



Issue description

Committee: Human Rights Council

Issue of: Legality of Euthanasia

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Introduction:

The word euthanasia originates from Greek, means a *good death*. It has several different types, but all of them include a usually terminally ill individual and another person, generally a physician, who chooses to end their pain and provide them with a dignified death.

The legality of euthanasia is one of the most controversial human right issues globally. It provokes discussions about one of the fundamental natural rights of humans: the right to live, which has not been questioned since John Locke, an English philosopher, stated it as a natural right in the 17th century. Furthermore, the fact that the question is not only an ethical matter but can be discussed from a religious or medical point of view, makes the issue even more complex. In spite of the controversy, in a small number of countries active euthanasia and assisted suicide is legal e.g. in Belgium or in the Netherlands, which was the first country to legalise it in 2002. A higher number of nations only enable the passive form of euthanasia. Nevertheless, in most countries, the whole process or some types of it are not clarified by law, thus many times the act of euthanasia is regarded as homicide in the jurisdiction.

Definition of key terms:

Active euthanasia: the deliberate ending of a person's life, who suffers from an incurable disease, intended as an act of mercy. The word euthanasia usually refers to active euthanasia when it is not specified further. (*e.g. giving a lethal injection*)

Passive euthanasia or orthotanasia: intentionally letting a person die, who suffers from a terminal illness by withholding extraordinary means to keep them alive, as an act of mercy. (*e.g. switching off life-support machines or not giving life-extending drugs to a patient*)

Assisted suicide: suicide undertaken with the aid of another person. (*e.g. a physician prescribes lethal drugs to a patient, who asks them to*)

Voluntary euthanasia: the case of euthanasia, when the patient precisely asks for aid in dying. Every case of assisted suicide belongs to this category.

Involuntary euthanasia: to put a person to death, who did not specifically ask for aid in dying. This term is usually used when the patient has been in coma and presumably will never recover consciousness.



Suicide tourism: the practice of a potential suicide candidate travelling to another country with the main purpose of dying usually by means of assisted suicide or euthanasia, due to the fact that in their own country it is not legalised. Significant suicide tourism is present in Switzerland and Mexico.

General overview:

The right to live is one of the most fundamental human rights. As the Universal Declaration of Human Rights mentions in article 3, everyone has the right to live. However, in some cases, this simple statement can be questioned, and the process of euthanasia is definitely one of these cases, which has been debated for centuries.

Although the first written source mentioning euthanasia dates back to about 400 BC, significant political discussion, concerning the issue, only started in the 20th century. Efforts of legalising euthanasia began in the USA, even medical associations were in favour of the idea, but no legislation concerning the matter had been introduced by 1930. Euthanasia - or as they called it, mercy killing - was, however, legalised in two South-American countries: in Uruguay and Colombia. In Europe, despite the fact that several societies were formed in different countries to promote euthanasia, the majority was still against it. Nonetheless, it seemed that by the end of the 20th century, the question of euthanasia would not be such a crucial issue anymore and the process would be legalised in the majority of the states.

However, in 1939 a new law about euthanasia has been issued in the Third Reich, which brought an important turning point in the history of euthanasia. The program aimed to slaughter people suffering from mental retardation and physical deformity, because they were “not worthy of life”. Although the program only lasted for two years, it had global influence, and the number of supporters of active euthanasia dropped significantly.

In the following years, many proposals were submitted about assisted suicide and mercy killing, but the situation did not change. Most governments were afraid that the legalisation would lead to the abuse and murder of patients. Moreover, the Catholic pro-life standpoint also weakened the positive aspects of the procedure.

Presently, the situation is very composite. Passive euthanasia is widely accepted, as there is less ethical controversy connected to it. In many countries, where it is not legalised nor banned, there is an unofficially practised procedure. This could be a reason why a growing number of countries legalise it every year. The question of active euthanasia and assisted suicide, however, still remains a highly debated topic throughout the world.

There are several reasons why euthanasia is illegal in many countries: in nations, where religion is a fundamental building block in the law code, euthanasia is strictly forbidden. Such countries include Poland, Ireland and Turkey. In Germany, the government opposes the idea of legalising the process because of the country’s history. There are also countries, which are against it because of its ethical controversy, e.g. France. However, from these countries, growing numbers of people travel abroad, usually to Switzerland, to use its tolerance towards assisted suicide. Moreover, in many of these countries, the majority of the population would be in favour of the legalisation of euthanasia.

On the other hand, in few parts of the world, euthanasia laws are less strict: in Switzerland assisted suicide is legal since 1937, yet active euthanasia remains illegal. Active euthanasia is



presently legal in a handful of countries such as the Netherlands, Belgium and Canada, but the number is expected to increase in the following years. People criticising these countries say that physicians could abuse their right to euthanize patients and many times patients, who could survive otherwise, are put to death.

Notwithstanding, the question of euthanasia causes the most damage in countries, where there is an ambiguous situation regarding its legality: either they have a law, which can be understood in several ways, e.g. in the state of Oregon, or there is no official law regarding euthanasia, thus it depends on the jurisdiction, whether a case will be regarded as homicide or not. This does not only lead to contradictory standards but put critical responsibility on doctors, whether they let their patient die with dignity or whether they try to behave according to a law, which is not completely unquestionable.

As a result of these concerns, the issue of euthanasia is still present world-wide and affects the everyday life of people.

Major Parties Involved:

Poland: Poland is staunchly against euthanasia, presumably because of its predominantly Catholic population and that the Nazi euthanasia program concerned the country greatly, as it was under German rule at the time. Even passive euthanasia is illegal in the country, making it one of the strictest countries regarding the issue. In 2007, when the idea of a continent-wide special day, dedicated against capital punishment was discussed in the European Parliament, Poland blocked it coming into force, as they believed it was contradictory and should have included not only death penalty, but euthanasia and abortion too, since they violate the right to life as well.

Switzerland: The Swiss Criminal Code outlaws assistance to suicide from selfish motives. However, assisted suicide, if it is not done for self-centred reasons, but e.g. in order to help the patient relieve pain, is legal. However, this is the only regulation the law creates; it is up to the physician to decide whether the reason for the request of assisted dying is acceptable or not. Moreover, the law does not exclude foreign patients as similar law codes do, which contributed to the development of suicide tourism. More than 50% of patients dying as a result of assisted suicide annually are foreigners, travelling to the country only to utilize this service. As a result, non-profit organisations were established to help in administration and execution.

The Christian Church: The Christian Church issued a declaration on euthanasia in 1980, which regards the practice as a crime against life, and an attack on humanity. Christians usually have a very pro-life stand, they believe that God is the one, who gives life and He is the only one, who can take it away.

Muslim community: In 1992 the Islamic World League declared a strong rejection against any form of assisted dying under all circumstances. It is widely suggested that sedatives and mental support should be provided by the physician treating the patient but the Islam religion is strongly against euthanasia.

World Medical Association: According to the WMA's Declaration on Euthanasia, the association strongly discourages all physicians to participate in euthanasia, even if national law allows it as it violates basic ethical principles. However, the passive form of euthanasia is tolerated by the association, as it is a patient's right to decline further treatment.



Timeline of events:

1937: Assisted suicide for “not self-centred” reasons became legal in Switzerland.

1939: Nazi euthanasia program was established in Germany, aiming to eliminate “life unworthy of life”. At first, the program focused on newborns with symptoms of mental retardation and physical deformity, but later it expanded to include older children and adults as well.

1984: The Netherlands Supreme Court approved voluntary euthanasia in certain cases.

2002: The Netherlands became the first country to legalise euthanasia. The same year Belgium legalised it as well.

2005: The World Medical Association issued a declaration, in which they expressed their disagreement with assisted suicide and active euthanasia, and encouraged every physician not to carry out such procedure.

2014: Belgium passed a new law, which made the country the first to legalise euthanasia for minors in case they were terminally ill.

Previous attempts to solve the issue:

In 2001, the Human Rights Committee issued recommendations to the Netherlands about its voluntary euthanasia law, passed in 1984, which could be interpreted in several ways. As a response, the Netherlands clarified its viewpoint and legalised euthanasia in certain, obvious cases.

In 2018, the HRC released the General Comment No. 36. The aim of it was to reinterpret article 6 of the ICCPR to encourage states, which provide access to voluntary termination of pregnancy. During the debate, the committee started a discussion on paragraph 10 on euthanasia and suicide. Some Committee Experts held a speech against the use of the term “right to death” because it contradicted with the overall sense of the General Comment which was about securing the right to life.

Possible solutions and approaches:

There are three sets of possible solutions regarding the issue, before which the re-evaluation of the meaning of *the right to life* and *the right to death* is needed.

The first one is banning euthanasia and assisted suicide. The development of modern methods of palliative care would be crucial in this solution, as the majority of people supporting euthanasia are in favour of it only because of their fear of pain and abandonment.

The second one is allowing voluntary euthanasia and assisted suicide for terminally ill patients. This would highly reduce the misuse of the process, if consistent monitoring would be carried out by the nation’s executive body.

The last option is legalising voluntary euthanasia and assisted suicide for every individual. This solution would give the right of choice to the physician, who is an expert educated enough to make crucial decisions about one’s life.

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Annex:

