

***BIOETHICS DILEMMA TOWARDS THE PRACTICE OF EUTHANASIA
FROM THE PERSPECTIVE OF LAW AND INTERNATIONAL HUMAN
RIGHTS***

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ABSTRACT

This study examines the bioethical dilemma regarding the practice of euthanasia, focusing on the perspectives of law and international human rights. The study aims to answer how the discipline of bioethics views the practice of euthanasia in the context of international human rights and how the dilemma between patient autonomy and the principles of non-maleficence and beneficence is addressed within euthanasia legal policies. This research uses normative and descriptive analysis to reveal the ethical and legal implications of euthanasia, and presents policy recommendations to strengthen the protection of patient rights and medical ethics.

Keywords: *Euthanasia, Bioethics, Human Rights, Medical Ethics.*

ABSTRAK

Penelitian ini mengkaji dilema bioetika terhadap praktik *euthanasia*, dengan fokus pada perspektif hukum dan hak asasi manusia internasional. Studi ini bertujuan menjawab pertanyaan bagaimana disiplin bioetika memandang praktik *euthanasia* dalam konteks hak asasi manusia internasional dan bagaimana dilema antara otonomi pasien dengan prinsip *non-maleficence* dan *beneficence* diatasi dalam kebijakan hukum euthanasia. Penelitian ini menggunakan analisis normatif dan deskriptif untuk mengungkap implikasi etis dan legal euthanasia, serta menyajikan rekomendasi kebijakan untuk memperkuat perlindungan hak pasien dan etika medis.

Kata Kunci: *Euthanasia, Bioetika, Hak Asasi Manusia, Etika Medis.*

A. INTRODUCTION

Euthanasia is a form of action deliberately undertaken to end a person's life, created to minimize the suffering experienced by patients with terminal illnesses or conditions that are incurable and cause unbearable pain.¹ The term euthanasia originates from the Greek language, meaning "good or easy death," and has been a topic of philosophical, medical, bioethical, moral, and legal debate for over a century.²

Historically, euthanasia has not always been prohibited or considered unethical by society, as in some cases, it is regarded as an ethical act to end incurable suffering.³ In the 19th and 20th centuries, debates about euthanasia became more frequent and more easily documented, partly due to advances in medical technology that allowed for better and longer-sustained life expectancy.⁴ However, during World War II, the practice of euthanasia was often misused by the Nazis, as it was frequently conducted without consent on individuals who were not in poor medical condition, but rather as part of mass murder.⁵

In practice, euthanasia is divided into several types based on its execution. The first is active euthanasia, which involves direct actions to cause a patient's death, typically involving the administration of drugs or substances injected into the body or through an intravenous.⁶ The second is passive euthanasia, which involves stopping efforts to prolong a patient's life, such as discontinuing mechanical ventilation or dialysis therapy and not performing resuscitation.⁷ The third type is assisted suicide, where the patient is allowed to take measures to end

¹ Yakovleva E.V. & Borodulina E.A., *Euthanasia and Palliative Care in Pulmonology*, Bioethics Journal, Vol. 15, Number 1 (2022), p.59.

² Sumachev, A., *Euthanasia: Moral and Legal Aspects*, Annals of Bioethics & Clinical Applications, Vol. 4, Issue 1 (March 2021), p.2.

³ Saraf, A., et. al., *Euthanasia: Ethical or Non-Ethical*, Medico-Legal Update, Vol. 20, Number 4 (2020), p. 1534.

⁴ Lawrence, C., *Making medicine scientific: John Burdon Sanderson and the culture of Victorian science*, Medical History, Vol. 47, Issue 4, p.538.

⁵ Felder, B., *Euthanasia, Human Experiments, and Psychiatry in Nazi-Occupied Lithuania, 1941-1944*, Holocaust and Genocide Studies, Vol. 27, Issue 2, Fall 2013, p.247.

⁶ McCarrick, P., *Active Euthanasia and Assisted Suicide*, Kennedy Institute of Ethics Journal, Vol. 2, Number 1 (March 1992), p. 84.

⁷ Garrard, E. & Wilkinson, S., *Passive Euthanasia*, Journal of Medical Ethics, Vol. 31, Issue 2 (2005), p. 65.

their own life, but medical personnel provide the means and medications for the patient to do it themselves.⁸

Legal responses to euthanasia vary significantly across the world. Some countries have fully supported and legalized euthanasia under strict conditions, including⁹ the Netherlands under The Termination of Life on Request and Assisted Suicide (Review Procedures) Act of The Netherlands, Canada under the Medical Assistance in Dying (MAID) of Canada, and Western Australia under the Voluntary Assisted Dying Act 2019 of Western Australia. However, this does not eliminate the controversy surrounding euthanasia, as it is still often considered illegal and viewed as a form of murder with severe penalties for those involved in its practice. One such country that continues to oppose the practice of euthanasia is Indonesia.¹⁰

Due to its controversial nature, countries that legalize euthanasia have strict requirements for its implementation. The euthanasia decision-making process involves steps such as thorough consultations and diagnoses between patients, families, doctors, and often involves a psychiatrist.¹¹ It also requires written consent from the patient, ensured to be free from any external pressure or coercion. Additionally, adherence to legal guidelines based on regulations from each country and national health authority bodies is required.

Nevertheless, international organizations such as the World Health Organization (WHO), United Nations (UN), and International Association for Hospice and Palliative Care (IAHPC) have not issued specific statements opposing or supporting the practice of euthanasia,¹² leading to widespread ethical and moral debates among the public. This is primarily due to the lack of a

⁸ McCarrick, P., Op. cit., p. 89.

⁹ Emanuel, E., et. al., *Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe*, JAMA, 316 (1) (July 2016), p. 81.

¹⁰ Ibid, p. 88.

¹¹ Roest, B., et. al., *The involvement of family in the Dutch practice of euthanasia and physician assisted suicide: a systematic mixed studies review*, BMC Medical Ethics, 20, Art. number 23 (2019), p. 3.

¹² Lima, L., et. al., *International Association for Hospice and Palliative Care Position Statement: Euthanasia and Physician-Assisted Suicide*, Journal of Palliative Medicine, Vol. 20, Number 1 (January 2017), p. 10.

definitive and specific opinion issued by international organizations that could serve as a reference for a universally accepted answer.¹³

Based on the introductory explanation above, this paper will be focus with the objective of addressing the following two issues:

1. What are the bioethical perspectives on the practice of euthanasia based on international human rights?
2. How can the dilemma between patient autonomy and the principles of non-maleficence and beneficence be resolved in the legal policies related to euthanasia?

B. DISCUSSION

In examining the practice of euthanasia, the ethical dilemma related to bioethics and advancements in the medical world has become a central point of debate and discussion that concerns not only law but also international human rights.¹⁴ The right to live and the right to die have both been recognized within the framework of dignified human rights, yet these aspects often conflict, creating complex questions about values that can be reconciled in medical practice and legal policy.¹⁵ In this section, the discussion will aim to explore legal policies in various jurisdictions, striving to balance the position of this dilemma with the goal of identifying policy elements that can address the tension between patient autonomy and the ethical principles governing medical ethics.

1. The bioethical perspective on the practice of euthanasia based on the view of international human rights

Bioethics is an academic discipline that studies and focuses on ethical, moral, philosophical, and social questions arising from advances in biology in terms of medicine and biomedical technology.¹⁶ This field has

¹³ Arsic, Milos, *Euthanasia and moral dilemmas*, Medicinski caposis, Vol. 56, Br. 1 (2022), p. 29.

¹⁴ Simovic Darko, Z., *Euthanasia and ethical dilemmas: Human dignity against sanctity of life*, SCIndeks, Vol. 51, Br. 2 (2017), p. 320

¹⁵ Chetwynd, S., *Right to life, right to die and assisted suicide*, Journal of applied philosophy, Vol. 21, Number 2 (July 2004), p. 176.

¹⁶ Tornini, V., *Maximizing biomedical research impacts through bioethical considerations*, Disease Models & Mechanisms, Vol. 16, Issue 4 (2023), p. 2.

grown significantly due to the ethical dilemmas faced by medical professionals, patients, and medical researchers in the face of rapidly advancing technology over this century.¹⁷

Bioethics not only focuses on discussing individual ethical issues in medical practice but also examines health policies and the implementation of laws that should be enacted in addressing issues related to medical needs.¹⁸ The principles of bioethics emphasize respecting the rights of individuals to make their own decisions, ensuring that the benefits and burdens of medical care are well distributed, medical personnel do their best for patients, and do not cause harm.¹⁹ Thanks to these challenges, medical professionals are forced to promote dialogue across disciplines to ensure that technological advancements can enhance human welfare in a fair manner.

International human rights have become an important guideline influencing many aspects of life, including medical practice and bioethics.²⁰ In the medical context, human rights guide how healthcare should be provided and managed, and how patient rights are respected and protected.²¹ The right to life is a fundamental principle in international human rights, widely recognized as an absolute right and guaranteed by various international legal instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.²²

Euthanasia is defined as the act of ending a person's life to alleviate suffering, typically at the person's request. From a human rights perspective, euthanasia is viewed as an action that is inconsistent with the

¹⁷ Haahr, A., *Nurses experiences of ethical dilemmas: A review*, Nursing Ethics, Vol. 27, Issue 1 (April 2019), p. 262.

¹⁸ Van Der Burg, W., *Bioethics and law: a developmental perspectives*, Bioethics, Vol. 11, Issue 2 (June 2008), p. 99.

¹⁹ Ibid, p. 102.

²⁰ Andorno, R., *Human dignity and human rights as a common ground for a global bioethics*, The Journal of medicine and philosophy, Vol. 34, Issue 3 (June 2009), p. 230.

²¹ Cohen, J., & Ezer, T., *Human rights in patient care: a theoretical and practical framework*, Health and human rights, Vol. 15, Issue 2 (2013), p. 11.

²² Joseph, S., *Extending the Right to Life Under the International Covenant on Civil and Political Rights*, Human Rights Law Review, Vol. 19, Issue 2 (June 2019), p. 353.

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principle of the right to life.²³ Countries that prohibit euthanasia also argue that the right to life is distinct from the right to die. However, supporters of euthanasia argue that the right to life is inseparable from the right to die because a person has the right to maintain their dignity, including when facing insurmountable suffering and choosing their own manner of death.²⁴

In this context, bioethics plays a critical role in the discussion and guidance of euthanasia practice policies because bioethics upholds principles that ensure patients receive appropriate care.²⁵ Regarding euthanasia, some believe that legalizing euthanasia contradicts the principles of palliative care adopted by the discipline of bioethics. However, others believe that the legalization of euthanasia is necessary as it provides a form of justice, allowing patients to decide the end of their own lives.²⁶

From the perspective of International Law, several countries that have legalized the practice of euthanasia as a form of support to maintain the dignity of patients to obtain their right to die must enforce strict conditions in practicing euthanasia within their societies.²⁷ The Netherlands was the first country in the world to legalize active euthanasia and assisted suicide with strict conditions.²⁸

The stringent regulations implemented by the Netherlands include involving the Dutch ministries as per Article 1(a) of The Termination of Life on Request and Assisted Suicide (Review Procedures) Act of The Netherlands which states, "Our Ministers mean the Ministers of Justice

²³ Felder, B., Op. cit., p. 243.

²⁴ Math, S., & Chaturvedi, S., *Euthanasia: Right to life vs right to die*, The Indian Journal of Medical Research, Vol. 136, Issue 6 (December 2012), p. 900.

²⁵ Van Der Burg, W., Op. cit., p.100.

²⁶ Uğur, Aşkın, & Korhan, Yeğrim, *ÖTANAZİ VE HASTANIN KENDİ GELECEĞİNİ BELİRLEME HAKKI ARASINDAKİ İLİŞKİ*, Türkiye Adalet Akademisi Dergisi, Vol. 52 (October 2022), p. 3.

²⁷ Simovic Darko, Z., Op. cit., p. 321.

²⁸ Janssen, A., *The new regulation of voluntary euthanasia and medically assisted suicide in the Netherlands*, International journal of law, policy, and the family, Vol. 16, Issue 2 (August 2002), p. 262.

and of Health, Welfare and Sports,"²⁹ and regional committees according to Article 3(1) which states, "There are regional committees for the review of notifications of cases of termination of life on request and assistance in a suicide as referred to in Article 293 second paragraph or 294 second paragraph second sentence, respectively, of the Penal Code."³⁰

Additionally, Canada is another example that legalized euthanasia in June 2016 following the Carter v. case in 2015, which led the Supreme Court of Canada to decide to amend the Canadian Criminal Code to permit and regulate the provision of Medical Assistance in Dying (MAID).³¹ To qualify for MAID, patients in Canada must be at least 18 years old and have full mental capacity, voluntarily make the request, consistently state the request, suffer from a severe medical condition as evidenced by the opinion of one or more doctors, and be in a condition of irreversible decline.³²

Therefore, within the academic discipline of bioethics, it is exceedingly difficult to provide a simple and definitive answer when assessing the ethical and moral dimensions, due to the numerous pros and cons from all aspects and sides.³³ Thus, there is no definitive answer as to whether euthanasia is ethical or not according to bioethics. However, at least the discipline of bioethics can provide a framework to form the basis for reflection on discussions about ethical considerations that lead to solutions that most respect the values and needs of individuals and society.

Although the purpose of the bioethics discipline is clear, which is to resolve ethical dilemmas in biomedical technology, support care that can extend human life expectancy, protect the rights and dignity of patients, and encourage and promote public discussion related to the development

²⁹ The Netherlands, *The Termination of Life on Request and Assisted Suicide (Review Procedures) Act of The Netherlands*, Article 1(a).

³⁰ Ibid, Article 3(1).

³¹ Beuthin, R., et. al., *Medical assistance in dying (MAiD): Canadian nurses' experiences*, Nursing Forum, Vol. 53, Issue 4 (July 2018), p. 513.

³² Ibid, p. 516.

³³ Sumachev, A., Op. cit., p.3.

of science.³⁴ To date, the statements from the discipline of bioethics are limited to elaborating the pros and cons of the practice of euthanasia through bioethical principles such as the principles of patient autonomy, beneficence, and non-maleficence.³⁵

2. The dilemma between patient autonomy and the principles of non-maleficence and beneficence in legal policies related to euthanasia

The principles of the bioethics discipline, which are often used as the basis for decision-making and ethical actions in the field of medical science, were formulated by Tom Beauchamp and James Childress in their book titled “Principles of Biomedical Ethics”.³⁶ There are four main principles contained within the discipline of Bioethics including Autonomy, Beneficence, Non-maleficence, and Justice.³⁷ In practice, these principles form a framework that helps ensure medical decisions are made ethically and morally.

The pros and cons of the principles of the bioethics discipline in viewing Euthanasia include:

a. The principle of autonomy

The principle of autonomy emphasizes respect for an individual's ability to make free decisions for themselves.³⁸ In the context of medical practice, this means that patients must be provided with adequate and comprehensive information about their medical condition, treatment options, and the risks and benefits of the proposed treatments.³⁹ This is to ensure that patients have the freedom to determine their own fate, including the right to accept or reject medical treatment.

³⁴ Tornini, V., et. al., Op. cit., p.4.

³⁵ Holm, S., *Not just autonomy – the principles of American biomedical ethics*, Journal of Medical Ethics, Vol. 21, Issue 6 (December 1995), p. 335.

³⁶ Tom L., Beauchamp, & James F., Childress, *Principles of biomedical ethics*, Oxford University Press, New York, 2013, p. 7.

³⁷ Ibid, p. 10.

³⁸ Florijn, B., The Principle of Autonomy in Biomedical-and Neuroethics, The American Journal of Bioethics, Vol. 22, Issue 10 (2022), p.9.

³⁹ Ibid, p. 10.

Supporters of euthanasia often link the importance of individual autonomy to a person's right to make decisions to end their own life in situations of unrelievable suffering.⁴⁰ From this perspective, euthanasia is seen as the ultimate expression of a patient's personal autonomy. On the other hand, opponents of euthanasia argue that patients may be under psychological or social pressure that influences their decisions to request euthanasia, casting doubt on whether the decisions made by the patients are truly autonomous.⁴¹

b. The principle of beneficence

The principle of beneficence is an action that requires medical professionals to aim to benefit the patient's ongoing life.⁴² This involves planning and carrying out the best possible actions for the health and welfare of the patient, including all efforts to reduce pain and suffering while enhancing the patient's bodily functions as much as possible. In many practices, beneficence is a major driving force behind medical interventions.⁴³

Supporters of euthanasia consider the act of euthanasia useful for reducing unnecessary suffering for patients with severe, chronic, or terminal conditions. From the perspective of beneficence, helping to end a patient's suffering is one of the functions and responsibilities that medical personnel should undertake to alleviate the discomfort of a patient's life.⁴⁴ Additionally, euthanasia is seen as providing patients with the opportunity to die with dignity, especially for those suffering from degenerative diseases who are confined to bed.

⁴⁰ Geest, S., & Satalkar, P., *Autonomy and dying: Notes about decision-making and "completed life" euthanasia in the Netherlands*, *Death Studies*, Vol. 45, Issue 8 (2021), p. 616.

⁴¹ George, K., *Autonomy and vulnerability at the death bed*, *University of Western Sydney Law Review*, Vol. 10 (2006), p. 139.

⁴² Jansen, L., *Medical Beneficence, Nonmaleficence, and Patients' Well-Being*, *The Journal of Clinical Ethics*, Vol. 33, Number 1 (2022), p. 26.

⁴³ *Ibid*, p. 27.

⁴⁴ *Ibid*, p. 28.

Opponents of euthanasia, however, worry that the practice can be misused, for example, patients who feel pressured and choose euthanasia as a way to relieve family burdens. In such cases, the action may not be the best possible intervention for the patient. The legalization of euthanasia complicates the objective assessment of the level of suffering and desperation of patients, especially if the health diagnosis is incorrect or inaccurate, yet the patient has decided to proceed with euthanasia.⁴⁵

c. The principle of non-maleficence

In the discipline of bioethics, the principle of non-maleficence is a directive to medical personnel not to cause harm and prohibits medical professionals from injuring patients. Supporters of euthanasia consider allowing patients with terminal illnesses to continue experiencing their suffering until the end of their lives as a form of medical personnel performing harmful and unethical actions. In some cases, there are patients who attempt to end their lives in more traumatic ways due to the lack of access to assisted suicide.⁴⁶

On the other hand, opponents of the euthanasia practice state that non-maleficence is a foundational ethical principle that demands doctors not harm patients. Taking a life, even at the patient's own request, is not the duty of a doctor who is supposed to protect life.⁴⁷ Therefore, many also believe that euthanasia is still not an appropriate action. Moreover, some critics argue that legalizing euthanasia could have detrimental social impacts and weaken societal norms as well as disregard

⁴⁵ Florijn, B., *Extending' euthanasia to those 'tired of living' in the Netherlands could jeopardize a well-functioning practice of physicians' assessment of a patient's request for death*, Health Policy, Vol. 122, Issue 3 (2018), p. 317.

⁴⁶ Karlsson, M., et. al., *Dying cancer patients' own opinions on euthanasia: An expression of autonomy? A qualitative study*, Palliative Medicine, Vol. 26, Issue 1 (May 2011), p. 37.

⁴⁷ Florijn, B., *Op. cit.*, p. 318.

invaluable life values. Immature and poor regulations can complicate the issue and make euthanasia a new subject of criminal activity among medical personnel.⁴⁸

d. The principle of justice

The principle of justice in bioethics refers to providing fair and equal treatment to every patient, regardless of their background.⁴⁹ Supporters of euthanasia argue that patients, as human beings, have the fundamental right to end their lives, especially in conditions of severe suffering.⁵⁰ The death of a patient does not impact the lives of others, and society may not understand the pain felt by patients with fatal chronic diseases. Some people may have been waiting for the opportunity to die peacefully; legalizing euthanasia might be the answer to the long-awaited dreams of patients around the world.

On the other hand, opponents of euthanasia highlight that this practice can be exploited against the elderly, the poor, and those who are not fully mentally capable, to be "eliminated".⁵¹ In this case, justice can be undermined by providing access to euthanasia for those who actually do not wish to be euthanized. Moreover, euthanasia can divert resources from the development of palliative care and general healthcare, thus diminishing the efforts and hard work of medical personnel in finding ways to improve the life expectancy of humans.

This debate complicates decision-making for international organizations such as the UN, IAHP, and WHO when issuing statements regarding the support or opposition to the practice of euthanasia. International law grants complete freedom to all countries to interpret on

⁴⁸ Pereira, J., Legalizing euthanasia or assisted suicide: the illusions of safeguards and controls, *Current oncology*, Vol. 19, Issue 3 (2012), p. 41.

⁴⁹ *Ibid*, p. 42.

⁵⁰ Rujis, C., et. al., *Unbearable suffering and requests for euthanasia prospectively studied in end-of-life cancer patients in primary care*, *BMC Palliative Care*, 13:62 (December 2014) p. 3.

⁵¹ Krag, E., *Rich, white, and vulnerable: rethinking oppressive socialization in the euthanasia debate*, *The Journal of medicine and philosophy*, Vol. 39, Issue 4 (August 2014), p. 414.

their own the steps that must be taken to fulfill the human rights of a patient in accessing euthanasia.⁵²

In addressing the dilemma of pros and cons against these principles, the legal policies related to euthanasia must be formulated with a very careful and structured approach without allowing any legal loopholes that endanger the lives of others.⁵³ First, to respect patient autonomy, legal policies must ensure that euthanasia is based on free and well-informed consent. To support this process, strict verification and approval need to be implemented, including evaluation by several independent health professionals who can confirm that decisions are made without coercion.

Furthermore, to fulfill the principles of beneficence and non-maleficence, legal policies must integrate preventive measures to ensure that the practice of euthanasia is used only as a last resort, after all palliative care efforts have been implemented and no hope of alleviating patient suffering is found.⁵⁴ This includes a mandate for consultation with palliative care specialists and, in certain conditions, the need for approval from an ethical panel. Additionally, strict supervision and periodic review of euthanasia cases are necessary to ensure that the practice meets standards and is truly implemented for the benefit of the patients.

C. CONCLUSION

Based on the introduction and discussion of the first and second problem statements outlined above, the author concludes that:

1. Bioethics, which develops responsively to ethical dilemmas in the era of biomedical advancements, examines moral, ethical, and social issues in medicine and technology. This discipline is founded on four main principles: autonomy, beneficence, non-maleficence, and justice to ensure that medical decisions are made ethically. Euthanasia, as a controversial issue, is debated based on these principles. Supporters highlight the

⁵² Lima, L., et. al., Op. cit, p. 10.

⁵³ Tur, R., *Just how unlawful is "euthanasia"?*, Journal of applied philosophy, Vol. 19, Issue 3 (February 2003), p. 222.

⁵⁴ Benedict, S., et. al., *Historical, ethical, and legal aspects of assisted suicide*, The Journal of the Association of Nurses in AIDS Care, Vol. 9, Issue 2 (April 1998), p. 37.

reduction of suffering and the preservation of dignity, while opponents consider it a violation of the right to life and potentially subject to misuse. Legal policies in countries like the Netherlands and Canada attempt to balance the needs and rights of patients with strict ethical and legal protections.

2. The principles of the bioethics discipline-autonomy, beneficence, non-maleficence, and justice-form a crucial foundation in the ethical assessment of medical practices such as euthanasia. Autonomy respects patients' freedom to make decisions about their care, including the choice for euthanasia, while beneficence supports actions that benefit patients by reducing suffering. Non-maleficence reminds medical professionals to avoid harming patients, creating a dilemma in the context of euthanasia where ending life can be seen as harming. Justice demands fair and equal access to all treatment options, including euthanasia. In practice, achieving a balance between these principles in legal policies requires case-by-case evaluation, with a strong emphasis on individual context and situational ethics.

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