



William John Curran



In a short, 1981 essay in the *New England Journal of Medicine*, the late William J. Curran weighed in on what was then and still is today one of American medicine's most emotionally and ethically charged debates: the terminally ill patient's "right to die." The issue had been brought to the fore in the late 1970s as a result of several high-profile cases--most notably that of Karen Anne Quinlan--in which families had sought the court's sanction to withhold or remove medical treatment from dying loved ones. The article, one of nearly 200 published between 1964 and 1988 under the heading "Law-medicine Notes," is vintage Curran: succinct, reasoned, remarkably free of legal and medical jargon, and punctuated with biting irony.

Curran begins by reviewing recent rulings on the right to die, including a lower New York court decision granting a family's petition to remove an 83-year-old heart attack victim from a respirator--but only after following an elaborate and arcane set of legal procedures. Curran, who always favored the simplest, most elegant solution, criticizes this decision as a "witches brew of procedural ingredients that would, if ever followed step by step, exhaust all resources and patience committed to individual litigation since the *Jarndyce and Jarndyce* case." *Jarndyce and Jarndyce* is, of course, the famously protracted lawsuit in *Bleak House* that is described in the novel as a "scarecrow of a suit" that has "in the course of time, become so complicated that no man alive knows what it means." In a sardonic aside, Curran suggests that "mercifully, perhaps, most of the terminally ill patients would have died before these quixotic efforts to protect the patients' dignity and lives were completed."

The "right to die" debate is one of numerous medico-legal controversies that Curran, who has been called the "father of legal medicine," helped inform and ultimately shape through his scholarship and writing during his long career. With a law degree from Boston College, a master's degree from Harvard Law School, and a degree in public health from the School for Good Measure, Curran was well-qualified to

understand the intersection between two fields whose broad areas of overlap include some of the most hotly debated issues of the past 40 years: abortion rights, human subjects research, definition of death, and aids discrimination.

When Curran began his studies at the School in 1957 as the only attorney in his class—and to the best of anyone’s knowledge the first lawyer to earn a degree at the School--the medico-legal field existed essentially to support the trial process.

“Lawyers and doctors interacted primarily in the courtroom. Medical experts provided forensics testimony at murder trials or testified at malpractice suits,” said Curran, in an interview shortly before his death in 1996. “I knew there was room for law and science to work together in more positive ways.” It was on the basis of this belief that Curran developed and directed the Law-Medicine Research Institute at Boston University in the early 1960s.

According to Professor of Law and Public Health Troyen Brennan, Curran’s successor as director of the Law and Public Health Program at the School, the timing was right to broaden the definition of health law. “The research at Tuskegee, which had followed the course of syphilis in poor, African-American men whose disease went untreated, was beginning to come to light,” said Brennan. “This led to an outcry from the public and the scientific community that resulted in regulations concerning the use of informed human subjects in scientific research. Bill Curran nearly single-handedly guided the development of these policies.”

In 1968, when Curran joined the School’s faculty, his appointment was split between the departments of Health Policy and Management and Maternal and Child Health. Five years later, the School’s Program in Law and Public Health--a specialized training program for lawyers leading to a master’s of public health degree—was incorporated into the Department of Health Policy and Management. Curran directed this program until he retired to emeritus status in 1991.

Curran’s former students remember him as a gentlemanly scholar with a personal interest in each of them. “Professor Curran was a friend,” explained Joan Rachlin, MPH ‘78, executive director of Public Responsibility in Medicine and Research, a non-profit organization dedicated to educating the medical and legal professions, industry, and the public about the ethical, legal, and policy dimensions of appropriate and ethical research. “The opportunity to study with Professor Curran was actually what attracted me to the program at Harvard, and, apart from the intellectual experience of the program, he went out of his way to make the lawyers in his charge, perhaps 10 out of the entire student body, feel as though they belonged. I also particularly appreciated and admired the extent to which Professor Curran championed the careers of women lawyers in the health-care field, which had been a traditionally male bastion.”

Larry Gostin, a long-time colleague of Curran, who now directs the Law and Public Health Program at

Georgetown and Johns Hopkins, recalls Curran's Friday afternoon teas. "Every Friday, you could find Bill making tea and offering cookies and conversation to his students in the program," said Gostin. "This kind of personal interaction and commitment is so often lacking in high-powered academic settings, but Bill never succumbed to that mind set."

By the late 1980s, concern on the international level about the spread of AIDS led to the enactment of harsh laws in several nations, including the United States, restricting immigration and travel of HIV-positive individuals. In some instances, legislation was adopted treating the transmission of HIV as a criminal offense. In 1988, the World Health Organization (WHO) designed its first international collaborating center for health legislation. With AIDS as its first focus, the Center was placed at the School, largely because of Curran's reputation as a health-law innovator and an expert on individual rights, including the intersection of health and human rights. In the 1960s, Curran designed and taught the School's first course in human rights law as it pertained to health. Curran was selected to serve as the first director of the Harvard University-WHO International Collaborating Center for Health Legislation, with Gostin as associate director. One of the Center's first accomplishments under Curran was the completion of a worldwide survey of AIDS legislation, undertaken at the request of Jonathan Mann, MPH '80, François-Xavier Bagnoud Professor of Health and Human Rights, who then served as director of the WHO's Global Programme on AIDS and had been a participant in Curran's ground-breaking health and human rights seminar. "To paraphrase Newton, we can see as far as we can because we stand on the shoulders of giants. At this school, Bill Curran is the giant on whose shoulders the François-Xavier Bagnoud Center stands," said Mann.

According to Brennan, there is not an aspect of health law on which the work of Curran or his students has not had an effect. In 1968, Curran served as the legal representative on the Harvard Ad Hoc Committee on Brain Death. The Harvard criteria became the basis for the nation's first legislation on brain death in Kansas in 1970 and subsequently provided the basis for legislation across the country which allowed physicians to determine death based on a patient's lack of response to external stimuli, spontaneous movement, and respiratory effort in conjunction with an electroencephalogram showing no brain activity.

Curran's work on the rights of the mentally ill produced landmark legislation locally and internationally. In the early 1960s, Curran identified flaws in Massachusetts' laws regarding the rights of the mentally ill as they pertained to the duration of committal, patients' rights to refuse treatment in most circumstances, their rights to hearings to determine the appropriateness of continued in-patient treatment, and the rights of those arrested and awaiting trial who were referred for psychiatric evaluation prior to trial. Curran also wrote regarding the assumed loss of civil rights that at the time accompanied referral for psychiatric treatment, including the automatic revocation of one's driver's license and the barring of a psychiatric patient from making a will or marrying. Curran was appointed to the Legal Studies Unit of the Massachusetts Special Commission on Mental Health. Nearly all of the unit's recommendations, which addressed concerns Curran had identified regarding patient's rights, became law. By the late 1970s,

Curran's influence on mental health law had extended to the international front with his co-authoring of the influential *Law and Mental Health: Harmonizing Objectives*, which reported the results of an international survey of mental health legislation for the who and sped worldwide reform of mental health laws. In 1979, Curran was among a group of legal experts drafted by the International Commission of Jurists and the International Institute of Higher Studies in Criminal Science to develop guidelines on the rights of persons with mental illness. Twelve years and numerous re-drafts later, the text was adopted by the United Nations General Assembly as the "Principles for the Protection of Persons with Mental Illness for the Improvement of Mental Health Care."

Curran's influence on the Massachusetts laws was considered so great that *The New York Times* wrote after his death in September 1996, "In Massachusetts, whose laws became models for national and international legislation, he left his fingerprints on so many statutes dealing with issues like psychiatric commitments, qualifications of physician's assistants, minimum professional standards for medical examiners, patient's rights, and drug addiction rehabilitation, that the state's health and medical laws could be called the Curran code."

Brennan agrees: "we take for granted now that there is a legal definition of brain death and regulations regarding psychiatric commitment or the use of human subjects for scientific research. But before Bill Curran, there was no context in which to examine these difficult issues. He gave us that."

Respectfully submitted,

Marcella Bernard

(This tribute appeared previously in the 75th Anniversary Issue of the *Harvard Public Health Review*.)