

## Dilemmas in a Patient Who asks to Die

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### Abstract

The act of dying is a constant in the medical world and doctors rarely pose comments or participate in discussions related to this topic. And this is certainly uncommon, because both the debated issue of euthanasia as the assisted suicide are, first, issues that concern directly to the doctor.

Perhaps doctors do not have to say, because the point is clear. There is, first, a clear legal prohibition of euthanasia, which is considered a crime. On the other hand, there is a clear ethical and deontological prohibition on these issues.

Now, although doctors do not deepen into these debates, it does not mean that these issues do not generate medical dilemmas and problems and even a doctor may be in favors of such practices.

In this article, we will try to reflect on these issues and we will try to ponder on the always controversial euthanasia.

### Introduction

Speaking of good death, it is clear that generates an important social debate, although it is not specifically focused around death, but rather about the act of dying.

An overview of human history shows us how to face death has been a constant theme in fields as diverse as philosophy, religion and literature, and as a proof, we have found reflections about it in the Roman Stoics as in the Christian world and even the term “ars moriendi” or art of dying was reached to propose in the medieval period.

The big question, which has not yet reached consensus, is whether the person who is suffering could avoid agony ending his own life. In pre-Christian times, suicide was seen as the solution to these situations. In this respect, the advice that the philosopher Seneca gave to a friend who had an “incurable, but prolonged and painful” illness is really significant. He advised him suicide as a solution to the situation: “Do not distress yourself, dear Marcelino, as one who deliberates on a big issue. Life is not a big issue, all your slaves, all animals live. The great feat lies in dying honestly, prudently, with strength”. Whereupon, Marceline ended his life in a peaceful way [1].

But for those patients who are in a situation in which they cannot even carry out suicide, the question is who or how this act is carried out. The medical world is always regarded as a solution to these issues.

But if we analyze this issue from de medical point of view, The Oath of Hippocrates indicates that “I will neither prescribe nor administer a lethal dose of medicine to any patient even if asked nor counsel any such thing nor perform act or omission with direct intent deliberately to end a human life”, despite which, certain historical facts show us that the ancient doctors were not prohibited from performing this action, as Ludwig Edelstein, the great connoisseur of classical medicine, advises: “throughout antiquity many people chose voluntary death to endless agony. Many doctors actually supplied to their patients poison that they requested”. With all, this author argued that the Oath of Hippocrates was exclusively honored by followers of Pythagoreanism, but not for the rest, whereupon these practices seem to be that they were common and hardly subjected to punishment [2]. About the punishment that would lead to the realization of assisted dying, he only doctor which has referred his conviction, was the Roman doctor called Scribonius Largus, which corroborates previous findings on medical interventions in these cases of incurable diseases.

It would be long, while exciting if we analyze each and every one of the historical periods in relation to the actions of doctors in these topics from incurable diseases, but it is not the purpose of exposure of this article.

Returning to the act of dying, we can indicate that from the decade of the 1950s, some concerns about the conditions of death in incurable patients and possibilities of improving began to emerge, both in Europe and in the United States, trying to establish some “legality”. While in Britain the focus was on the medical “neglect” of terminally ill patients, once the treatment had “failed” and “it was not possible to do nothing”, in the United States there was a reaction against useless treatments when death was inevitable, treatments even caused all sorts of pain and suffering [3].

Following Clark, four events were significant with respect to the new way of facing death in the second half of the twentieth century:

- 1) A quantitative increase in the literature on hospice care accompanied by a qualitative change in the same, going from collecting the anecdotal fact to be a reflection of an empirical observation.
- 2) The birth of a vision of dying as the beginning to promote concepts such as dignity and respect, while the conditions of the terminally ill are openly acknowledged.
- 3) A more active than passive confrontation of care to dying, replacing the fatalistic resignation (“there is no more we can do”) by an attitude directed to find alternative and imaginative ways that allow developing new care applicable to the end of life.
- 4) The growing recognition of the interdependence of physical and mental pain: the “total pain”, which caused a profound change in the mind-body dualism which had moved medical practice until that time.

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All this leads us to consider other thoughts about death and especially concerning the true will of a terminal patient, and if this is certainly the will to die or not to suffer the pain that is suffering. As Professor Méjica rises, could it be understood that in certain cases the patient has a limited decision capacity by the suffering that is experiencing and it could affect the will? [4].

How to avoid this suffering. These questions lead us to great and controversial world of euthanasia. And we should note that most times that the issue of euthanasia arises, is done through the following dilemma, in the last phases of an incurable disease:- living the incurable disease with severe pain and suffering of all kinds without sufficient medical care.

- requesting an end as quickly as possible.

- or considering a third option, that is, ensuring the patient palliative treatments necessary to control physical symptoms while is given necessary support of psychological, emotional, social, spiritual... type, both patients themselves and their families.

In this regard, we must note that in countries like Spain, this issue is legally regulated by Law 16/2003 of 28 May, on Cohesion and Quality of the National Health System [5], establishing the duty of the Spanish health care system to make available to the terminally ill "palliative care units", reinforced by the principle laid down in the Law of "providing comprehensive health care".

But when there is no legal regulation on this issue and we consider only the first two options, it is not uncommon for many people to this duality, opt for euthanasia as choice, issue that do not leave anyone indifferent.

Etymologically, euthanasia simply means no more than good death or dying.

With this approach and understanding euthanasia as such, it cannot but be a legitimate aspiration of human beings. Of course it is lawful for all want a good death. In this context, doctors and other health professionals will be required to help our patients to die well.

The problem arises when, for one reason or another, the meaning of the word euthanasia begins to distort. The Euthanasia Society of America, founded in 1938, defined euthanasia as "termination of human life by painless means for the purpose of ending the severe physical suffering." Gradually the meaning of the word shifted from the connotation of easy death, good death, to become the necessary medical act to make death easier and finally it acquired the connotation of mercy killing. Obviously, never said that euthanasia is not killing. That a human being deliberately ends the life of another, regardless of the motivation, is murder [6].

From there, classifications of euthanasia begin to arise, trying to provide a different consideration, according to the different classifications, whether ethical and moral, legal, religious...and where the discussion focuses on the search confluence between promoting patient welfare and respect for their autonomy [7].

## Legal Regulation

How does comparative law regulate this situation?

Most countries around exhaustively condemn the practice of direct active euthanasia. Some states, like the Netherlands and Belgium, introduced some exceptions to criminal liability and punishment of euthanasia, provided that certain conditions are met.

In the Netherlands, the process of legalization of euthanasia began in 1973 with the famous acquittal of Dr. Postma by the Court of Leeuwarden [8]. Thereafter, until the effective legalization occurred in 2001, the Dutch process ran through the legal, social and medical mazed.

Since its adoption, many things have changed. That Law provided a fairly precise circumstances in which it was able to apply for and euthanize (terminal illness, unbearable pain or suffering, etc.). Little by Little, high concern irregularities in the implementation of the Law were known (euthanasia on patients who had not requested it, doctors who do not communicated this practice to the judge...) brought to light many years ago in the reports of the State Attorney General, Mr. Remmelink, in two reports in 1991 and 1995, even before being legalized, but already decriminalized [9].

Dutch law requires the following [10,11]

a) Preview, persistent and specific request by a patient who is able to decide freely.

b) Existence of an unbearable and intractable suffering.

c) Impossibility of improvement.

d) It must be carried out by the doctor.

In this legislation, the role of the doctor is essential, because this professional is the one who must appreciate the concurrence of circumstances, but as some authors claim, the rule is more focused on the safety of medical in order to avoid criminal reproach that on the patient protection [4].

In Belgium, there are significant differences regarding the process that led to the legalization of euthanasia in the Netherlands [12]. The law of May 28, 2002 [13], and published in the *Moniteur Belge*, in our view is a much more detailed than the Dutch law. In a very schematic way, this law allows the application of euthanasia under strict conditions and only under medical supervision, in two reports, provided that the patient is an adult, there is a repeated request with a deadline of one month, but it is also permitted if it is an incurable disease according to the state of knowledge of science and technology, not only in cases of terminal illness [14].

In this legislative review, we must review as the Belgian Law on Euthanasia in minors has recently been approved. The legislation stipulates that children and adolescents can opt for it in very restricted circumstances, when suffering from an "unbearable physical suffering and death is inevitable in the short term".

The new law on euthanasia for children in Belgium allowed to perform it regardless of age, confirming that they have enough discernment to request this option if parents agree. It is the first law in the world where an age limit is not fixed for requesting euthanasia, because in the Netherlands is legal in certain situations, but a limit of 12 years is required as a minimum. The other inexcusable requirement is that the child must have a physical suffering, which is considered intolerable and it is necessary to take the written request. Nobody likes to suffer, or nobody likes to see suffering. The reaction to the suffering caused by an incurable disease may be different between professionals and between the members of the society.

## Dilemmas Between Rights

An essential issue in this matter is to determine whether there is balance between right to life and to physical and moral integrity with

patient autonomy within an ethical and legal framework from the good die and even where it is.

Speaking of legal regulation, the right to life is recognized in the mid-twentieth century, and thereby the legally protected on the right to life. It also includes all lifetime or if the conviction that all human life is worth living.

The Universal Declaration of Human Rights proclaimed in 1948, indicates in article 3: "Everyone has the right to life, liberty and security of person". The European Convention for the Protection of Human Rights and Fundamental Freedoms, known as the European Convention on Human Rights, adopted by the Council of Europe on 4 November 1950 and entered into force in 1953, provides in Article 2 with respect to the right to life:

1. "The right of everyone to life is protected by law. No one shall be deprived of his life intentionally, save in execution of a sentence imposing the death penalty issued by a court following his conviction of a crime for which this penalty is provided by law.

2. Death will not be regarded as inflicted in contravention of this article when it occurs as a result of the use of force if it is absolutely necessary:

- a) in defense of any person from unlawful violence;
- b) To detain a person under the law or to prevent the escape of a lawfully detained or arrested;
- c) To suppress, according to the law, a riot or insurrection".

Also article 6 of the International Covenant on Civil and Political Rights proclaimed in the year 1996, in the first paragraph states: "The right to life is inherent in the human person. This right shall be protected by law. No one shall be deprived of life arbitrarily".

From the perspective of medical ethics, principles traditionally recognized by it, and whose observance or violation may have relevance to the law, especially criminal law, are the principle of patient autonomy, the principle of non-harm the patient and the principle of patient welfare [15].

The growing respect for the autonomy of people has developed various conflicts that are not only related to Medicine, but also, and especially, to the legal world and the ethical values of the characters: patients and their families, professionals and society in general [16].

These dilemmas are driven by two basic ideas: the right of patients to decide about treatment and clinical settings as part of the principle of liberty and individual autonomy (do not start or withdrawal of life support), and the duty of society and professionals involved in the process of dying and in care decisions relating thereto (palliative care, euthanasia and assisted suicide).

One issue that we understand that it is essential to be able to choose freely is that alternatives need to be managed and for that we must offer the patient the necessary care to relieve suffering and that the situation is not loneliness, despair or depression. In this way the problem is considerably reduced.

We assume that no one has the right to cause the death of a similar although a person is seriously ill, either by action or by omission. A society that supports the termination of life in some people, due to their precarious health and needing for the action of third parties, brings to the offense itself because it is considered unworthy the lives of some sick or markedly diminished people. When disposing of something as

human as the struggle for survival, the will to overcome the limitations, including the possibility to get healthy thanks to advances in medicine, is forced to accept a defeat in which almost always conceals the desire to rid the living people with the "problem" of caring to diminished people.

From the perspective of personal autonomy, it is not the same the right to live that the supposed right to end one's life. However, euthanasia is a social act, an activity that requires the action of others, deliberately aimed to end the life of a person. The questions opened with its regulation, and its scope and limits, are abysmal. By strict regulation it will be inevitable fear of an unwanted application.

A supposed legalization of euthanasia would be comparable to the acceptance of social, political and medical defeat to the patient and it would not allow end the perplexities of life, nor death, nor the doubts of conscience of doctors, of patients and their families.

We do not believe that any Constitution may establish in its articles the right to die or the right to dispose of one's life as such. Although personal autonomy is important is, it cannot be understood as an absolute value. Democratic life requires us to submit and accept tax, rules and laws that at no time are questioned as limits on personal freedom.

## Medical Intervention

And where is the doctor's role in this matter. We must bear in mind that both the medical act as the doctor-patient relationship are based on a trust relationship where the patient trusts the doctor health care, fundamental aspect of one's own life.

In the relationship between the two cannot mediate the covenant of an intentional death. Euthanasia means the end of the trust placed for thousands of years in a profession that has always been committed not to intentionally cause death under no circumstances.

Euthanasia dehumanizes medicine. We can conclude only from absolute respect that all human lives are worthy, neither is dispensable or not worth living.

Euthanasia slows progress of medicine. Doctors take indifferent positions to certain types of diseases, there is no reason to investigate the pathogenic mechanisms of senility, cerebral degeneration, end-stage cancer, biochemical or morphological defects.

In a discussion on euthanasia, surveys have to be taken in perspective and even being suspicious of the reliability of the surveys. Between doctors and other health professionals there are many gaps and confusion regarding the concepts. Many times, when people talk about euthanasia for solving incurable health problem, it actually pursues is to relieve pain, do not suffer and it does not fall in the therapeutic cruelty.

The solution is to provide comprehensive care that will soon die, treating both physical and psychic suffering and social and spiritual suffering too.

This is the foundation of Palliative Medicine from the perspective of absolute respect for every person and to the therapeutic limit of the medicine itself, it is responsible for controlling symptoms of the disease, especially the presence of pain, accompanying the sick to death.

## Conclusion

Therefore and concluding, when one is good professional in the scientific and technical, will pose fewer ethical problems and even less

legal problems. Thus, the law should be the last, although it is true that society often claims it to be first.

And if we were to legislate, it would be interesting to consider legislating on the end of life and do not legislate on euthanasia, legislation based on the promotion of palliative care.

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