

EUTHANASIA AND THE RIGHT TO DIE: A COMPARATIVE ANALYSIS

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ABSTRACT

Euthanasia is highly controversial and raises ethical, legal, and moral questions. Proponents of euthanasia argue that it provides a way for individuals to end their suffering and die with dignity, while opponents argue that it violates the sanctity of life and undermines the value of human existence. Euthanasia can be classified into various types such as voluntary, involuntary, active, and passive euthanasia. The debate over euthanasia is ongoing, and it remains a complex issue with no easy solution. In this paper first, we have introduced the topic and then briefly given the background of the topic and its different types. After that, we explained the distinction between suicide and euthanasia. Following this, we have done a comparative analysis by identifying different jurisdictions where euthanasia or assisted suicide is legal. Then after we have properly analyzed the debate on the Right to Die. And lastly, we have written a conclusion and have also given some suggestions.

Keywords: Euthanasia, Protestantism, Suicide, Assisted Suicide, Autonomy.

INTRODUCTION

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Euthanasia, often referred to as "mercy killing," is the act of bringing about the painless death of someone who is suffering from a terminal illness or an incurable condition. It has been a controversial topic since ancient times and continues to stir debate on ethical, moral, legal, and religious grounds. The word 'Euthanasia' is derived from the Ancient Greek words "eu", which means "good", and "Thanatos", which means "death". The idea behind this is that instead of waiting for slow and painful death, a person can choose to have a good death without experiencing any pain and suffering. Because it is not particularly addressed by most legal systems, it is often viewed as either murder (if committed by the patient himself) or suicide (if performed by another). Yet, when a patient is in immense pain, doctors have the legal authority to decide against prolonging life and administering medications, even if doing so shortens the patient's life. Throughout the latter half of the 20th century, some European nations had special

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legal provisions that allowed for lenient sentencing and took unexpected circumstances into account when deciding whether to euthanize someone.

HOW EUTHANASIA CAME INTO THE PICTURE?

BACKGROUND

The origin of Euthanasia was discussed by a well-known historian N.D.A. Kemp. He asserts that the current debate about euthanasia started in 1870. The issue has been discussed and practiced for a very long time. Euthanasia was used in ancient Greece and Rome. In the Greek island of Kea, hemlock, a deadly herb, was used to hasten death, as it did in Marseilles. Ancient thinkers Socrates and Plato supported euthanasia, but Hippocrates opposed it. Thomas Aquinas opposes the practice and argues that it goes against man's natural urge for survival. The disparate points of view on the subject may indicate disagreement among academics who are in disagreement. Protestantism promoted suicide and euthanasia, which was a popular practice during the Age of Enlightenment. Every culture recognizes and accepts these principles from a variety of angles.

The invention and widespread use of morphine in the 19th century to treat, and then to kill, pain led to the belief that a less painful dying process was possible, Giza Lopes writes in her book *Dying With Dignity: A Legal Approach to Assisted Death*.¹ In order to make patients unconscious, surgeons started using chloroform in the middle of the 19th century because it had fewer side effects than morphine.

EUTHANASIA DURING NAZISM IN GERMANY

The main aim of the Nazi Euthanasia Program was to annihilate people who were suffering from any physical or mental disabilities. They launched a campaign named “Aktion T4” also known as “Child Euthanasia Program” under which Adolf Hitler gave charge to Philipp Bouhler (Hitler's private chancellery's director) and Karl Brandt (Hitler’s attending physician) to organize a secret killing operation targeting disabled children. The order clearly reads: *Rich Leader [Reichleiter] Bouhler and Dr. Brandt M.D. are charged with the responsibility of*

¹ Anna Hiatt, ‘The History of the Euthanasia Movement’ (2016) JSTOR DAILY <<https://daily.jstor.org/history-euthanasia-movement/>> accessed 04 March 2023.

*extending the authority of specially designated physicians so that patients who, after a very thorough review of their condition, are judged incurable can be granted a mercy killing.*²

The text that is written above was intended to legitimize the illegitimate act through a medical procedure that was at that time, a crime (i.e., homicide)- the brutal murder of tens of thousands of individuals who were residing in psychiatric hospitals, nursing homes, and facilities for those with epilepsy and mental disabilities. Soon after this, they quickly extended this program to adult disabled patients inhabiting institutional settings. It is estimated that over 70,000 German and Austrian victims deemed mentally and physically disabled by Nazis lost their lives in the National Socialist euthanasia program entitled Aktion T4.³

TYPES OF EUTHANASIA

There are various types of euthanasia, each with its own set of rights and wrongs. In general, Euthanasia is divided into 3 Types:

Voluntary Euthanasia: When a person decides on their own to end their life in order to prevent further suffering, this is known as voluntary euthanasia. There are five conditions that are often required to become an eligible candidate for voluntary euthanasia:

- A patient must be suffering from a terminal illness i.e., there is no chance of being cured
- A patient is unlikely to benefit from the discovery of a cure for that illness during what remains of her life expectancy.
- A patient must be suffering from a disease that is giving him intolerable pain and life has become a burden (e.g., the condition requires treatment that makes him unacceptably dependent on other people or technical life support).
- A patient is unable to end his life without any assistance.

Non-Voluntary Euthanasia: When a person is not in a state where he can make a decision between life and death, then the decision to undergo euthanasia is not voluntary, and in that case, someone else has to make decisions regarding his life and death. From a preferential-

² Mike Rotzoll, Paul Richter, Petra Fuchs, Annette Hinz-wessels, Sascha Topp and Gerrit Hohendorf, 'The First National Socialist Extermination Crime: The T4 Program and Its Victims' (2006) 35 IJMH 17, 18.

³ Meaghan Ann Hepburn, 'Lives Worthy of Life and Remembrance: Memorialization of the National Socialist Aktion T4 Euthanasia Programme' (2014) GDGLL 2.

utilitarian standpoint, Kushe claims that they are all (no longer) deemed to be persons, which is an argument in favor of ending a person's life by involuntary euthanasia.⁴

These include cases where:

- The patient is in a coma.
- The person is too young (e.g., a very young baby).
- The patient is elderly.
- The person is severely brain injured.
- The person is profoundly mentally retarded and psychologically disturbed to the point where they need to be shielded from themselves.

Involuntary Euthanasia: When a competent person's life is taken despite an explicit expression of opposition to euthanasia, regardless of how noble the reason for the death, such death is, and ought to be, unlawful. **For example,** A soldier is heavily wounded and screaming in pain and begging to save his life. The doctor knows that he won't survive and will die in 10 minutes due to the unavailability of painkillers. As a result, if the doctor decides to spare him from further pain and shoot him dead, then this will be a clear case of involuntary euthanasia.

There are some more categories of Euthanasia:

Active Euthanasia: Active euthanasia, which takes place at the patient's request, is the intentional and immediate termination of human life. The individual who follows it wants to directly allay the patient's anxiety about passing away. "Killing on request" is frequently mentioned when euthanasia is practiced. Active euthanasia is strictly prohibited in India, and according to Indian Penal Code 1860, it is a punishable offense under Section 302 (punishment for murder)⁵ and Section 304 (punishment for culpable homicide not amounting to murder).⁶

Passive Euthanasia: A person who is terminally ill may choose to refuse life-prolonging medical treatments, which may delay their death. This is known as passive euthanasia. The urge for this type of euthanasia often arises when the patient's condition is not improved by the treatments or when they do not ensure a long life with a satisfactory quality of life. It is up to the patient to determine what standard of living is still acceptable. In a 2016 paper, Varelius

⁴ Sara Mustafa, 'Types of Euthanasia' (*GRIN*, 2020) <<https://www.grin.com/document/956196>> accessed 04 March 2023.

⁵ Indian Penal Code 1860, s 302.

⁶ Indian Penal Code 1860, s 304.

refers to “withholding and withdrawing life-supporting treatment from non-competent physically ill or injured patients” as a kind of passive Euthanasia.⁷ The examples of passive euthanasia are as follows:

- Switching off Life-support systems.
- Removing the feeding tube.
- Refraining from artificial respiration

SUICIDE VS. EUTHANASIA

Suicide and Euthanasia are related to taking one’s own life, but they have different implications and legal status. Suicide is intentionally ending one’s life, usually due to extreme emotional or psychological distress. Suicide is considered a tragic event often resulting from mental health issues, such as depression, anxiety, or other psychological disorders. Euthanasia, on the other hand, refers to the practice of intentionally ending a person’s life in order to relieve their suffering from an incurable or painful disease or condition. While suicide is generally considered illegal and stigmatized in most societies, euthanasia can be legally permissible under certain conditions in some countries. The practice of euthanasia is highly controversial, and opinions on the subject vary widely. Overall, suicide and euthanasia are distinct concepts that involve taking one’s for different reasons and with different implications. It’s important to seek professional help if you or someone you know is struggling with thoughts of suicide or is facing a serious medical condition that may require difficult end-of-life decisions.

CURRENT LEGAL STATUS OF EUTHANASIA: A COMPARATIVE ANALYSIS

As we all know how euthanasia has become a highly debatable topic around the world in the modern age and the legal validity of the same is still the bone of contention among legislators in a number of countries. Euthanasia and assisted suicide have been legalised in various countries and areas in the US, despite the fact that these actions are nearly universally condemned since they go against accepted medical standards. The legality of euthanasia in various jurisdictions is discussed under this category.

⁷ Jukka Varelius, ‘Mental Illness, Natural Death, and Non-Voluntary Passive Euthanasia’ (2016) 19 Springer 635.

America: The earliest American statute, explicitly to outlaw assisted suicide was enacted in New York in 1828 and many of the new states and territories followed New York's example.⁸ A New York commission headed by Dudley Field created a penal law between 1857 and 1865 that specifically forbade "aiding" suicide and "furnishing another person with any deadly weapon or poisonous medicine, knowing that such person intends to use such weapon or drug to take his own life.". In the case of *Washington v. Glucksberg*⁹ and *Vacco v. Quill*¹⁰, the United States Supreme Court declared euthanasia totally illegal. In these cases, the prohibition on physician-assisted suicide was found to be consistent with the provisions of the US Constitution.

Despite the fact that active euthanasia is prohibited in the United States, patients have the freedom to decline medical treatment. Similarly, the patient can seek several treatments to alleviate their pain and suffering, even if doing so hastens their death. Dying in such situations is considered passive euthanasia, which is not unlawful. Only four states in the US—Oregon, Montana, Texas, and Washington—have a euthanasia provision in their legal framework. Oregon became the first of these states to allow euthanasia in 1994 after enacting the Death with Dignity Act. There are many people who believe they have lived their lives to the fullest and for whom life holds no meaning. These people would then take benefit from these provisions by allowing physician-assisted suicide. Patients who are suffering from a terminal illness and the physically disabled who lost all their parents may also opt for this facility. This is not to argue that these individuals are unworthy or incapable of leading normal lives; rather, it is to say that these individuals may find the thought of living altogether uncomfortable due to their existing circumstances.

England: As per the Suicide Act 1961, Euthanasia is a criminal offense in the United Kingdom. Sec 2(1) of the Suicide Act 1961 reads “*A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be liable on conviction on indictment to imprisonment for a term not exceeding fourteen years.*”¹¹ If we properly analyze the above section then we can infer that it nowhere talks about the individual who commits suicide by himself, which means suicide by oneself is not a crime in the UK. Although courts in the UK have adopted a lenient approach by not punishing the doctors for assisted

⁸ Subhash Chandra Singh, 'Euthanasia and Assisted Suicide: Revisiting the Sanctity of Life Principle' (2012) 54 JILI 196, 201.

⁹ *Washington v Glucksberg* [1997] US 702.

¹⁰ *Vacon v Quill* [1997] US 793.

¹¹ Suicide Acts 1961, s 2(1).

suicide under this act irrespective of the criminal nature of euthanasia. Several debates have happened against the current stand on the UK law on assisted suicide but little progress has been made to change the law. Many bills have been introduced in the past to decriminalize euthanasia but all efforts went in vain. Even some leaders also oppose the bill which was in favor of euthanasia. Like in 1997, the Doctor Assisted Dying Bill¹² was rejected. The Medical Treatment (Prevention of Euthanasia) Bill¹³ experienced a similar outcome in 2000.

The Netherlands: Euthanasia was illegal in The Netherlands until it became legal in 2002. The Dutch situation between 1973 and 2002 was an outgrowth of a number of court decisions, government documents, and medical association guidelines.¹⁴ It all starts in 1973 when Postma, a doctor was accused of taking the life of her mother who suffered from a terminal illness. It was found by the court that her mother was 78 years old and was deaf and partially paralyzed and had repeatedly requested her daughter to end her life. Although being found guilty of "death on request," the doctor received probation for one week as opposed to a potential 12-year prison sentence. This judgment of the court provoked the whole legal fraternity and from there the whole debate starts "whether euthanasia and doctor-assisted suicide should be made legal". Article 2 of The Dutch Act, 2002¹⁵ states that "*a physician who carries out euthanasia is exempt from prosecution under the Penal Code if he or she complies with a number of due care criteria.*" Under this act, any person who is above 16 years old can request for termination of his life after submitting a written statement to a concerned authority. As people got used to the new law, the number of Dutch people being euthanized began to rise sharply, from under 2,000 IN 2007 TO ALMOST 6,600 IN 2017.¹⁶

India: In India, the legality of euthanasia is still a matter of debate. In 2011, the Supreme Court of India legalized passive euthanasia, which involves withholding or withdrawing life-sustaining treatment or nutrition from a terminally ill patient who is in a vegetative state and has no chance of recovery. This decision was based on the Aruna Shanbaugh case, in which a nurse who had been in a persistent vegetative state for 42 years was allowed to die peacefully after the Supreme Court permitted the withdrawal of her life support. However, active

¹² Doctor Assisted Dying Bill 1997.

¹³ Medical Treatment (Prevention of Euthanasia) Bill 2000.

¹⁴ Subhash Chandra Singh, 'Euthanasia and Assisted Suicide: Revisiting the Sanctity of Life Principle' (2012) 54 JILI 196, 206.

¹⁵ The Dutch Act 2002, Art 2.

¹⁶ Christopher de Bellaigue, 'Death on Demand: Has Euthanasia gone too far?' (The Guardian, 18 Jan 2019) <<https://www.theguardian.com/news/2019/jan/18/death-on-demand-has-euthanasia-gone-too-far-netherlands-assisted-dying>> accessed 08 March 2023.

euthanasia, in which a person is deliberately killed to end their suffering, is still illegal in India. The Indian Penal Code (IPC) considers it a form of murder, punishable by imprisonment or even life imprisonment.

There have been several attempts to legalize euthanasia in India, but they have not been successful so far. Proponents of euthanasia argue that it is a human way to end the suffering of terminally ill patients who have no hope of recovery, while opponents argue that it goes against the sanctity of life and could be misused. Overall, euthanasia is still a complex and divisive issue in India, and it is likely to be the topic of debate and discussion in the years to come.

Other Countries: In Switzerland, assisted suicide, including euthanasia is legal under certain conditions. The Swiss penal code does not explicitly mention euthanasia, but it allows assisted suicide as long as it is not motivated by selfish reasons. Switzerland has several organizations that provide assistance with assisted suicide, including Dignitas and Exit. These organizations require individuals to be mentally competent, have a terminal illness, and have a strong desire to end their life. They also require multiple requests for assistance and thorough counseling before providing any assistance. Additionally, Swiss law allows physicians to administer lethal drugs to terminally ill patients who request it, provided that the physician is acting in good faith and the patient's decision is informed and voluntary. Despite the fact that euthanasia is legal in Switzerland, it's important to keep in mind that the issue is still up for debate because some individuals think it undermines the sanctity of human life and opens the door to abuse.

In Belgium, euthanasia is legal subject to certain conditions. The country passed a law legalizing euthanasia in 2002, making it the second country in the world after the Netherlands to do so. Under Belgian law, euthanasia is legal when the following conditions are met:

- The patient is an adult and capable of making an informed decision.
- The patient is experiencing excruciating pain that cannot be eased, either physically or mentally.
- The patient's condition is incurable and the suffering is expected to be permanent and unbearable.
- The patient's request for euthanasia is voluntary, well-considered, and repeated.

In addition, euthanasia must be carried out by a doctor, who must consult with at least one other doctor to verify that the conditions have been met. Moreover, the patient's written agreement

is required, and there must be at least 48 hours between the request and the actual euthanasia. It is worth noting that euthanasia is still a controversial issue in Belgium, as it is in many countries around the world. While some contend that it is a compassionate approach to stop the suffering of terminally sick people, others contend that it is morally wrong and compromises the sanctity of life. The law in Belgium is designed to strike a balance between respecting the patient's autonomy and protecting the interests of society as a whole

THE DEBATE ON THE RIGHT TO DIE

The right-to-die debate is a complex and controversial issue that centers on the question of whether an individual should have the right to end their own life under certain circumstances. This debate is often framed in the context of healthcare and medical ethics, as it often involves decisions about end-of-life care and treatment options. The argument for the right to die is that people should have the freedom to decide what happens to their bodies and lives, including whether to end their own lives if they have a terminal illness or another disabling condition that has a detrimental impact on their quality of life. They believe denying individuals this right violates their basic human rights and can result in unnecessary suffering. Opponents of the right to die argue that taking one's own life is morally wrong and goes against life's sanctity. They also argue that allowing individuals to end their own lives could lead to abuses, such as pressure on vulnerable individuals to end their lives prematurely.

There are a number of legal and ethical issues involved in the right-to-die debate, and the laws and policies governing the issues vary widely depending on the country and jurisdiction. Some countries, such as the Netherlands and Belgium, have legalized euthanasia and assisted suicide under certain conditions, while others, such as the United States have more limited policies around end-of-life care. Regardless of one's position on the right to die, it is clear that this is a complex and emotionally charged issue that requires careful consideration and dialogue among all stakeholders involved, including medical professionals, patients, families, and policymakers.

CONCLUSION AND SUGGESTIONS

Based on the available evidence, it is clear that euthanasia is a complex issue that requires careful consideration and a nuanced approach. After considering various arguments and ethical principles, it is important to acknowledge that there is no simple answer when it comes to euthanasia. Each case is unique and requires careful consideration. However, it is clear that

there needs to be a robust framework in place to ensure that the decision to end life is made carefully and with the utmost consideration for the individual's autonomy and well-being.

One suggestion for moving forward with the debate on euthanasia is to continue to have open and honest discussions about the topic, ensuring that all perspectives are heard and that decision-making is transparent. It is also important to prioritize palliative care and ensure that those who are terminally ill or suffering from chronic pain have access to the best care and support. Another suggestion is to carefully consider the legal and ethical implications of euthanasia, including the potential for abuse and coercion. Strict guidelines and oversight are necessary to prevent any abuse or misuse of euthanasia and to ensure that the decision to end a life is made freely and with informed consent.

In conclusion, the debate on euthanasia will continue to be a complex and highly emotional issue. While there are valid arguments on both sides, it is important to prioritize the well-being and autonomy of the individual and to ensure that the decision to end a life is made with great care and under strict guidelines.

