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EUTHANASIA: IS IT ACT OF MERCY OR CRUEL MURDER? PSYCHOLOGICAL AND LEGAL CONSIDERATION

The article deals with such an ambiguous and complex phenomenon as euthanasia, the legalization of which depends on the answer to the question about its essence. The most complete and meaningful definition of the concept implies that it is a deliberate act of a medical practitioner committed in accordance with the explicitly and unambiguously made request of the patient or his/her legal representative in order to terminate the physical and mental suffering, which is fatal according to medical indicators, and results in his/her death. In this context, there are two opposing views on the essence of the phenomenon: it is either a violation of the right to life or the realization of the right to death. The attitudes of young people to euthanasia as a phenomenon on the basis of “Acme” (for future psychologists and social workers) and “Leader of Law” (for future lawyers) Professional Development Schools, functioning at the Faculty of Law of the Ternopil National Economic University, have been examined before and after implementing a specially designed training program aimed at the development of mercy. As a result, the number of the respondents who believe euthanasia should be legalized in Ukraine, has increased after the training.

Keywords: *euthanasia, legalization, the right to life, the right to death, the act of mercy, the psychological nature of charity, active euthanasia, passive euthanasia.*

Introduction

Human life is recognized as the highest social value. The right to life is a fundamental and the most important right, which occupies a special place among personal non-property ones. It is conditioned by the very nature of the person and is at the top of the set of social values.

Interstate threats, and especially the destructive characteristics of Western civilization, intensify the devaluation of traditional moral principles. Crisis conditions in the modern space contribute to the perception of these negative trends, which, in turn, provokes a chaotic rethinking of many moral progress achievements, including the eternal question of the value of human life and the ability to manage it. Hence, an unusual interest in the issue of euthanasia is clear, which can be called one of the most controversial and still unresolved medical-deontological, religious-ethical and psycho-legal problems of our time.

Today, according to the internal criminal law of our state, euthanasia is considered to be a murder, and therefore is forbidden. However, the legalization of the “right to death”, which has become a subject of discussions among specialists in the fields of psychology and medicine, not only gives rise to new ones, but also intensifies existing discussions in the legal field. Therefore, at the present stage, an attempt is being made to carry out an

analysis of the consequences of the legalization of euthanasia in Ukraine.

Aim and Tasks

The psychological and legal aspects of this phenomenon are not sufficiently clarified by modern researchers, therefore the purpose of our study is to analyze controversial problems of euthanasia in modern practices.

The following tasks are set: 1) to reveal the essence of euthanasia phenomenon in the context of human right to life; 2) to carry out a survey aimed at revealing young people’s attitude to euthanasia; 3) to present the designed training program aimed at the development of mercy and empathy in students as means of internal self-regulation, 4) to assess its impact on the students’ attitude to euthanasia in the modern society.

Research Methods

In order to address the tasks, we used a number of theoretical research methods to generalize and systematize the processed literature sources on the topic; as well as empirical methodology of studying the phenomenon of euthanasia; and methods of mathematical statistics to process the obtained results.

In this research, the students of the 3rd-4th years of study majoring in “Social work” and “Law” of Ternopil National Economic University who are members of the “Acme” and “Leader of Law” professional development

schools, took part. These schools of professional development, functioning on the basis of Faculty of Law, are projects aimed at raising the level of students' knowledge in the field of psychology, sociology, law, and acquiring practical skills in the specialty. They are often engaged in different kinds of activities, surveys, experiments, etc. as respondents and their active participants.

The sample size is 80 people with a satisfactory state of health, aged from 18 to 20 years (40 students majoring in "Law" (40) and 40 in "Social work"; 23% of students are 18 years old, 67% - 19 years old, and 10% - 20 years old.

Therefore, the respondents were suggested to fill in a specially designed questionnaire aiming to examine their attitudes to euthanasia in general and the issue of its legalization in Ukraine, in particular. The questionnaire consists of 9 questions with certain variants of answers, among which the respondents have to choose one.

Theoretical Study Results

The right to life is a fundamental and inalienable right of every person. It is enshrined in a number of international normative legal acts that guarantee the rights and freedoms of the person and lay the responsibility on the state to protect it.

The right to life is considered in two respects: 1) the right to freedom from any illegal infringements on life on the part of the state; 2) the right of a person to manage one's own life, that is, the opportunity to expose it to a significant risk and to decide on its termination. The latter, as a rule, is called euthanasia (Kozochkin, 2003).

For the first time, the concept of euthanasia was introduced by F. Bacon in his book "On the Dignity and Enrichment of Sciences" in 1605. However, it should be noted that euthanasia was considered by him not as the murder of a patient with the aim to free him/her from suffering, but effective anesthesia with this same purpose (Euthanasia,

<http://pidruchniki.com.ua/15100827/pravo/evtanaziya>).

In the foreign legal and medical literature, the term "euthanasia" is used controversially. The Short Oxford Dictionary gives three meanings of this word: 1) calm and easy death, 2) means for this, 3) actions for its implementation (Trumble, Brown, M. (2007). In the Great Medical Encyclopedia, "euthanasia" is interpreted as "practice of intentionally ending a life in order to relieve pain and suffering" (Petrovskii, 1986). We believe that the most complete and meaningful definition of the concept implies that euthanasia is a deliberate act of a medical practitioner committed in accordance with the explicitly and unambiguously made request of the patient or his/her legal representative in order to terminate the physical and mental suffering, which is fatal according to medical indicators, and results in his/her death.

There are a number of classifications of euthanasia according to the type. The most widespread is its division into: voluntary euthanasia, involuntary euthanasia and forced euthanasia; active and passive; positive and negative; medical euthanasia, etc. (Zilber, 2007).

In jurisprudence, the most widely used criterion is the division of euthanasia by the way of its implementation:

1) an active (positive or "filled syringe method") one implies that a patient with an incurable illness is provided with special means or other actions that cause rapid and painless death, according to his/her decision;

2) a passive (negative or "laid aside syringe method") one involves the refusal to apply measures that support the life of the patient, provided that he/she has independently made a decision, that is manifested in the termination of the provision of medical care aimed at extending life, which accelerates natural death (Euthanasia, <http://pidruchniki.com.ua/15100827/pravo/evtanaziya>).

Active euthanasia can be performed in the following forms:

- "murder of mercy" occurs when a physician, due to the unbearable suffering of a hopelessly ill patient, and being unable to eliminate it, applies an overdose of an analgesic drug, which results in an expected death;

- suicide "assisted by a doctor" - takes place under circumstances when a doctor provides assistance to the patient in committing a suicide;

- "active euthanasia" can take place without the active participation of a physician, when a patient commits a suicide (Kassahina, 2004).

Regarding the issue of legal regulation of responsibility for euthanasia, today there is no consensus in the world legal doctrine. An analysis of the legislation of foreign countries on the responsibility for euthanasia shows that the most severe criminal responsibility for this act is foreseen in countries with persistent religious traditions. Meanwhile, "merciful murder" is spreading in more and more countries (Bazylivska, 2008).

Active euthanasia at the legislative level is permitted only in three European countries: Belgium, Holland, and Luxembourg (Zilber, 2007).

The Netherlands was the first country to decriminalize the active and passive forms of euthanasia. The adoption of such a legal act is not surprising, because the Netherlands are considered a pioneer in the implementation of many liberal ideas, not only in the field of medicine.

It should be mentioned that in some countries, legislation allows the implementation of passive euthanasia, for example, Northern Territory of Australia, Oregon (USA). However, there are countries which are totally against legalizing euthanasia. In particular, in Germany, in view of the tragic experience of introducing a euthanasia program during the Second World War, even in good faith the use of a deadly drug implies a severe criminal punishment.

In the Ukrainian legislation, the issue of euthanasia remains the most controversial and unresolved. In particular, in part 3 of Art. 52 of Fundamentals of the Ukrainian Law on Health Preservation, it is stated that medical workers are prohibited from carrying out euthanasia, intentional acceleration of death, intentional taking life of an incurable patient in order to

stop his/her suffering. The Ukrainian criminal law does not provide any rules of law regulating the responsibility for this act (The Criminal Code of Ukraine).

The very right to life or death has for many years been the subject of discussion for lawyers, psychologists and medicine experts, as well as the whole society. So what is it: a mercy or a crime? What motivates people to perform such a deed (Koval, 2017)?

A deed is always a transcendence to a new dimension of life; it is always about overcoming and transitioning to a new existential space; it is a new countdown, the beginning of a new era; it is a transition to a qualitatively different life world.

The inevitability of death is one of the most difficult psychological trials, especially for a person who has not lost spiritual sensitivity, which requires to refer to the issue of deeds. To perform a deed of dying is not associated with clinging to life, though it is natural for every living being. A person feeling the loss of one's own essence qualities, ability for spiritual creation, personal development, may depreciate one's own life in its biological form. It is a deed performing which a person allows oneself to undergo degradation to the lower levels of existence.

According to the Ukrainian Cossack traditions, a mature person feeling unable for life heroic deeds, voluntarily quitted and retired to a cloister to pray for forgiveness. The aggravated unwillingness to become an old, sick, unable person which is characteristic of strong people with high self-esteem level, can result in committing suicide as a kind of a deed manifesting the freedom of will and independence on external determination of one's being (Dudnyk, 2018).

According to Tytarenko, self-attitude becomes an attitude to life and death. The fear of death is not a painful phenomenon; it is peculiar for all people. It is not an indicator of neurotic or age-related deviations: it serves the need for self-preservation (Tytarenko, 2007). According to A. Bakanova, facing death as a critical situation is inherently ambivalent, on the one hand, it can have a devastating effect on the personality – express itself in the heightened fear of death, and on the other hand, give meaning to life, to make it more full (Bakanova, 2000).

With the development of the society and state, the role of human life grows in the axiological context. With each stage of the development, the attitude of the society towards every member becomes more humane. Accordingly, human life is at the heart of the protection of the society and state as a whole. The Constitution of Ukraine in Art. 3 proclaims human life the highest social value. Also Article 27 of the Basic Law enshrines the inalienable right to life, by guaranteeing it by the prohibition of arbitrary deprivation of life and establishing the duty of the state to protect human life (The Constitution of Ukraine).

O. Solovyov, supporting the idea of introducing into the content of the right to life of such a component as its management, notes that the right to life covers the right to manage one's own life; the right to put one's own life at

risk; human right to self-defense; the right to require other persons to refrain from unlawful deprivation of life of a person, to create conditions for reducing the risk to life; the right to expect other people protect one's own life; the right to conduct (or to refuse) active euthanasia; the right to protection of life by the state on behalf of its authorized bodies, as well as international institutions or their bodies; an opportunity to obtain proper legal protection of the right to life, its appropriate legal regulation (Solovyov, 2004).

O. Pankov and Y. Petrovsky understand the right to manage one's own life as the opportunity of putting it at risk or committing a suicide (Pankov, Petrovsky, 2007).

N. Kalchenko believes that one of the aspects of the right to life is the right to its free management (Kalchenko, 1995). The researcher talks about the possibility of a voluntary decision by a person to put his/her life at risk in certain situations, and this should be conditioned by the free, conscious expression of the will of this person, aimed at achieving a positive goal in his/her own interests. The positive nature of the purpose is determined from the point of view of its legitimacy and compliance with ethical criteria. Indispensable factor of freedom in choosing the form of putting life at risk are the conditions of the implementation of law, rejecting at the same time the threat to the lives of others (Kalchenko, 1995).

Considering the limits of the right to life, it is necessary to determine the final moment of the existence of life and the right to it. Death is a multifaceted notion – philosophical, ethical, medical, and legal. The Philosophical Dictionary defines death as “an irreversible termination of the vital functions of an organism, the inevitable natural end to the existence of a living being” (Furman, 2016). The Department of Life Statistics at the United Nations determines death as “the final cessation of all life functions”. I. Babadzhanov believes that death is the moment of the end (interruption) of the biological state of life and, at the same time, the legal fact, which means the completion of individual legal personality (Babadzhanov, 2014).

The issue of person's right to death is of particular interest in the study of the right to life. Thus, some scholars believe that the right to death of a person involves the ability to independently make decisions concerning his/her death, that is, the ability of a person to consciously and voluntarily choose the time to pass away and the desirable way/method to do it (Kyrychuk, Romenec, 2002). Describing this right, scholars argue that nobody may oppose a person to have it. The desire to avoid suffering – either physical or emotional – is absolutely inherent in a man, because suffering is humiliating, and nobody wants to be weak or addicted. A human being is not only a body or psychophysical integrity, but also a special spiritual and physical reality, personality. Not only life, but also death is a constant affirmation of the freedom of one's own spirit and manifestation of a special, unique spiritual world. In the normal state, every person wants to live long and happy life, rejecting thoughts of death. And death is not that terrible according to Epicurus, who stated

that when one exists, there is no death, and when it comes, one does not exist. But there is difference in natural or accidental death, as well as death as a result of suffering, an incurable disease (Dudnyk, 2018).

In the context of bioethics, the right of every person to the uniqueness and the primary value of one’s own life and death, the discovery of the will of an independent, unique personality is recognized. And the tragedy of the modern society lies in the fact that the patient is not considered as a person who is treated on equal terms with others. A person is treated as an unlucky one, the one who must be felt sorrow for, take care of, protect from any news not to worry him/her, and at the same time everyone forgets about the main thing – about his/her inner world and personality.

And if the society was more curious about the feelings of the dying, the issue of euthanasia would not be discussed, because it would become clear that during the last days of life, a person is experiencing an absolutely terrible and at the same time a unique period of life. The meaning of the last days of life, when a man, according to the words of the Teresa de Lisieux, “like a locomotive approaching the final station, a person is experiencing a huge spiritual growth at this moment, grows to the fullness of his/her “self” disclosure. When a person is nearly to die, he/she becomes different, paradoxically overcoming fears and weaknesses (Bioethical problems of life,

http://intranet.tdmu.edu.ua/data/kafedra/internal/distance/lectures_stud/.htm).

Empirical Study Results

According to scientists, the study cannot be considered to be completed if it has not been experimentally researched. We believe that the opinions of young society members, their perception of bioethical ideas and principles are of great importance. The task of our experiment was to examine the attitudes of young people to euthanasia as a phenomenon; as well as to present and test a training program for the development of mercy and empathy in them as ways of internal self-regulation.

The main goal of the first stage of our study was to examine the respondents’ attitude to the phenomenon of euthanasia.

The second stage covered the implementation of the training concerning the study of various aspects of euthanasia.

Structurally, the training program for the study of euthanasia is divided into two units, which are represented by psychological training tools focused on the ability to determine the psychological aspects of dying and death, as well as moral and ethical, legal aspects of euthanasia, the ability to use them in professional activities to communicate with incurably ill people according to the principles of medical ethics and deontology (see Table 1). During the training, the students visited the geriatric boarding school.

Table 1.

Goals and Interdisciplinary Integration Euthanasia Study Training Program

| № | Name of the unit | Psychological training means | Form of work |
|----|--|--|---|
| 1 | Psychological Aspects of Dying and Death. Moral and Ethical, Legal aspects of euthanasia | Teaching students understanding the phenomena of life, death, suicide from the standpoints of law, psychology, and philosophy | Lectures, exercises, discussions |
| 2. | Psychological Aspects of Suicidal Behavior in Somatic Patients | Applying communication skills with incurably ill people, collecting complaints, conducting interviews according to the principles of medical ethics and deontology | Conversations with geriatric boarding school patients |

The purpose of the third stage was to examine changes according to the statistical criterion in the respondents’ attitudes to euthanasia after the training.

At the first and third stages, the students were suggested to fill in a written questionnaire form containing

questions concerning various aspects of the phenomenon of euthanasia. The respondents had to select one variant among the suggested statements.

The results of initial data (second stage of the study) obtained are shown in Table 2.

Table 2.

Initial Results of the Survey

| questions | answers, % | | | | | |
|--|---------------|-----------------------|---------------|------------------------|--|-------------------------|
| | Yes | | No | | I have never had incurably ill relatives | |
| Have you ever taken care of incurably ill close relatives? | 30.7 | | 16.7 | | 52.6 | |
| | “Acme” - 9,7% | “Leader of Law” - 21% | “Acme” - 9,5% | “Leader of Law” - 7.2% | “Acme” - 32,1% | “Leader of Law” - 20,5% |
| | Optimal | | Satisfactory | | Poor | |
| Would you consider your | Optimal | | Satisfactory | | Poor | |

| questions | answers, % | | | | | |
|---|--|-----------------------|--|-----------------------|--|------------------------|
| | state of health as optimal, satisfactory or poor? | 68.1 | | 30.2 | | 1.7 |
| “Acme”- 32,1% | | “Leader of Law” - 36% | “Acme”- 15,2% | “Leader of Law” - 15% | “Acme”- 1,1% | “Leader of Law” - 0,6% |
| Yes 71% | | No 18% | | Undecided 11% | | |
| Are you a religious person? | “Acme”- 38% | “Leader of Law” - 33% | “Acme”- 7% | “Leader of Law” - 11% | “Acme”- 5% | “Leader of Law” - 6% |
| | Spiritual 47% | | Material 44% | | Undecided 9% | |
| | I am against it. Euthanasia contradicts moral standards 65% | | Positively. Everyone has right to make choice 26% | | Neutral attitude 9% | |
| What values are the most significant in your life? | “Acme”- 25% | “Leader of Law” - 22% | “Acme”- 17% | “Leader of Law” - 27% | “Acme”- 1% | “Leader of Law” - 8% |
| | I am against it. Euthanasia contradicts moral standards 65% | | Positively. Everyone has right to make choice 26% | | Neutral attitude 9% | |
| | No, I don't. The choice of passing away is a symbol of loss of faith. 59 % | | Yea, I do. Everyone has right to choose: to live suffering, or to pass away and relieve pain. 24 % | | Undecided 17 % | |
| What is your attitude towards euthanasia in general? | “Acme”- 34% | “Leader of Law” - 31% | “Acme”- 10% | “Leader of Law” - 16% | “Acme”- 2% | “Leader of Law” - 7% |
| | Because of religion. A human being is the highest value. 43% | | Because of economic issues. 21% | | Its legalization can be dangerous for our society. суспільства 36% | |
| | “Acme”- 24% | “Leader of Law” - 19% | “Acme”- 6% | “Leader of Law” - 15% | “Acme”- 18% | “Leader of Law” - 18% |
| Do you believe a person may want to pass away? | No 75% | | Yes 22% | | Undecided 3% | |
| | “Acme”- 35% | “Leader of Law” - 33% | “Acme”- 13% | “Leader of Law” - 16% | “Acme”- 2% | “Leader of Law” - 1% |
| | Yes, undoubtedly. Life is the highest value. 70 % | | It depends. 28 % | | Undecided 2 % | |
| Why, in your opinion, euthanasia has not been legalized in Ukraine yet? | “Acme”- 34% | “Leader of Law” - 36% | “Acme”- 11% | “Leader of Law” - 17% | “Acme”- 2% | “Leader of Law” - 0% |
| | Should euthanasia be legalized in Ukraine? No 75% | | Yes 22% | | Undecided 3% | |
| | Should euthanasia be legalized in Ukraine? No 75% | | Yes 22% | | Undecided 3% | |
| Should euthanasia be legalized in Ukraine? | “Acme”- 35% | “Leader of Law” - 33% | “Acme”- 13% | “Leader of Law” - 16% | “Acme”- 2% | “Leader of Law” - 1% |
| | Yes, undoubtedly. Life is the highest value. 70 % | | It depends. 28 % | | Undecided 2 % | |
| | “Acme”- 34% | “Leader of Law” - 36% | “Acme”- 11% | “Leader of Law” - 17% | “Acme”- 2% | “Leader of Law” - 0% |
| Is life worth fighting for? | No 75% | | Yes 22% | | Undecided 3% | |
| | “Acme”- 35% | “Leader of Law” - 33% | “Acme”- 13% | “Leader of Law” - 16% | “Acme”- 2% | “Leader of Law” - 1% |
| | Yes, undoubtedly. Life is the highest value. 70 % | | It depends. 28 % | | Undecided 2 % | |

After the training program implementation, the respondents were interviewed. They were asked just one

question: “In your opinion, should euthanasia be legalized in Ukraine?”. The results are presented in Table 3.

Table 3.

Survey Results after the Training

| Should euthanasia be legalized in Ukraine? | No | | Yes | | Undecided | |
|--|-------------|-----------------------|-------------|-----------------------|------------|----------------------|
| | 62% | | 35% | | 3% | |
| | “Acme”- 33% | “Leader of Law” - 29% | “Acme”- 13% | “Leader of Law” - 22% | “Acme”- 2% | “Leader of Law” - 1% |

Thus, the main goal of the suggested training was to familiarize students with moral and ethical, and legal aspects of euthanasia, as well as making them aware of

pain and suffering experienced by incurable patients through the example of the geriatric house.

The analysis of the results of the study show that the vast majority of the respondents before the training (75%)

and after it (62%) think that the euthanasia should not be legalized in Ukraine. It should be noted that the majority of the respondents who supported the issue of euthanasia legalization after the training were students majoring in “Law” (22%), and only 13% of the students majoring in “Social Work” supported it. Thus, 13% have changed their minds and consider euthanasia to be an act of mercy which should be supported by law. The results are indicative of the fact that future social workers are less prone to mercy as compared to law students.

So, we can conclude that in most cases the civilized world opposes euthanasia in its active form, and our research has shown the same results.

Conclusions

Summing up the above, we can argue that the prohibition of euthanasia cannot be regarded as a violation of the right to life. After all, euthanasia as the right to death (suicide) contradicts the right to life, because it is inalienable. And it cannot be regarded as an act of mercy at the

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ЕВТАНАЗІЯ – ВЧИНОК МИЛОСЕРДЯ ЧИ ЖОРСТОКЕ ВБИВСТВО: ПСИХОЛОГО-ПРАВОВА ОЦІНКА ПРОБЛЕМИ

Міждержавні загрози, а особливо деструктивні характеристики західної цивілізації, підсилюють девальвацію традиційних моральних засад. Кризові стани в сучасному просторі сприяють сприйняттю цих негативних тенденцій, що, в свою чергу, провокує хаотичне переосмислення багатьох вікових досягнень морального прогресу, в тому числі вічного питання про цінність людського життя і можливості ним розпоряджатися. Звідси зрозумілий надзвичайний інтерес до проблеми евтаназії, яку з усією відповідальністю можна назвати однією з найбільш суперечливих і донині невіршених медико-деонтологічних, релігійно-етичних і психолого-правових проблем сучасності. Метою дослідження визначено системний аналіз суперечливих проблем евтаназії в сучасних практиках. Для розв'язання поставлених завдань було використано комплекс теоретичних методів для узагальнення та систематизації даних наукових досліджень із обраної проблематики; експериментальну методику дослідження феномену евтаназії; методи математичної статистики для аналізу отриманих експериментальних даних. Згідно з отриманими результатами, можна стверджувати, що заборона евтаназії не може розглядатися як порушення права на життя. Евтаназію потрібно кваліфікувати як один з видів вбивства, проте з привілейованим складом. Проведене нами експериментальне дослідження вказало на те, що українське суспільство ще не готове до легалізації евтаназії. Альтернативою евтаназії вважаємо створення хоспісів. Перспективи подальших наукових розвідок вбачаємо у дослідженні проблеми евтаназії шляхом застосування опитувального діагностичного методу для осіб, для яких евтаназія у разі легалізації стала би функціональним обов'язком – лікарів-онкологів, реаніматологів.

Ключові слова: евтаназія, легалізація, право на життя, право на смерть, вчинок милосердя, психологічна природа милосердя, активна евтаназія, пасивна евтаназія.

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