ORIGINAL ARTICLE

Legal and Moral Status of Euthanasia

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The 'right to die' concept is one of the most controversial and elusive legal and ethical issues facing philosophy around the world. Euthanasia, as we know, literally means an easy or good death. It refers to the practice of allowing a person to die with assistance, often by a medical doctor. In this article, I shall analyze the legal and moral aspects of voluntary active euthanasia.

In voluntary active euthanasia, we know that doing something such as administering a lethal drug or using other means causes the person's death. Western medicine is increasingly interested in the problem of euthanasia. This is one main reason which, is related to the fact that modern medicine has prolonged not only our lives but also our period of dying. Public support for a system of euthanasia is high in the western societies. 63% of Norwegians, 79% of Swedes, and 68% of Germans think that if a patient has an incurable disease, he or she should be allowed to receive a lethal injection[1].

Oregon is the only place in the world where physician – assisted suicide is legal[2]. There is only one country in which euthanasia is officially condoned and widely practiced, the Netherlands[3].

In 1984, the Royal Dutch Medical Association issued guidelines for the practice of euthanasia and they were endorsed by a government – appointed commission on euthanasia one year later. The guidelines require that four conditions be met before euthanasia is performed[4].

1. The patient must be a mentally competent adult.
2. The patient must require euthanasia voluntarily, consistently and repeatedly over a reasonable time and the request must be documented.
3. The patient must be suffering intolerably, with no prospect of relief, although the disease need not be terminal and
4. The doctor must consult with another physician not involved in the case.

The usual method of euthanasia is the induction of sleep with a barbiturate, followed by a lethal injection of curare. Doctors who follow the guidelines are rarely prosecuted, but there are no guarantees and it is generally acknowledged that most doctors who perform euthanasia do not report it[5].

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In the general election of November, 1994, voters in the state of Oregon passed by 52% to 48% the Oregon Death with Dignity Act, a citizens' initiative petition placed on the state's ballot. The act was referred to as the 'physician aid-in-dying law'. The act was promptly challenged in court by its opponents as violating the due process and the equal protection clauses of the Fourteenth Amendment and U.S., District Court of Appeals for the Ninth Circuit Court reversed the injunction for failure of the plaintiffs to establish actual injury. On October 27, 1997, the Oregon voters rejected a ballot initiative that would repeal the Oregon Death with Dignity Act, thereby legalizing physician – assisted suicide[6]. In 2000, Oregon physicians wrote 39 prescriptions for lethal doses of medication, as compared with 24 in 1998 and 33 in 1999. Twenty six of the 39 patients who received prescriptions died after ingesting the medications, 8 died from their underlying disease and 5 were still alive on December 31, 2000. During 1998 and 1999, 16 and 27 patients respectively died after ingesting the medication. One patient who received a prescription in 1999 was still alive on December 31, 2000. The 27 patients who ingested lethal medications in 2000 represent an estimated rate of 6 per 10,000 in 1998 and 9 per 10,000: The demographic characteristics of the patients who choose physician – assisted suicide in 2000 resembled those of 6981 Oregon residents who died from similar underlying illnesses in 1999, with a single exception as their level of education increased, their likelihood of choosing physician – assisted suicide increased. Patients with a college education were more likely to choose physician – assisted suicide than those without a high – school education[7].

After the Oregon success in 1994, Australia seemed poised to become the second country to legalize physician – assisted suicide in one of its states. On 22 February, 1995, the Honourable Marshall Perron, MLA, then Chief Minister of the Northern Territory introduced his Rights of the Terminally Ill Bill, 1995. The intention of the Bill as described in its Executive Summary was;

"If there are terminally ill patients who wish to end their sufferings by accelerating inevitable death and there are sympathetic doctors who are willing to help them die with dignity, then the law should not forbid it[8].

After much debate, on May 25, 1995, the Parliament of Australia's Northern Territory passed the Northern Territory Rights of the terminally Ill Act making voluntary euthanasia legal. This act allows physicians to prescribe and administer lethal substances to terminally ill patients who formally request assistance in ending their lives. Like all Australians, residents of the Northern Territory have universal health insurance that is funded by the government.

Voluntary euthanasia and assisted suicide remain illegal in all other Australian states and territories. The Rights of the Terminally Ill Act requires that doctors who help patients die have at least five years of postgraduate experience and be registered in the Northern Territory. If they comply with provisions of the act, they remain immune from civil or criminal action. For example, the patient must be, at least, 18 years old, of sound mind, suffering from terminal illness and experiencing pain, suffering and / or distress, that is severe and "unacceptable to the patient." The physician must believe that the patient has reached his or her decision voluntarily and has considered the further possible implications. The patient must be fully informed about the illness, its prognosis and all available treatment options.

The chamelon of euthanasia continues to change and the current shade is physician – assisted suicide. In the Netherlands just under one in five physicians-assisted suicide ends in lethal injection. Were physician-assisted suicide legalized, doctors would have the new duty of therapeutic killing, even if they planned only to prescribe lethal medication. Now, Killing is justified as treatment, hence we can use the term 'therapeutic killing' simply because it describes precisely what is done. Still, most doctors and politicians in most western countries are strongly opposed to legalized euthanasia. Medicine cannot escape, quite aside from patient safely, legalizing physician – assisted suicide will have a dangerous effect on clinical codes, duties and practice.

The cardinal argument against legalized euthanasia is that once voluntary euthanasia is legalized in a single country, people from neighbouring countries will take advantage of it and this idea will give birth to 'euthanasia tourism." Treatments are medical goods. Since, justice dictates that rights to appropriate treatment are universal.

As Prof. J. Gay, Williams writes;

"Doctors and nurses, for the most part, totally committed to saving lives. A life lost is, for them, almost a personal failure, an insult to their skills and knowledge. Euthanasia as a practice might well alter this. It could have a corrupting influence so that in any case that is severe doctors and nurses might not try hard enough to save the patient. They might decide that the patient would simple be 'better off dead' and take the steps necessary to make that come about. This attitude could then carry over to their dealings with patients less seriously ill. The result would be an overall decline in the quality of medical care[9].

Legalized voluntary euthanasia, infact, violates historically accepted codes of medical ethics. Traditional medical ethical codes have never sanctioned euthanasia, even as request for compassionate motives. Hippocrates, a well known Greek thinker, sometimes counted as "father of medicine", was the author of an oath. The Hippocratic Oath states that I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect.

The World Medical Association, Declaration of Geneva, Physician's Oath states that I will maintain the utmost respect of human life from the time of conception even under treat. I will not use my medical knowledge contrary to the laws of humanity"[10].

Stephen G. Potts, a British physician and research fellow, Royal Edinburgh Hospital, argues against any scheme that would institutionalize, i.e., legalize voluntary active euthanasia. Stephen G. Potts writes;

"[Proposals to legalize euthanasia typically] seek to limit the influence of the patient's family on the decision, again acknowledging the risks posed by such influence. Families have all kinds of subtle ways, conscious and unconscious, of putting pressure on a patient to request euthanasia and relieve them of the financial and social burden of care. Many patients already feel guilty for imposing burdens on those who care for them, even when the families are happy to bear that burden. To provide an avenue for the discharge of that guilt in a request for euthanasia is to risk putting to death a great many patients who do not wish to die[11].

He further writes;

"Perhaps the most disturbing risk of all is posed by the growing concern over medical costs. Euthanasia is, after all, a very cheap service. The cost of a dose of barbiturates and curare and the few hours in a hospital bed that it takes them to act is minute compared to the massive bills incurred by many patients in the last weeks and months of their lives. Already in Britain, there is a serious underprovision of expensive therapies like renal dialysis and intensive care, with the result that many otherwise preventable deaths occur. Legalizing euthanasia would save substantial financial resources which could be diverted to more 'useful' treatments. These economic concerns already exert pressure to accept euthanasia, and, if accepted,

they will inevitably tend to enlarge the category of patients for whom euthanasia is permitted[12].

Apart from this, there are many plausible moral rationales against the legalization of euthanasia, which cannot be ignored Now, I will discuss euthanasia under various moral outlooks.

Utilitarianism – an ethical theory which emphasizes the greatest happiness to the greatest number. Jeremy Bentham and John Stuart Mill are the chief advocates of this theory. In Utilitarianism the aim is to act to provide maximum benefit. In some cases it is reasonable to assume that euthanasia would have been the best option from the point of view of the patient. But, according to Utilitarianism, we cannot focus exclusively on the patient. Other people many be affected by the patient's decision to opt for euthanasia and, even if euthanasia would be in the best interest of the patient, it may be wrong because of the bad effect on the patient's relatives.

Deontology – the view that some kind of actions are unconditionally prohibited. If some actions are strictly prohibited, as deontology dictates, it may seem natural to assume that killing must be one of them. In the euthanasia debate, deontology often takes the form of the sanctity of life doctrine. With respect to human beings, this doctrines is very strict. It applies to all human beings (including fetuses and embryos). It applies to suicide in the same way that it applies to murder. Immanuel Kant, a well known German deontological ethicist, is of the view that an autonomous rational being has a duty to preserve his or her life.

However, it is very encouraging that euthanasia is still not legalized in many parts of the world. For example, No legalization on euthanasia exists in China. In Japan, assisted suicide and euthanasia are illegal under the penal code. In Russia, euthanasia is considered to be a medical issue, which means that there is no possibility that assisted suicide and euthanasia can be legalized. In Ireland, euthanasia and assisted suicide are illegal[13]. Active euthanasia is murder[16]. The Council on Ethical and Judicial Affairs of the American Medical Association, AMA, states, "active euthanasia is not a part of the practice of medicine with or without the consent of the patient." The American College of Physicians adds." Even if legalized, such an action would violate the ethical standards of medical practice[14].

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