ASSISTED SUICIDE - BETWEEN THE RIGHT TO LIFE, THE OBLIGATION TO LIVE AND SOCIAL ACCEPTANCE

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ABSTRACT: Random House Webster's dictionary gives two definitions to the term euthanasia:

- "Mercy killing" - the act or practice of killing or permitting the death of hopelessly sick or injured individuals (as persons or domestic animals) in a relatively painless way for reasons of mercy

- "An easy or painless death"

The Romanian code of medical ethics from 2005 "absolutely prohibits euthanasia, or use of substances or means to cause death to a patient, regardless of the severity and prognosis, even if urged by a fully conscious patient".

The idea of euthanasia is not recent, and neither is its dismissal - the Hippocratic Oath says: "I will give no deadly medicine to any one if asked, nor suggest any such counsel;"

There are countries in Europe that approve these procedures when performed in specialized clinics or at the home of the patient (Switzerland, Netherlands), states that support assisted suicide in extreme cases or grant mitigating circumstances (France, Germany) and countries that categorically reject the idea (Romania, UK or Wales).

What is euthanasia or assisted suicide: a blessing not yet accepted by society or a curse too often allowed by law?

Keywords: right to life, assisted suicide, euthanasia, Christianity

1. Introduction

Jean Jacques Rousseau stated: "Man was born free but he is everywhere in chains." The individual has freedom, but this liberty has certain limitations created by the society he lives in.

The right to life is one of the most important rights of a person, being stated in the Universal Declaration of Human Rights, article 3: "any human being has the right to life, liberty and security of his person".

The European Convention of Human rights completes the right to life in the conception of the Universal Declaration of Human Rights, making reference to the phenomenon of assisted suicide. Article 2 says: "The right to life of any person is protected by law. Death cannot be inflicted to someone in a deliberate way, only through executing a capital sentence filed by a court, when the crime is punished through law with such a measure."

If there is a right to live, is there also a right to die? And what are the implications to such a phenomenon?

2. Euthanasia and assisted suicide

First of all there are two terms in use - euthanasia and assisted suicide. The difference between these two terms lie in the person who executes the final act. If a person commits this act, we are facing euthanasia. If the person administrates a certain type of drug, prescribed by the doctor with a lethal purpose, we are facing assisted suicide. Also, euthanasia can be active or passive.

Through active euthanasia we understand the action of putting an end to an ill man's life, with or without his consent (as an example, the action of a doctor who administrates a lethal injection to a patient in the terminal phase). Through passive euthanasia (indirect) we understand inducing death to an ill person by not acting or through stopping an act which has death as a consequence (exempli gratia, the doctor's

deliberate omission in administrating a certain treatment to an ill person with the purpose of causing death, interrupting the function of the life supporting medical equipment). The distinction between the two types of euthanasia was criticized in doctrine, being stated that the notion of passive euthanasia is nonsense, the real problem being the absence of a therapeutically intervention. This proves that the passive treatment is not adequate because interrupting the treatment is considered an act and it implies an active attitude.

Jack Kevorkian was known as "the father of assisted suicide", a promoter of this concept, was called "Death Doctor". He had helped over 130 patients to commit suicide, but in 1999 he was accused of murder, after broadcasting a video tape with an assisted suicide of a subject in terminal phase. The method Kevorkian used was known as the "mercy machine" which intravenously administrated a lethal dose of a drug. As an irony, the Death Doctor had a natural death, he lived until 83 years old and died of a clot formed in his leg which reached his heart.

The European Court has shown its position regarding "the right to die" through the case Pretty against The United Kingdom. The claimer was suffering of a progressive degenerative incurable disease, being paralyzed, but she kept her intellectual faculties. She wanted to commit suicide, but due to her state, she could not do it alone, needing the assistance of her husband. The claimer wanted to be sure of the fact that her husband would not be accused for helping her commit suicide. She argued that if there is a right to live, there should be a right to die, saying that "if most people wish to live, some wish to die".

Depleting the internal means of attack, at 21 December 2001, the claimer addressed the European Court, stating that the refusal of the English authorities of granting her husband's immunity in penal pursuit represents, among others, a violation of article's two provisions from the Convention. In motivating her request, the claimer reaffirmed the arguments stated in front of the national courts. In her decision, the European court started with the acknowledgement that in all the cases in which she was summoned to pronounce herself regarding the interpretation of article 2 from the Convention, she highlighted the obligation of protecting life, which this text implies to the states which signed the document .Therefore, the Court is not convinced that "the right to life" guaranteed by article 2 could be interpreted under a negative aspect. Because article 2 from the Convention does not state anything about the quality of life- the claimer had shown, in her request that her life had become embarrassing, due to her degenerative illness or the context in which a person can chose what to do with his own life, meaning that life is at his disposition, only through a language distort could article 2 be interpreted in a total opposite way regarding the right to a life, meaning the right to die.

The Court had clearly expressed the opinion that article 2 cannot be interpreted in the way in which it can offer a right to die; "death cannot be deliberately inflicted to someone" can be applied even if the person gives his consent to die. The European Convention of Human Rights warrants, through article 2, the protection of the right to life above anything else.

The right to live, therefore, does not imply the right to die. It would certainly be difficult to assert an interpretation to article 2 which could lead to the admission, in the name of the state's positive obligations, of a right to die: such an approach would be more criticized if through the game of positive obligations, European judges had extended the area of application of some articles of the Convention, together with article 2 which would do this with the concern of preserving life. In fact, the crucial problem is knowing if euthanasia (or, in particular cases, assisted suicide) should not be penalized, fact which would not represent the establishment of the right to die: ultimately, when some European legislations did not penalize suicide, this fact was not acknowledged as a recognition of the right to die. Therefore, the fact that a state refuses such a penalization can be considered an achievement of the article 2.

National solutions- in France, the legislation ignores euthanasia, the principle being that the victim's consent is not a justified fact, but the debate has already started (…). French law explicitly consecrates a right to die through the abstention from treating ill people at the end of their life. Some European states had provided an attenuated punishment for the author of euthanasia, especially Germany (art. 134 Penal Code), Austria (art. 77 Penal Code) or Portugal (art. 134 Penal Code). On the other hand, Belgium and Holland authorize and adjusts euthanasia (Belgian law from 12 April 2001 and Dutch law from 28 May 2002) which is a first in Europe. 4

In 2011, through a referendum, Switzerland voted in an overwhelming percent, 85% against forbidding assisted suicide. The state grants this procedure for strangers also, giving birth to a strange phenomenon, "the suicide tourist".

Since 1941, when women had no right to vote, gaining this right in 1971, Switzerland adjusted assisted suicide, being considered a highly important fact for the individual to exercise its rights and liberties.

Does euthanasia have anything to do with the state's religion? For example, Christianity states that taking your own life is a capital sin and only God can decide this.

Queen Beatrix, queen of the Netherlands (Holland and two insular regions from the Caribbean: the Dutch Antilles and Aruba) did not oppose the euthanasia legislation, a key factor being probably the protestant religion of the queen.

Two big clinics from Switzerland which practice euthanasia are Exit and Dignitas. If the latter offers its services even to non-Swiss people, Exit refuses this thing, as Bernhard Sutter explains: "we cannot solve the problems of dying all over Europe and it is very sad that sick people in final stages need to travel thousands of miles in order to get to a liberal country where they can die. The other states should resolve their own problem with the dying and we would be grateful if Germany and Great Britain changed their legislation".

In Switzerland, there had been cases of couples which turn to such a procedure, an example being Peter Duff and his wife, Penelope, both cancer patients, in final stage.

Even the British news station BBC aired a live assisted suicide of a billionaire who died on 10 December 2010, choosing this method because of a degenerative neuronal illness.

This phenomenon goes even further in Holland, reaching the point where assisted suicide is provided at home. There are mobile teams which assure this fact, but in extremely strict conditions: the patient must suffer from a terminal phase disease and there must be certain that there no possible treatment for that disease and the patient must have his mental faculties intact when he chooses this king of services.

There were also cases when people did not commit suicide as a result of an illness, but after depressions from personal life. This is the case of 62 year old Andrei Haber, assisted by the Swiss clinic Dingitas which provided him with lethal substance, the patient wanting, after the procedure, to be incinerated and his ashes "spread in such a way in which no trace of him will remain on this world in which he came by mistake."

In the case of Andrei Haber it could have been easier for him to be treated for his depression by a psychologist rather than providing him the assisted suicide procedure.

Euthanasia or assisted suicide represents a crime committed by others or yourself or the chance of spearing a man of the anguish of an incurable and painful disease and even the right of having a dignified death?

Even if this procedure can be seen as a redemption, things have gone too far because it is not normal to turn to such a procedure for a depression, even if, from a medical point of view, it is a disease, it is not incurable or physically painful.

Romania is one of the countries which reject the practice of assisted suicide, a powerful argument being religion because over 99% of the population are Christians.

The final moment of life presents a crucial importance in deciding the juridical framework of the action through which a body damage is inflicted to a person who is in a vegetative state for a long period of time, without being brain dead and the medical reports clearly specify the lack of chances of survival. Regarding the development of medical science at the moment, it is possible to maintain a person in a vegetative state for a long period of time, in the case in which cerebral death does not occur. Therefore, according to the doctrine and the actual penal jurisprudence, although medical reports indicate imminent death in the future, the lack of possibilities of turning towards passive euthanasia, until the moment of cerebral death, penal pursuit could only target attentive murder (manslaughter, qualified murder or felony murder- art. 174-176 Penal Code) or aggravated assault-art. 182 Penal Code (in the case the acts of violence - did not intent to suppress life). We consider that, in the future, the problem of the moment when death occurs, we should consider a wider approach, taking into consideration the special worldwide development of medical techniques.

The cases of suicide cannot be convicted through law because a deceased person cannot be accused and the attempt is not punished by the penal law. Is it also suicide for a person to refuse a person to continue treatment or medication? Even if euthanasia or assisted suicide is not accepted by all the states, suicides occur everywhere, without a legal means of stopping them.

Assisted suicide and euthanasia represent methods used to spare the patient from suffering, to avoid years of anguish, especially in the case of an incurable disease. This argument is strongly related with the people's desire to die in dignity, without being a burden for others, without reaching the point of human degradation which is embarrassing.

According to some opinions, people should have the right to decide the moment of their own death, especially in the case of a disease, saving the family and relatives from hard moments. In addition, it is not normal fir the patient to be kept alive just with the help of medical equipment in the attempt of extending the natural period of life.

If we reduce this whole process to a number, the costs for nursing incurable patients would be considerably lower.

Arguments against euthanasia or assisted suicide start from a religious background where life is sacred and only God can decide when to take someone's life.

Still, there is also the case when the diagnosis is wrong or the case in which the rapid development of medicine can provide new treatments which can lead to controlling or curing a disease. This fact, adopted at a larger scale, could stop the development of medicine due to the fact that everyone could select this method when the disease degenerates and specialists wouldn't have to search for solutions.

3. Conclusion

Legalizing euthanasia worldwide would turn it into a common practice, a routine practice, as in the case of Holland, where this service is provided at home. Also, it is important that this procedure to be chosen due to an incurable and painful disease, not depression or other psychological issues.

From the emotional point of view, some people could choose this method because they do not want to be a burden for the family, relatives or people who nurse them, reaching the point where they feel useless.

Euthanasia or assisted suicide must be, without any doubt, the personal decision of an individual, without the influence of other people. It is a decision which requires full responsibility, because at stake is a human's life, the most valuable thing anyone can have.

Despite these facts, are these acts crimes or do they ensure a person's right to redemption and the choice of a dignified death?

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