Protecting the lives of the most vulnerable

The recent Supreme Court judgement, An NHS Trust and others v Y, in effect makes it much easier for doctors to deprive patients with prolonged disorders of consciousness of the food and water they need to live.

The English law has been misshapen since 1993 when judges in the Bland case allowed doctors to withdraw clinically assisted nutrition and hydration from a profoundly brain-damaged patient who was in a stable condition but was unable to feed himself. However, until now there was a requirement for each case to go to court for nutrition and hydration to be removed, and this has provided the opportunity for a diagnosis to be challenged, along with the claim that the patient could not benefit from being provided with sustenance. The cost and burden of a court case has seemingly deterred many doctors and families from taking this route. Hence, although offering this court option was still fundamentally unjust in that it was intended to enable an unethical end in some cases, it had the effect of protecting many lives. The Supreme Court judgement now removes the requirement to go to court in cases where the diagnosis is not disputed and where relatives, carers and doctors are in agreement. This change further endangers the lives of many hundreds of the most vulnerable patients.

In opposition to this change it should be reiterated that people have a right to adequate nutrition and hydration. This is an aspect of the basic care, respect and solidarity that is every person’s due. No one should starve to death or die of dehydration where their carers have the means easily to supply their need. This includes supplying nutrition and hydration via feeding tube when the person cannot eat or drink in the usual way.

Hence, Pope John Paul II was very clear that the provision of nutrition and hydration is, in principle, obligatory, even when this is clinically assisted. While clinically assisted nutrition and hydration remain effective and where the means do not impose a great burden on the patient (which they do not for an unconscious patient, in particular), then it is unethical to remove them. The English law is in this respect defective because it treats clinically assisted

nutrition and hydration as though these were purely medical acts and ignores the human significance of providing food and water.

The Supreme Court judgement recommends that cases are brought to court when there is disagreement among or between relatives, carers or healthcare professionals, or where the facts are in doubt. This judgement therefore places a greater duty on conscientious relatives, carers and healthcare professionals not to stand by while patients are deprived of necessary sustenance but to be willing to disagree. In this way, the prospect of court action can still be invoked and may still dissuade doctors from removing sustenance. Those defending the patient should in any case stress that no medical decision should be motivated by the aim of ending life.