PART II

ADVANCE DIRECTIVES, END-OF-LIFE DECISION-MAKING
AND EUTHANASIA IN COMPARATIVE LEGAL PERSPECTIVE
EUTHANASIA FACE OF THE LAW IN LATIN AMERICA

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Being born and dying, in the common sense, have always been understood as natural facts occurring at a given moment, determined by divine will for those who believe in the power of a God over human existence, or by the simple passage of time, which marks the beginning and the end of a vital cycle. However, biologically, death and birth stem from a process, a sequence of events, among which one is chosen to point out the commencement for the production, or the ceasing of legal effects, an issue afforded diverse treatment in the legislation of different countries.¹

Not always, however, and perhaps in the major urban centers with a certain frequency, the moment of birth is determined “by nature”. Delivery often occurs through a surgical procedure, on a date chosen by the mother and/or the father. Thus, the beginning of life for a person (the child) derives from the exercising of autonomy by another (the mother), not only by a “work of nature”.

It is also ascertained that conception itself may also result from the exercising of a couple’s reproductive autonomy,² by means of conception control,³ or only by the woman (or the man), with or without participation of the father (or mother), when one of the assisted reproduction

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² The Brazilian Republic Constitution (article 226, §6) acknowledges the so-called “reproductive autonomy”, ensuring, based on the principles of the dignity of the human person and of responsible fatherhood, the right to family planning, which comprises the constitution, limitation, or increase in the number of children, and is submitted to a free decision by the woman. It is the duty of the State to provide educational and scientific resources for the exercising of this right.
³ It is important to point out that abortion is not a means for limitation of the number of children, even though there is the likelihood of the mother to decide, also in the exercising of her autonomy, on the interruption of pregnancy, an act which shall be licit or illicit (this is the case of Brazil), according to the standard of law to which it is submitted.