içinde bulunduğu durumla uyumlu değilse, onun ihtiyacına yanıt vermekte yetersiz kalıyorsa, hala bu tedavide ısrar etmek, “terapötik inat” (ya da mantıksız ısrar) olarak adlandırılır.” “Hastanın yaşamının son dönemlerinde alınacak tıbbi kararlarda en önemli zorluklardan biri, hastanın özerkliğine ve onuruna saygı gösterilmesinin sağlanması; hastanın yaşamının korunması ile hastanın çekmekte olduğu ağrı ve acının mümkün olduğunca hafifletilmesi arasında denge kurulmasıdır.” “Normatif düzeyde, Avrupa İnsan Hakları Sözleşmesi’nin 2. maddesinde düzenlenen Yaşama Hakkı ile İnsan Hakları ve Biyotıp Sözleşmesi’nin 3. Maddesi’nde düzenlenen, insanlık dışı ve insan onurunu zedeleyen müdahalelerden korunma hakkı ile bağlantılıdır.
- Palyatif Bakım da bir haktır. “Bu nedenle palyatif bakım, hastaya mümkün olduğunca en nitelikli yaşam olanağını sunma amacını taşır. Palyatif bakım, hastanın ağrı, acı ve diğer semptomlarını kontrol altına almak; içinde bulunduğu psikolojik ve sosyal koşullara uyum gösterebilmesi için destek vermek, hatta uygunsuz manevi destek sağlamak üzere etkili bakım sunmaktır.”
- Hekim hastasını bilgilendirerek onun karar olmasını sağlamalıdır. Bilgi vermek, ikna, zorlama gibi yaklaşımların tam tersidir. Otonomi ve saygıdır. “Özerklik ilkesinin uygulanabilmesi, hastanın özerk ve bağımsız biçimde kendisi hakkında karar alabilmesi için, önceden içinde bulunduğu durum hakkında bilgilendirilmesi şarttır” ve “Hastanın kendisi

hakkında karar verme yeteneği olup olmadığını değerlendirmek için şunlara dikkat edilmelidir

- Anlama Yeteneği
- Değerlendirme Yeteneği
- Muhakeme Yeteneği:
- Seçim Yapma Yeteneği

Yaşam Hakkı temelde yaşamın anlamı ile bağlantılıdır. Değer ifade ettiği durumlarda yaşam önemlidir. Eğer bireyin onuru veya şerefi temelinde yapılanma olmadığında, toplum, sosyal olarak dernek, kulüp, lider gibi farklı değerler üstün tutulduğunda, yaşam bu anlamda kıymetini yitirmektedir. Sonuçta Yaşam Hakkı bireyin varlığı üstün tutulduğunda önemsenmektedir. Başka varlıklar üstün ise feda edilmesi gereken olmaktadır. Ancak bir canlının varlığı yaşamıdır, o olmaz ise oluşum, varlığı olamaz. Bu gözden kaçmamalıdır.

### Hekim ve Hasta İlişkisi: Hasta müşteri değildir

*“Hastalar müşteri midir? Sorusuna altı maddede yanıt.* Medimagazin, 9 Mart 2015, Kevin MD’den çeviri özeti.

Müşteri kavramı; para karşılığında başka bir insan veya kuruluştan hizmet veya ürün alan kişi veya kuruluş, anlamındadır. Sağlık bakımı devlet tarafından “hizmet olarak tanımlanmaktadır.

Nedenler şu şekilde sıralanmaktadır:

- 1) Hasta sıkıntı ve dert içindedir, ihtiyaç duymakta, yaşamsal önemli konudur, istedikleri değil, ihtiyaçları için bulunmaktadırlar. Zorunluluk vardır.
- 2) Hasta seçmemiştir, almak zorunda kalmıştır.
- 3) Hizmet için para ödememektedirler, bilgi ve tercihleri kısıtlı veya yoktur.
- 4) Olumlu sonuç, memnuniyet için ödeme yapmazlar.
- 5) Hasta her zaman için haklı değildir, istemediği durumlara katlanmak zorunda kalabilir.
- 6) Hasta memnuniyeti kalite ile bağlantılı değildir. Hasta memnuniyeti için sağlık yaklaşımı yapılmaz.

Sağlık yaklaşımı standart bir hizmet olmayıp, bireye göre farklılık yanında, bireyin yaşam hakkı gibi birçok unsurlarda istemediği, arzu etmediği durumlarla da karşılaşabilmektedir. Hastalığı için veya ağrısı için ilaç talebine karşı hekimlerin vermedikleri bir gerçektir. Bu durumda klasik hizmet alım ve verme şeklinde yorumlanması geçerli ve doğru değildir.

### Ötenazi-Futile/anlamsız-yararı olmayan tedavi/ölüme bırakmak yasa dışı yaklaşımdır.

**Yasalarımızda “Wrongful life-HATALI YAŞAM, yaşam kalitesi” ve “BEST INTEREST STANDART-en iyisini isteme” gibi YAŞAM STANDARDI GİBİ bir yaklaşım olmadığı gibi, doğan tüm özürülülerin gereken bakımı göstermesi yasal bir zorunluluktur.**

Etik ile Yasa karşı karşıya gelmektedir. Avrupa’da Groningen Protokolü dışına olumlu bir yazı olmadığı, Hollanda ve Belçika Devletlerinde yasa ile oluştuğu bilinmektedir. Bu talebin ancak “Ümitsiz ve giderilemeyen, dayanılmaz eziyetin varlığı” durumları için geçerli olacağı

belirtilmektedir. Protokol ile Avrupa'da da dava açılmasını engelleyen bir durum oluşturmamaktadır, sadece savcılığa bir öneri olarak sunulmaktadır.

**Halen ülkemizde bu durum bilerek ve kasten adam öldürme anlamındadır (TCK 80-81) 1998 Hasta Hakları Yönetmeliğinde belirtilenler:**

**Tıbbi Gereklilikler Dışında Müdahale Yasağı**

• **Madde 12- Teşhis, tedavi veya korunma maksadı olmaksızın, ölüme veya hayati tehlikeye yol açabilecek veya vücut bütünlüğünü ihlal edebilecek veya akli veya bedeni mukavemeti azaltabilecek hiçbir şey yapılamaz ve talep de edilemez.**

**Ötenazi Yasağı**

• **Madde 13- Ötenazi yasaktır.**

Tıbbi gereklerden bahisle veya her ne suretle olursa olsun, **hayat hakkından vazgeçilemez.** Kendisinin veya bir başkasının talebi olsa dâhil, kimsenin hayatına son verilemez.

• **Madde 11- Hasta, modern tıbbi bilgi ve teknolojinin gereklerine uygun olarak teşhisinin konulmasını, tedavisinin yapılmasını ve bakımını istemek hakkına sahiptir.**

• **Madde 25- Kanunen zorunlu olan haller dışında ve doğabilecek olumsuz sonuçların sorumluluğu hastaya ait olmak üzere; hasta kendisine uygulanması planlanan veya uygulanmakta olan tedaviyi reddetmek veya durdurulmasını istemek hakkına sahiptir. Bu halde, tedavinin uygulanmamasından doğacak sonuçların hastaya veya kanuni temsilcilerine veyahut yakınlarına anlatılması ve bunu gösteren yazılı belge alınması gerekir.**

## YORUM

Buradaki tanımlamayı geniş olarak yorumlamamak gereklidir. Kanunen zorunlu haller yukarıda genel olarak tanımlanmıştır. Başkası için, çocuğuna, tedavisi olanaklı durumlarda bu kapsam içinde olmadığı, yorumun genişletilemeyeceği, dikkate alınmalıdır. Bu yaklaşım, bebeklerin yaşam hakkının elinden alınması anlamında yorumlanamaz.

Hekim tedavi garantisi vermez. Hastayı İyileştirme Garantisi Vermeme Hakkı: Hasta ve hekim arasındaki hukuki ilişkinin vekâlet sözleşmesi olarak kabul edildiği durumlarda vekâlet sözleşmesinin niteliği gereği hekim, hastasını iyileştirmek için tüm tıbbi bilgi ve becerisini kullanarak sadakat ve özen borcu çerçevesinde çalışmakla yükümlü olup başarılı sonuç elde edilememesinden sorumlu değildir. Aynı husus Tıbbi Deontoloji Nizamnamesi'nin 13.maddesi ile de hüküm altına alınmıştır.

Vasi kararı/Rıza: Yaşam hakkına dair olarak; a) özellikle hastanın bilincinin kapalı olduğu durumlarda veya b) yaş küçüklüğü, c) akıl hastalığı gibi hastanın d) veli yahut vasi aracılığıyla temsil edildiği durumlarda kararın yasal temsilciye bırakılması beklenilmektedir.

Ancak HAYATİ TEHLİKE VARLIĞINDA geçerli olmamalıdır. Hekim kararının gerçekten yaşamı tehdit eden bir durum veya alternatif seçim/metod olup olmadığı konusudur. Apandisit ameliyatının alternatifi laparoskopik ameliyattır. Amerika BD presentia previanın yaklaşımı sezaryendir ancak bazı olgularda tam kapanma olmadığı için sezaryen yapılmadan da doğum yapılabilir. Ama hekim c/s kararını alır ama uygulamayabilir. Kısaca uzman bir heyet ile Yaşamın tehlikede olup olmadığı, Yaşam Hakkı temelinde yaklaşım olup olmadığı konusu, ya uzman heyetten rapor alınması gerekli olabilir. Mahkemeye bırakılması durumunda da bilirkişi görüşü ile Yaşam Hakkının üstün tutulması yönünden uygun olacağı düşünülebilir Nitekim ABD bu kararların hekimlerin bulunduğu Hastane Etik Kurullar tarafından alınması öngörülmektedir.

YAŞAM HAKKI en üst, en yüce haktır. Yaşam Hakkı temelinde karar oluşturmayan ve bu hakkı ailenin rızası veya ne ad ile olursa olsun, ilk ve öncelikli en üst hak yerine, belirli şartta bağlayan yaklaşım kabul edilemez bir tutumdur. Bu yukarıda belirli esaslara bağlanan durumlar haricinde, evrensel bir HUKUK temelidir. Bu İLKE/ESAS belirtmeyen Kamu personeli doğrudan suçu ve suçluyu övme eylemi ile görevini kötüye kullanma eylemini işlemektedir.

Ayrıca EsOGÜ Tıp Fakültesi Dekanlığının İl Sağlık Müdürlüğünden gelen yazı nedeniyle “hastanın takibinde tıbbi kusur olup olmadığı” sorularak bir öğretim üyesinden görüş istenmiştir. Bu hekim görüşünde de “uzmanlığı olmadığı konuda yetkisini aşmış, hasta yakınına yanlış yönlendirmiş durumuna düşmüş” olduğu açık ve net belirtilmiştir.

19.03.2015 tarihli EsOGÜ Hastanesi 31568761-130HH sayılı yazı ile “Tüm elde edilen yazılı ve sözlü açıklamalar neticesinde hastanın tedaviyi reddetme ve durdurma hakkı konusunda mağdur olmadığı anlaşılmış olup, Hasta Hakları Başvuru Sonucu yazımız ekinde sunulmaktadır” denilmektedir. Bir bebeğin yaşamı söz konusu iken bu konu doğrudan red edilmesi gerekirken, mağdur olmadığı algısı ile red edilmesi anlaşılır değildir.

Ülkemizde hiçbir yasal yapı olarak, ailenin bebeğin tedavisini reddetme ve durdurma hakkı olmadığı açık ve nettir. Bu hakkın verilememesi ile mağdur olma kavramının bile tartışılması bile olanaksızdır. Groningen Protokolünde de konu eğer “Ümitsiz ve giderilemeyen, dayanılmaz eziyetin varlığı” söz konusu ise değerlendirilmektedir. Tedavisi olan bir durum için hiçbir hukuk aileye bu seçeneği vermemekte, bu talepte bulunan; öldürme, cinayet şeklinde yaşamı tehlikeye atan ve atacak bir unsuru da suç talebinde bulunmakta olarak değerlendirilmektedir. Bu talepte bulunan ailenin çocuklarının da koruma kapsamına alınması hususu irdelenmesi gerekli iken bu konuda Kurul tarafımdan belirtilenleri dikkate almamıştır.

Hasta Hakları Kurulu 12.03.2015 gün ve 28 sayılı kararında “3/1 oy ile” kısaca oy çokluğu ile kararın alınması ve “Hasta Hakkı İhlali Yoktur” şeklinde kararında ailenin yaptığı yaklaşım açısından Çocuk Koruma Kanunu temelinde ailenin incelenmeme kararının alınması kabul edilebilir değildir. Doğrudan bebeğin aile isteği ile çıkarılabileceği ve tüm yasal mevzuata aykırı bir yaklaşım ve ailenin ifade ettiklerinin doğru olduğu ortaya konulmaktadır.

Bu kurulların yetkisiz olduğu pasif danışmanlık yaptıkları ve Kurulların değerlendirmesi Hukuksal işlemleri engellemediği varsayımı yapılabilir. Ancak Tıp Fakültesi Dekanlığının olayı sorgulatması yanında YANLIŞ ve AİLEYİ YÖNLENDİRECEK yaklaşımları yapmaları, HUKUK DIŞI eylemleri ve ifadelerinin olması, kararlarında yasaların engellediği eylemleri sorguladıkları dikkate alındığında, bir bakıma Kamu görevi üstelenen kişilerin bu eylemlerinin Görevi Kötüye Kullanma temelinde sorgulanmaları kaçınılmaz olarak görülmektedir.

Yaşam Hakkı en üstün haktır ve yaşamı tehdit eden olasılıklarda bile gereken tedbir alınmalıdır. Hiçbir gerekçe veya kendi rızası dâhil olmak üzere bir bireyin yaşam hakkının elinden alınması (intihar), veya tartışmaya açılması bile kabul edilebilir olmamalıdır. İdamların kaldırıldığı bir zaman diliminde olmamız ve Tüm Ülkelerde HUKUK bunu yasaklarken, çeşitli etik veya toplumsal değerlendirmeler ile bunun olduğu görülmektedir. Bu açıdan YAŞAM HAKKI tartışmaya bile açılmamalı ve en yüce ve üstün hak olarak ele



alınmalıdır. Yapılması gereken gerçekten yaşamı tehlikeye düşüren bir durumun varlığının olup olmadığı sorgusudur. Olasılık bile tedbiri gerekli kılmaktadır.

Ben doğurdum, yaşamından sorumlu benim algısı yıkılmalıdır. Aile bebeğin oluşması için olmaz ise olmazdır. Ancak, bebek yaşayabilir olduğu anne karnında iken yaşam hakkı elde etmiş ve bu yasalar tarafından korunur olmalıdır. Tanrı rolü hekim veya hiçbir ailenin hakkı olamaz. Bu aldı hukuksal olarak düzeltilmeli ve bu tarzdaki yaklaşımlar engellenmelidir.

Bu eylemi yapanlar; bebeğin hayati tehlikesi olmasına karşın, ailenin bebeğin taburcu edilmesi ve bir anlamda yaşaması konusunda vasi olarak hakkı olduğu konusunda görüş verenler, özellikle Kamu personeli, bu konuda yetkilendirilmiş olanlar hakkında gereken Hukuksal yaklaşımların yapılmasını talep etmek TCK göre zorunluluk ve bir Vatandaşlık görevidir.

## SON SÖZ

**YAŞAM HAKKI** konusunda söz ederken “*ben yaşam hakkına saygı duymaktayım ve bunu en yüce hak olarak tanımaktayım*” dedikten sonra **AMA, LAKİN, YALNIZ, ANCAK, FAKAT** gibi ekleri getirdiğiniz zaman, ilk paragrafta belirttiğinizi dikkate almayın, ihmal edin veya çöğe atın anlamı alınır. Bu açıdan yaşam hakkı söz edilirken **AMA** gibi eklerle bu hak **ZAYIFLATILAMAZ, DENGELENEMEZ** ve **İKİNCİ PLANA İTİLEMEZ.**

Hukuk haklar temelinde, özellikle bireyin hakkı geçerlikli olup, bu hakkın tüm resmi ve gayri resmi oluşmlardan korunması temelinde olduğuna göre, bu hakları, özellikle **YAŞAM HAKKINI**, gelenek, örf, etik ilkeler, kurullar tarafından tartışmalı hale gelmesi kabul edilebilir değildir. Mahkemeler bu açıdan sosyal olarak organize edilmiş kurumlar olup, hâkim bağımsız ve bağlantısız olarak bireyin hakkını yerine getirmeye çalışmaktadır. Hakim, eskiden kadı, hoca, eğitimci veya amir gibi kişilerden olmadığı ve olamayacağı gerçeği ile özel hukuk eğitimi almış, bu konuda yetişmiş kişilerden oluştuğu dikkate alınmalıdır.

**SONUÇ:** Yaşam hakkını ikinci plana iten bir tek mahkeme kararı bilinmemektedir. Tüm aksi uygulamalara karşın, mahkemeler bu konuda açık, net ve kesin olarak yaşam hakkını en üst insanlık hakkı olarak irdelemekte, artırılmasını bile yasaklamaktadırlar.