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Ethical Aspects of Euthanasia. Introduction to the Debate

Abstract

The subject of the study is the ethical aspects of euthanasia. The framework of the article does not allow for a comprehensive and complex analysis of the issue presented in the title. In view of the above, the purpose of the article has been limited to two aspects. The first one is the clarification of terminology and an attempt to draw out the classification of euthanasia. The second one is showing the arguments that supporters and antagonists take in the ongoing debate on the subject of euthanasia. In the author's opinion, the subject that strictly corresponds to the subject matter in the study remains the legal regulations of individual countries regarding euthanasia. This issue has been highlighted at the end of the article and may constitute a contribution to the discussion.

Keywords

Passive euthanasia, active euthanasia, human life, indirect euthanasia, direct euthanasia, ethics

1. Introduction

The issue of euthanasia is controversial; it is discussed by representatives of many circles, including primarily: doctors, lawyers, ethicists, biologists, and biotechnologists. The basic reason for such a dynamic polemic about the phenomenon

of euthanasia arises from the fact that this matter oscillates around the undoubtedly most important value which is human life. The moral evaluation of this phenomenon depends both on the ethical principles followed by individuals as well as on the ethical systems of the given community. Thus, many positions can be distinguished in the ethical evaluation of euthanasia, which indicates a significant discrepancy in the approach to the analysed ethical problem.

2. Types of euthanasia –a general approach

In order to make a reliable analysis of this ethical problem, as euthanasia undoubtedly is, one should discuss its possible forms, because already in identifying and defining the types of euthanasia, there are important differences of opinion as to the moral evaluation of the said phenomenon.

In a generally accepted opinion, a doctor can accelerate the patient's death in two ways: through an act or through an omission. On this level, the basic division of euthanasia into active and passive can be made, or else, using the same criterion of division, positive and negative euthanasia can be indicated.[1] On the basis of other criteria, a division should also be made into voluntary euthanasia (when the patient himself/herself expresses a conscious request to deprive him/her of his/her life) and involuntary[2] (when the patient is not in a position to express his/her wish because e.g. he/she is unconscious and his/her will to deprive him/her of his/her life was either presented in a document previously signed by him/her, the so-called "testament of life"[3], or he/she has appointed a third party as a proxy to take decisions on his/her behalf regarding his/her own life and death. In addition, his/her will may be retroactively reconstructed, on the

[1] J. Malczewski, *Eutanazja. Gdy etyka zderza się z prawem*, Warszawa 2012, p. 86.

[2] See more: J. Wawrzyniak, *Etyka eutanazji. Studiumfilozoficzno-aksjolingwistyczne*, Poznań 2015.

[3] The testament of life and the so-called other *pro-futuro* statements should be qualified to this group of declarations of will, in which a deliberately and freely acting person anticipates his/her future health condition, indicating his/her preferences regarding the diagnostic and therapeutic process. The declaration made like that has legal effects at the moment when the patient, due to actual or legal obstacles, loses the ability to make conscious decisions and expressions of will. The issue of the anticipated declarations, for many years, has called the far-reaching controversy and is often associated with issues related to the end of human life, M. Śliwka, *Testament życiaorazinneoświadczenia pro futuro – wyzwaniedlaustawodawcypolskiego*, in: O. Nawrot, A. Wnukiewicz-Kozłowska (ed), Gdańsk 2015, p. 105.

basis of the statements of witnesses, by the court, which ultimately decides). Another division allows to distinguish direct euthanasia (when an act or omission directly aims to shorten the patient's life, e.g. by disconnecting the respirator) and indirect (when the act is aimed at relieving pain, but the second unintentional, but also unavoidable effect is shortening the patient's life, e.g. by administering very strong painkillers in doses that shorten life processes).[4]

3. Euthanasia – an attempt of a detailed classification

Active euthanasia is defined as a doctor's active causing or accelerating the patient's death. Making a further division, direct and indirect active euthanasia can be distinguished.[5] Indirect active euthanasia is where a patient suffering from intolerable pain is given relieving painkillers (analgesics) of such a kind, or in such a quantity that the side effect of his/her actions may be leading to the patient's earlier death. The aim of the doctor's action is to bring relief to the suffering person, and the inevitable side effect is to cause or accelerate his/her death. According to T. Pietrzykowski, the moral admissibility of indirect active euthanasia is justified by the theory of "double-effect" acts. The perpetrator (the doctor) does not aim to cause the patient's death but to alleviate his/her suffering. In the ethical evaluation of intermediate euthanasia, the thesis is highlighted that in the course of operations undertaken by a doctor, he/she seems aware of the fact that the inevitable side effect of such assistance will accelerate the patient's death. It should, however, be stressed that this is not the goal of the doctor, who only knows and consents to such inevitable consequences of undertaken therapeutic actions.[6] The condition justifying this action is the inability to alleviate the patient's suffering, without simultaneously causing an undesirable effect, which is his/her death.[7] It cannot, therefore, contain the most important negative element of active euthanasia, that is, the intention of depriving the

[4] M. Szeroczyńska, *Eutanazja i wspomagane samobójstwo na świecie. Studium prawnoporównawcze,* Kraków 2004, p. 38.

[5] T. Pietrzykowski, *Spór o eutanazję. Etyczne problemy prawa,* Katowice 2007, p. 39.

[6] See more: T Pietrzykowski, *Spór…,* p. 40.

[7] N. Aumonier, B. Beignier, P. Letellier, *Eutanazja*, Warszawa 2003, p. 72–73, quoted by: T Pietrzykowski, *Spór…*, p. 40.

other person of his/her life. In the context of the ongoing ethical discussions on euthanasia, the theory of "double effect" is also the subject of sharp criticism.[8]

Direct active euthanasia is understood as a doctor's act consisting in the conscious killing (or acceleration of death) of the patient. In practice, this type of euthanasia is manifested in the administration (most often by means of injection) of medication to a terminally ill person aimed at causing his/her quick and painless death.[9]

When making a further analysis of active euthanasia, it should be noted that the following three types can be distinguished: voluntary, involuntary, and forced euthanasia. Active voluntary euthanasia occurs in a situation in which the death of the patient will be the result of the expression of his/her conscious wishes to obtain help from a doctor to end his/her life. Legalization of active voluntary euthanasia is currently the postulate, formulated the most often, and addressed to legislators in the discussion pursued in many countries. In the ethical evaluation of this issue, considering the legal respect of this kind of a person's will, an often-cited argument is the moral dilemma of the doctor who has to make an active act of depriving a human being of his/her life. In the opinion of some part of the circles involved in the discussion, if a doctor were to take such actions, it would be a betrayal of the basic idea of the medical profession. Additional concerns relate to how to make sure that the patient' will is real, well-thought and durable, and his/her decision was made voluntarily and not under pressure of different kinds of *ad hoc* circumstances such as pain or depression. Considering the above, a doctor may be placed in a very difficult situation of being unsure, and having to make a difficult assessment of the situation: he/she can in fact not know whether the choice of the patient is genuine or whether it is a transient loss of faith in the sense of further struggle with the disease.[10]

Apart from the discussion regarding the ethical aspects of euthanasia, the status of active forced euthanasia is left, which, from medical, ethical, and legal points of view, is the murder of a human being, even if it were justified by pity or sympathy for the patient's suffering. It should be emphasized that in the

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[8] T. Fuchs, *The Notion of "Killing". Causality, Intention and Motivation in Active and Passive Euthanasia,* "Medicine, Healthcare and Philosophy", 1998, vol. 1 p. 245 et al.; A similar position is presented by D. Sulmasy, *Killing and Allowing to Die. Another Look,* "Journal of Law, Medicine and Ethics" (1998), vol 26 p. 55 et al. quoted by T. Pietrzykowski, *Spór…*, p. 40.

[9] T. Pietrzykowski, *Spór…,* p. 40.

[10] T. Pietrzykowski, *Spór…,* p. 41.

debate on euthanasia, one often hears an opposition to embrace with the term "euthanasia" forced euthanasia, including especially active euthanasia.[11]

Passive euthanasia, the so-called orthothanasia, should be understood as a situation in which death occurs as a result of abandoning the use of appropriate therapeutic agents, an example of which may be a failure to resuscitate.[12] In the context of the ongoing ethical debate on euthanasia, it should be noted that with the advent of the request of passive medical euthanasia, the widely discussed concept of the right to a dignified death emerged.[13]

The basic problem with passive euthanasia is distinguishing it from an "ordinary" end to a futile therapy that does not give the chance to bring positive results. For this purpose, medicine uses the distinction between "ordinary" life-saving measures and the so-called "persistent" or "strenuous" therapy.[14] Such a situation is also mentioned in Art. 32 of the Code of Medical Ethics, in accordance with which, "in the terminal states, a physician is not obliged to take up and pursue the CPR or persistent therapy and apply emergency measures." The Code leaves the decision to abandon the CPR to the doctor, stressing that it is related to the assessment of the chances to heal.[15]

The decision to abandon persistent therapy means giving up some medical procedures which no longer correspond to the real situation of the patient because they are not commensurate with the results which were to be expected or are too burdensome for the patient and his/her family. In the opinion of some circles, in such situations, when death is imminent and inevitable, one can abandon, in accord with one's conscience, such things which could only make life extension non-persistent and painful, whereas normal therapies required for the patient in such cases should not be stopped.[16] Therefore, the failure to enter into a strenuous therapy or its interruption is not, as a rule, treated as passive euthanasia, but only as an expression of the helplessness of medicine in the face

[11] T. Pietrzykowski, *Spór…,* p. 31, 42.

[12] M. Szeroczyńska, *Eutanazja*…, p. 38.

[13] L. Israel, *Eutanazja czy życie aż do końca,* Kraków 2002, p. 78–79.

[14] T. Pietrzykowski, *Spór…,* p. 33.

[15] Resolution of the Extraordinary National Medical Congress of 14 December 1991 on the Code of Medical Ethics.

[16] A. Gręziak, *Nieporozumienia wokół pojęcia eutanazji,* in: *Lekarze o eutanazji,* Kraków 2002, p. 105.

of a patient's ongoing illness.[17] On the basis of the information presented above, it can beconcluded that the division of euthanasia provides moral implications. As far as active euthanasia, called murder by many, is morally unacceptable, passive euthanasia, understood as permission to death of natural causes is justified in many cases. It is difficult, however, to disagree with the opinion that there are a lot of concerns about case-based and ethical aspects of the distinction between active and passive euthanasia.[18] The distinction of euthanasia, generally adopted in the ongoing discussion, into active and passive, indirect and direct, and voluntary and involuntary euthanasia is the subject of many disputes, casting doubt on the moral significance of these divisions. An important argument, known to every lawyer, in the ongoing debate is a distinction between acting and omitting to act. According to the logic adopted in this discourse, active euthanasia would involve the conduct of the character of an active action leading to the death of the patient, whereas in case of passive euthanasia – it would involve omitting to act. However, if, as it is commonly done, passive euthanasia also includes disconnecting the patient from life support, the question is whether, infact, this is passive omission by the perpetrator. He/she, in fact, does an active act of disconnecting the apparatus.[19] In the subject matter of this issue, a biological criterion is also often raised. Taking it into account, active euthanasia (killing of the patient) would be a situation where death occurs due to external interference by a third party. On the other hand, passive euthanasia should be understood as a situation where death resulted from the failure to prevent the processes of disintegration of organs, i.e. dying, by appropriate external interference.[20]

4. The contemporary debate on euthanasia – arguments for and against

If one regards human life as a fundamental value, accepted by all ethical systems[21], it must be underlined that in the discourse of ethicists, physicians and

[17] T. Pietrzykowski, *Spór…*, p. 34.

[18] J. Malczewski, *Eutanazja*…, p. 86.

[19] T. Pietrzykowski, *Spór…*, p. 44.

[20] T. Pietrzykowski, *Spór…*, p. 44.

[21] R. Citowicz, *Prawnokarne aspekty ochrony życia człowieka a prawo do godnej śmierci,* Warszawa 2006, p. 60.

lawyers, there are fundamental differences of opinion as to the scope of the protection of life in the various stages, and consequently, also as to how to settle the conflict which can arise between the protection of life and the protection of important values such as the human right to self-determination and freedom of choice.[22]

The primary argument that concerns a dispute about the legalisation of voluntary euthanasia[23] is the respect for the autonomy[24] of the human person and freedom of his/her decision on the course of his/her life and its completion. The crown counterargument is the view regarding the so-called *sanctity of life*, which should be understood as an absolute, independent of circumstances, prohibition of deliberate deprivation of life. Proponents of self-determination argue that if a person has the right, and not the obligation to live, then the feature of the right is the possibility of unhampered renunciation of it by the right-holder. Imposing the obligation on the individual to exercise his/her right to live, bypassing his/her will and the circumstances of his/her life, would be a manifestation of absolute paternalism. If we assume that a human being has the right to take any decision about himself/herself, this includes primarily the time and method of ending his/her life which correspond to the moral, philosophical, and ideological beliefs of the person concerned.[25] J. S. Mill, one of the most prominent advocates of personal liberty in the treaty *On Liberty*[26], which gives basis to the contemporary intellectual current turned against paternalism in medicine and society, defends the thesis that the state and society should not interfere in the affairs of the citizen as long as his/her activity harms only himself/herself.[27]

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[22] See more: T. Kaczmarek, *Wolność dysponowania życiem a prawo do godnej śmierci,* in: *Rozważania o Przestępstwie i karze. Wybór prac z okresu 40–lecia naukowej twórczości prof. T. Kaczmarka,* Warszawa 2006, p. 405–406.

[23] On "voluntary", "involuntary" and "against the will" euthanasia, see more: J. Finnis,*Filozoficzny argument przeciwkoeutanazji*, in: W. Galewicz, (ed)., *Antologiabioetyki. Tom I. Wokół śmierci i umierania,* Kraków 2009, p. 184 et al.

[24] On the autonomy of the patient and paternalism see more: M. Nowak, *Autonomia pacjenta jako problem moralny*, Białystok 2005.

[25] T. Pietrzykowski, *Spór…*, p. 84–86.

[26] J.S. Mill, *O Wolności*, Warszawa 1999.

[27] R. Fenigsen, *Przysięga Hipokratesa. Rozważania o etyce i eutanazji,* Warszawa 2010, p. 310; see T. Pietrzykowski, *Spór…*, p. 87.

The opponents of voluntary euthanasia submit a thesis about the sanctity and inviolability of human life, which is of Judeo-Christian religious origin.[28] The sanctity of human life stems from its source, i.e. that it comes from God and from His ultimate objective of the salvation of the soul and the unification with God in eternity.[29] St. Thomas Aquinas says that suicide is absolutely unacceptable for three reasons: firstly, it is an act incompatible with the law of nature; secondly, it defies the social good of which man is an element; and thirdly, as John Paul II points out, human life is a gift of God subject to His exclusive power. The person who commits suicide sins against God.[30] The third thesis, according to J. Malczewski's observation, has its Orphite-Pythagorean prototype[31]. In Plato's *Phaedo*, Socrates says: "Yet I, too, believe that the gods are our guardians and that we are a possession of them. (…) And if one of your own possessions, an ox or an ass, for example, took the liberty of putting himself out of the way when you had not indicated your wish that he should die, would you not be angry with him, and would you not punish him if you could?" (…) "Then there may be a reason in saying that a man should wait, and not take his own life until the god summons him, as he is now summoning me."[32]

Supporters and opponents of euthanasia and assisted suicide[33] share the position that the autonomy of the patient constitutes a moral value that requires protection. They are unanimous in the belief that a competent person has a moral right to decide on the important existential events, including the end of his/her own life. However, they differ in the answer to the question whether the consent to the indicated procedures extends the patients' decision-making

[28] J. Malczewski, *Eutanazja*…, p. 109.

[29] Pope John Paul II, *Evangelium vitae,* No. 34–40, 52–54 (p. 886–894, 910–914), quoted by: J. Malczewski, *Eutanazja*…, p. 110; see more: B. Chyrowicz, *Eutanazja i spór o argumenty*, in: B. Chyrowicz, *Eutanazja: prawo do życia. Prawo do wolności*, Lublin 2005, p. 165–168.

[30] St. Thomas Aquinas, *Summa Theologiae*, volume 18: *Justice* (2–2, qu. 57–80) transl. by F. W. Bednarski, London 1970, p. 69–70.

[31] J. Malczewski, *Eutanazja*…, p. 115.

[32] Plato *Phaedo*, https://chs.harvard.edu/CHS/article/display/5305 (27.12.2018).

[33] Through euthanasia and assisted suicide in the quoted fragment, the author understands respectively: deliberate and thoughtful active shortening of another human being's life motivated by the desire to alleviate his/her suffering, made by a doctor on the voluntary and competent request of the patient; the help in suicide is a deliberate and thoughtful help of a doctor to another person in committing suicide motivated by a desire to alleviate his/her suffering. The help consists in providing medicines for self-administration made on a voluntary and competent patient's request.

freedom? According to the protagonists, the answer is – yes. The rejection of euthanasia narrows the freedom of an individual. The opponents of euthanasia argue that the moral approval of it will lead to the reduction of discretionary power on a social scale. Gravely ill people, often dependent on the help of family, often have a sense of guilt associated with their condition. They are vulnerable to actual or alleged pressures to shorten their life. The ban on euthanasia is for them an expression of real respect for their autonomy that protects their decision-making freedom from potential external coercion.[34]

Another value that forms the basis of the argument for euthanasia and help in suicide[35] is the good of the individual. This is the case when a patient capable of making rational choices decides to discontinue his/her life (this also applies to the decision to cease further life maintenance therapy). At the same time, the decision is accompanied by the belief that the highest quality of life, provided by the therapy, is low enough so that the discontinuation of life is better than its continuation.[36] Life, according to the patient, is no longer good. It has lost its value significantly and become a burden. It should be emphasized that in states of deep disability and weakness, in which there are many seriously ill or dying patients, there is no objective criterion used to help determine whether continuing life is good. According to the presented opinion, only the judgement of the concerned patient able to take rational decisions may be a criterion for evaluation.[37]

It is true that in principle, no one is able to put himself/herself in the position of a person who suffers so much that he/she demands death. Often, however, it is suggested that people who postulate their desire for death are insane. The assertion is arrogant in relation to the person who, with full knowledge and responsibility, consistently argues that he/she does not want to live longer because he/she does not agree on the terrible quality of his/her own life – a life, which is associated with constant pain, weakness, dependency on others. This is the hopelessness of a person who is only waiting for death. It is also arrogant to claim that the demand for death or help in suicide is always immoral. One can

[34] K. Szewczyk, *Bioetyka. Medycyna na granicach życia*, Warszawa 2009, p. 373–374.

[35] By euthanasia and help in suicide in the quoted fragment, the author understands respectively: active euthanasia and suicide with the help of a doctor, D. W. Brock, *Samobójstwo z pomocąlekarzabywamoralnieuzasadnione*, in: W. Galewicz, (ed.), *Antologiabioetyki*…., p. 257.

[36] See more: B. Chyrowicz, *Bioetyka. Anatomia sporu,* Kraków, 2015, p. 279–297.

[37] D. W. Brock, *Samobójstwo.…*, p. 262–263.

point to the respectable moral tradition, stoicism, in which suicide is acceptable under certain circumstances, and, moreover, it is recommended.[38]

The galloping development of medicine makes the argument of a conscious decision on active euthanasia or assisted suicide of the person concerned not present itself unambiguously. The degree of certainty as to the incurability of certain diseases is doubtful. In addition, a disease that does not promise to be cured may become curable, due to new therapeutic methods. It should also be pointed out that the progress of medicine is also made due to the so-called hopeless cases that lead to the application of innovative drugs and treatments.[39]

It is difficult to disagree with the view of R. Fenigsen that the contribution of medicine to ethics is at least as valuable as its intellectual contribution. In the context of the analysis, it is all the more necessary to emphasize the fact that medical ethics was formed independently, five hundred years before Christian ethics, not without the influence of ancient Greek ethics, but primarily dictated by the internal logic of the medical profession.[40] Ethics in the medical field has not changed its principles since the time of Hippocrates.[41] In the Hippocratic tradition, an inviolable principle was the absolute loyalty of the doctor to the patient.[42] The International Code of Medical Ethics[43] requires such loyalty in a formal way: "The doctor should show the patient total loyalty and give all his expertise to the patient's service."

Article 31 of the Code of Medical Ethics[44] states that "the doctor is not allowed to use euthanasia or assist the patient in committing suicide." The author's position remains consistent with said Article. The unambiguously formulated norm strongly and indisputably opposes the use of euthanasia in all its forms and regardless of existing definitional differences. The voice of the medical community is divided. The opponents of euthanasia argue that the admissibility of the procedure

[38] J. Hartman, *Bioetyka dla lekarzy*, Warszawa 2009, p. 121–122.

[39] A. Muszala (ed.), *Encyklopedia bioetyki*, Radom 2009, p. 228–229.

[40] R. Fenigsen, *Eutanazja. Śmierć z wyboru?*, Poznań 1994, p. 113.

[41] J. Bernard, *Od biologii do etyki*, Warszawa 1994, p. 16.

[42] R. Fenigsen, *Przysięga Hipokratesa …*, p. 26.

[43] The International Code of Medical Ethics of the World Medical Association (WMA), 1949.

[44] After the reactivation of medical chambers in Poland in 1989, it was adopted during the Extraordinary Second National Congress of Medical Chambers held in 1991 and amended twice: in 1993 at the Third National Congress of Physicians and in 2003 at the Extraordinary Seventh National Congress of Physicians.

is a departure from the principles declared by Hippocrates[45] and the Christian philosophy of integrity and sanctity of life.[46] In addition, it will undermine the confidence of the public constructed for hundreds of years, and the unique nature of the link between the physician and the sick person will cease to exist.

5. Conclusion

Despite many negative opinions about the issue of euthanasia, one can indicate the states which have legalised "death on demand" in the 21st century. At the same time, the diversity of legal regulations related to the end of life decision should be emphasized. It is possible to point out those that concern the total prohibition of euthanasia and testify to its legality. Often, in the legal systems which require the absolute prohibition of euthanasia, passive euthanasia or indirect euthanasia are at least in part acceptable.[47]

It should be emphasized that every aspect of the universal discussion conducted on the subject of euthanasia arouses many emotions, either from lawyers, doctors, or philosophers. Euthanasia is thus an important subject of serious deliberation and controversies in medical bodies, structures whose task is to protect life, and in the government institutions of many countries. Despite the fact that the ethical aspects of euthanasia can be traced back to ancient times, they are still valid and present in the opinions of the public. An ongoing debate on the issue held over the centuries has allowed categorizing the issue of euthanasia, which in the end has created a situation for considering the legal aspect of this concept. Considering the multilevel nature of the discussed topic and the diversity of views presented in relation to euthanasia, the need to conduct interdisciplinary debates should be stressed.

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[45] "I will never give a deadly remedy to anybody, even at his/her request, nor even will I advise him/her in this regard", J. Gula, *PrzysięgaHipokratesa*(Note from the translator and text) in: *W imieniudzieckapoczętego*(ed.) J.W. Gałkowski, J. Gula, Rome 1991, p. 197, quoted by: A. Alichniewicz, *Eutanazja i lekarska pomoc w samobójstwie,* in: J. Różyńska J. Chańska W. (ed.), *Bioetyka,* Warszawa 2013, p. 282.

[46] See more: T.M. Zielonka, *Na marginesie Kodeksu Etyki Lekarskiej*, Gazeta Lekarska, Issue 2000/3.

[47] J. Pacian, A. Pacian, H. Skórzyńska, M. Kaczoruk, *Eutanazja – zabójstwo człowieka czy uśmierzenie bólu. Regulacje prawne wybranych państw świata,* Hygeia Public Health 2014, 4991), p. 19, 21.

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