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## SOCIAL ASPECT OF HUMAN BEING

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### Legitimation of Euthanasia Decisions: A Philosophical Assessment of the Assisted Life Termination

**The purpose** of this article is to find out whether philosophical and anthropological studies of human nature affect the legitimization of decisions about human life and death, using the example of a philosophical analysis of the problem of euthanasia. **Theoretical basis.** Philosophically and anthropologically based situational analysis in bioethics is chosen as the research methodology, which reveals the legitimation of euthanasia as a complex and highly responsible moral decision, which should be based on both the consideration of all the patient's special circumstances and the competent and adequate application of fundamental knowledge about the human being. **Originality.** From a philosophical point of view, it would be correct to legalize euthanasia, but under the condition of significantly limiting the cases of its application, clearly defining the conditions for its provision and strict control over its implementation. It is morally unacceptable to justify either murder or torture, so euthanasia appears as an attempt to avoid both at the same time. **Conclusions.** Specific solutions to practical problems often indicate the necessary direction for solving theoretical difficulties. Thus, making proper moral decisions about euthanasia requires reliance on fundamental knowledge about human beings, but at the same time it provides arguments "for" and "against" artificial termination of life. The basic principles of bioethics – autonomy, nonmaleficence, beneficence and respect for the dignity of human life – serve as criteria for making balanced ethical decisions both in theory and in practice. These principles should be complemented by a coherent ethical, legal and philosophical position on euthanasia, which is achieved through legitimation procedures. Decisive for making a decision on euthanasia should be the strong desire of the patient himself.

*Keywords:* human life; human death; euthanasia; legitimation; principles of bioethics

#### Introduction

The issues of human life and death have always been sensitive and even often delicate for everyone, but in times of war, these issues inevitably become acutely relevant. After all, a person who is naturally quite vulnerable physically suddenly finds himself or herself bodily vulnerable in a time of war, regardless of taking care of his or her own body. In war, the strongest often die, because they are the ones who go into battle as soldiers, where death lurks at every turn. Therefore, it is often not the lot that decides who goes into the most life-threatening battles, but the human will – and not of the soldier himself, but that of his commanders. This draws attention to the fact that even in peacetime decisions about a person's life are often made not by the person himself, but by a third person, such as a doctor. The grounds on which such decisions are made can be classical and preserved since the ancient times, but they can also change quite significantly as culture and civilisation develop. In addition, different types of societies may also have quite different criteria for making decisions about life and death. To systematise these grounds and explain them conceptually, it is worth turning to the theory of legitimation, or rather to the

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branch of philosophy that studies, compares and generalises various conceptions of legitimation proposed by philosophers from ancient times to the present day.

Now, during the war in Ukraine, the threat of a global food and environmental crisis (due to the danger of damage to nuclear facilities) has arisen, and the issue of revising the value foundations of social life in general, and medical theory and practice in particular, is becoming particularly acute. The problems that seemed distant and hypothetical to us are now taking on a new meaning. During the war, millions of Ukrainians suffered and were forced to leave their homes, thousands lost their families and homes. Can bioethical principles and traditional values remain unchanged at this time? Obviously, no. Increasingly, during crises, ethical/axiological issues are also manifested in the economic, political, and legal spheres as points of practical intersection of humanitarian and natural, social and biological scientific views on human nature in general and the conditions of human survival in particular.

*The methodology* of this study is the situational analysis in bioethics and its theoretical justification. Bioethics today, in our opinion, is becoming more and more applied, it is able not only to define the limits of human life, outline the horizons of acceptable human survival (as a species), but also to offer effective mechanisms, tools and SOPs (standard operating procedures) to respond to dilemmas that arise in crisis situations. Bioethics, along with axiology, have a sufficient basis in various ethical theories: Aristotle's virtue ethics, Immanuel Kant's practical ethics, Adam Smith's and Jeremy Bentham's utilitarianism, Christian ethics, discursive ethics, etc. Based on this theoretical diversity, bioethics can be seen as an applied ethics, i.e., the application of appropriate (relevant to a particular problem and situation) theoretical ethical norms or provisions to solve certain practical problems. A vivid, albeit sad, example of this statement is the use of medical triage in wartime. For more information about the peculiarities and future of moral theories, deontology and applied ethics, including their role in the healthcare sector, see the study "Setting Health-Care Priorities" by Norwegian ethicist Torbjörn Tännsjö (2019). This study has both its strengths and controversies (Hubenko & Boichenko, 2020). However, the point is that it is impossible to make final correct moral decisions at the level of theory – they should always be made contextually, i.e. individually for each specific case. The theory only creates favourable preconditions for making such practical decisions: it forms a basic vocabulary, develops possible alternatives, and prepares methodological guidelines to justify the choice between them.

### Purpose

*The purpose of the article* is to find out whether philosophical and anthropological studies of human nature affect the legitimization of decisions about human life and death, using the example of a philosophical analysis of the problem of euthanasia.

### Statement of basic materials

#### *The moral dubiousness of the legitimation of euthanasia*

Today, more than ever before, the primary task of bioethics is to rethink moral practices in medicine not on a priori ethical grounds, but on the basis of situational analysis. Such situational analysis is the application of previously intersubjectively agreed bioethical principles in a specific treatment context. This is particularly relevant in situations of medical triage in wartime. It is obvious that both theorists – ethicists and philosophers, professors of medical universities, and practitioners –

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Doctors, politicians, the military and others, should keep in mind a very important aspect related to the implementation of moral theories in real life: it is about essential differences in the determination of priorities by applied ethics in the situations of individual patients who need medical assistance and in the situations where the assistance is needed by significant sections of the population. (authors' transl.) (Boichenko, 2022, p. 54)

While the second case is mainly about certain political decisions that will be interpreted by someone later and can be changed, clarified or even cancelled in each individual case of their implementation, in the first case, the decision made regarding a particular patient is usually already final. In the case of euthanasia decisions, this practical decision is not only final, but may also be the last – and in no case should it be allowed to become a fatal, erroneous decision.

The legitimation of euthanasia in modern society in general, and in bioethics in particular, is a very complex issue that requires comprehensive discussion. The discourse on euthanasia is being developed by many parties, including lawyers, bioethicists, medical professionals, representatives of religious communities, and the general public.

When starting such a discussion, it is important to clearly define the terms that should be used in a given situation: euthanasia, orthanasia and assisted suicide. Euthanasia is understood as the act of ending a patient's life in order to alleviate their suffering caused by a serious illness or the need for long, painful treatment, and is usually carried out with the consent of the person or with the consent of their legal representatives. This process can be carried out using various methods, for example, by introducing a lethal dose of medication or by disconnecting life-support systems. Another type of euthanasia, orthanasia, usually involves the withholding of any medical treatment to prolong life by a doctor or medical staff. Orthanasia can be performed in a variety of ways, including lethal injection, lack of power and hydration, disconnection of life-supporting equipment, etc. Assisted suicide, as a form of "easy death", means the possibility of exercising the right to die and refusing burdensome medical interventions to prolong life; the right of certain people with terminal illness to voluntarily and legally request and receive a prescription medication from their physician to hasten their death in a "humane and dignified manner" (State of Oregon, 2019). Assisted suicide and euthanasia are very complex issues, and in countries where these procedures are legalised, they are usually controlled by special commissions that are responsible for conducting them in accordance with established rules and procedures. The lawyer and bioethicist Yana Trynova (2019) writes about this problem in more detail.

The development of the bioethical discourse on euthanasia and its varieties is largely related to the legal regulation of this phenomenon in specific countries, and less to the religious context. It is important to note that there is a feedback between the approval/disapproval of euthanasia and the legal regulation of this issue. Researchers of this phenomenon argue in favour of euthanasia based on the arguments stemming from natural human rights, including the right to die.

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"Death is a private matter, and other people have no right to interfere if there is no harm to others or the community (libertarian argument)" (Humphry & Wickett, 1986, p. 91).

Today, so-called "practical" arguments in favour of euthanasia are also increasingly being voiced, but they can also be refuted by counter-arguments. As for the "usefulness" of euthanasia, from a utilitarian point of view, allowing terminally ill people to die well at a time of their choosing will make them happier than the pain of illness, loss of dignity and suffering from waiting for a slow, painful death. The next argument relates to the problem of scarce healthcare resources being spent on people who cannot be cured and who, for their own reasons, would prefer not to continue living. Allowing euthanasia for such people would not only allow them to get what they want, but would also free up valuable resources to treat people who want to live. As for the criticism of euthanasia, it is primarily based on moral grounds: on the one hand, there is a potential for negative moral consequences not only for close relatives and medical professionals who may feel responsible for the patient's death, but also for the whole society and its moral values; on the other hand, there is a suspicion of a cynical pseudo-rational approach, when the voluntariness of euthanasia is questioned, and the real reason is considered to be the lack of healthcare resources, which more or less insistently "pushes" severe patients to a fatal decision.

*Principles of bioethics as a possible basis for legitimising euthanasia or refusing it*

Returning to the problem of legitimation of euthanasia or assisted suicide, we should mention the United States, where, after considering numerous cases (Supreme Court of New Jersey, 1976; U. S. Supreme Court, 1990), related to the issue of euthanasia and assisted suicide, we should take into account the direct legislative regulation of this problem. Despite the fact that the existing legislation on euthanasia and assisted suicide in different countries of the world is constantly criticised by both supporters and critics of euthanasia, this legislation is somehow correlated with biomedical ethics. In particular, in court, when cases involving murder are considered, the parties to the trial appeal not only to individual precedents, but also to key principles of bioethics (ProCon.org, 2022).

*Principle of autonomy.* According to this principle, every person has the right to freedom of choice, including the ability to choose how and when to end their life. Thus, euthanasia can be seen as an expression of the patient's autonomy and right to self-determination. In the context of Kantian philosophy, the patient acts as an agent capable of acting freely and reasonably, taking into account his or her own goal. From this perspective, a physician who carries out a patient's wish for euthanasia acts in the interests of the patient as an agent who has the right to his or her life and its end. The prohibition of euthanasia in this case is a paternalistic approach that restricts the patient's freedom of choice and undermines the intrinsic value that Kant considered important.

Reducing/denying patient autonomy in relation to euthanasia can be somewhat threatening: if patient autonomy is reduced in serious situations such as death and dying, there is a danger that patient autonomy may be neglected in other controversial biomedical decisions. It is likely that patients may be forced to make decisions that go against their wishes or interests due to pressure from doctors, family members, social norms or prejudices. In this context, it is important that the practices of assisted suicide and euthanasia are legitimised in the future.

*Principle of nonmaleficence.* This principle encompasses several moral rules, including the prohibition of killing, causing pain and suffering, incapacitation, insult and deprivation of other life benefits. In the practical application of this principle, a physician must consider the ad-

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vantages and disadvantages of various treatment methods, refuse those that are unreasonably burdensome, and choose the best course of action for the patient. It is especially important to adhere to this principle when faced with moral dilemmas about withholding and withdrawing life-sustaining treatment, medically administered nutrition and hydration, pain control and other aspects of dying and death. "According to this bioethical principle, it is the physician's obligation and intention to relieve the suffering of a patient by the use of appropriate drugs including opioids override the foreseen but unintended harmful effects or outcome (doctrine of double effect)" (Varkey, 2021, p. 21). The possibility of euthanasia (active or passive) violates the principle of nonmaleficence, as it involves ending a patient's life, which can be seen as harmful. However, there is debate as to whether euthanasia can be considered harmful in certain circumstances. Some supporters of euthanasia argue that in certain cases (when a patient has a terminal illness and is in unbearable suffering), euthanasia may be less harmful to the patient than a prolonged process of dying.

*Principle of beneficence.* This principle calls on doctors not only to avoid harm, but also to benefit patients and promote their well-being. The call to beneficence is based on a number of moral rules aimed at protecting and upholding the rights of others, helping people with disabilities, and rescuing people in danger. In the context of euthanasia, this principle can be perceived as a call to do everything possible to ensure the maximum benefit of the patient by reducing suffering and improving the quality of life. When a patient suffers from a terminal illness and has no prospects for recovery, the principle of beneficence may indicate the need to help the patient die with dignity and painlessly. This can be done through active or passive euthanasia, where a doctor ensures the patient's death by administering a lethal dose of medication, or through supportive care, where a doctor ensures the patient's comfort and peace of mind in the last hours of life without actively shortening their life.

*Principle of respect for human dignity.* This principle emphasises the inherent value of the individual by virtue of being human. Dignity means being treated as a human being with self-respect and without humiliation, and is important in addressing bioethical issues such as the preservation and prolongation of life at all costs. The discourse on euthanasia as a facilitated death also invokes the notion of dignity, with the emphasis on the fact that patients have dominion over their bodies, making free, autonomous decisions about themselves.

With reference to the role of physicians, preserving dignity means helping patients to feel valuable. The physical move from the familiarity of the home to an unfamiliar hospital entails the transformation from a "person" to a "patient". Sometimes the patient is perceived by physicians as a mere "case", stripped of personality, representing an interesting disease to be studied, or a valuable research tool. The shift from a "person" to a "patient" to a mere "case" betrays human dignity. (Cohen-Almagor, 2014, p. 2549)

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In matters related to the end of life and the possibility of euthanasia, well-known bioethicists call for avoiding extremes – excessive paternalism (when some doctors at the patient's bedside believe that they know better what the patient's best interests are, better than the patient) and uncontrolled use of euthanasia (there is a need to create strong monitoring and control mechanisms so that the right to die would not become an obligation to die). On the other hand, the use of the latest treatment methods is not always the best way to safeguard the interests of the patient. For example, by using artificial lung ventilation machines and feeding tubes, doctors are able to keep patients alive in a persistent vegetative state for an indefinite period of time. Many treatments available through modern medical technology successfully sustain life, but actually reduce the patient's quality of life by not providing a definitive cure, turn "prolonging life into prolonging death" (Wilson, 1975, p. 178).

*Normative pluralism in ethics and the need to develop a common moral position  
on euthanasia*

The above-mentioned problems of the impossibility of developing a single ethical theory for making morally balanced practical decisions about euthanasia lead some researchers to moral resignation and a shift to the position of ethical minimalism, which borders on ethical agnosticism. Indeed, it is easy to see a fairly wide range of alternative and sometimes mutually exclusive positions of ethicists on euthanasia – not only in theory, but also in practical recommendations. And yet, there is a certain typicality of cases in practice, as well as not a multiplicity of unrelated moral theories, but a clear grouping of them into certain theoretical directions, each of which offers its own conceptual framework for solving practical problems. Not only situations of practical decision-making, but also their theoretical justification are multiple. This multiplicity is a manifestation of moderate moral relativism, not extreme moral relativism. After all, this multiplicity can be ordered by the characteristics of typical situations and typology of moral theories based on a comparative analysis of ethical concepts. We are dealing with normative pluralism, both in practice and in theory. However, this normative pluralism is not moral chaos and is not a manifestation of moral nihilism – it is rather a sign of active moral search.

Thus, normative pluralism should be seen as a conceptual resource that helps to cover a wider range of possible alternatives when making ethical decisions. In this regard, it is worth referring, for example, to the works of the American philosopher Dale Dorsey (2016) and his opponent, the American philosopher Shelly Kagan (2023). Dorsey insists that normative pluralism means that it is impossible to recognise a single unshakable moral authority: if there are many, then none is exhaustively convincing. Hence, there are supposedly no "oughts" as moral standpoints:

If we accept this, we must reject the possibility of determining, in any definitive way, what standpoints matter and what standpoints don't. To matter would be to possess a form of normative authority, independent of the authority any one particular standpoint possesses from within that very standpoint. (Dorsey, 2016, p. 19)

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Dorsey turns everything on its head here: moral duty should not and cannot determine anything in an objective way – its significance lies in its subjective determination. But if Dorsey himself refuses moral duty from the outset, then it goes without saying that he does not recognise its power over him. This is only Dorsey's personal tragedy, which he has not yet fully realised. But the fact that Dorsey ascribes to everyone else the same moral cynicism that he professes is a profound philosophical error and a moral insult to all other people. Kagan understands normative pluralism in a completely different way, for her it means only a starting point for the search for moral understanding and a broader legitimation of certain moral norms.

A separate complex and morally ambiguous issue is the legalisation of euthanasia, which is one of the broadest ways to legitimise it. In his book "The Future of Assisted Suicide and Euthanasia", American ethicist Neil M. Gorsuch (2006) expresses a reasonable opinion that active assistance in dying and assisted dying by request are not ethically acceptable forms of helping people in difficult life situations. The legalisation of euthanasia and assisted suicide may lead to a large number of problems, in particular, related to the insufficient protection of patients' rights. This will inevitably lead to excessive use of euthanasia. Even before the legalisation of euthanasia, cases of abuse of euthanasia without sufficient grounds were often observed. If euthanasia is legalised, then the number of cases when euthanasia is not properly prevented will increase significantly. Gorsuch notes that doctors and other healthcare professionals should rather not be swayed by the decision to euthanise, but instead focus on providing the best possible palliative care for patients facing difficult life situations. Instead of helping patients end their lives, they should first use every opportunity to help them preserve them and restore as much of their quality of life as possible. In his book, Gorsuch also discusses other possible negative consequences of legalising euthanasia and assisted suicide. In particular, he also analyses the possible consequences of legalising euthanasia that will affect members of the medical profession, in particular doctors who currently refuse to perform euthanasia and assisted suicide procedures on the basis of moral principles. The law should not force doctors to violate the general morality of the medical profession or their own moral principles.

### Originality

The legalisation of euthanasia has one undeniable advantage: it provides legal recognition of the right to euthanasia. After all, the unlawful provision of euthanasia and similar medical procedures in cases where they are justified both in theory and in practice (and in particular, based on the patient's firm decision), gives morally justified actions a dubious moral character of unlawful acts. Avoidance of euthanasia sometimes condemns a patient to unbearable suffering, and the prohibition of euthanasia essentially turns into a permission to torture a patient. Thus, the strategically correct decision would be not to ban euthanasia altogether, but to restrict it significantly, to clearly define the exceptional conditions for its provision and to strictly control the receipt of all necessary legal permits and strict compliance with all recommended medical procedures.

### Conclusions

Specific practical problems of making proper moral decisions about euthanasia point to the necessary direction for theoretical research on the general philosophical assessment of the arguments "for" and "against" artificial termination of life. The basic principles of bioethics: autonomy, nonmaleficence, beneficence and respect for the dignity of human life should play a key role in these issues. However, these principles alone are not enough – it is also necessary to develop a

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general ethical, legal and philosophical position on euthanasia. From an ethical point of view, the patient's firm wish should be decisive. Also, with all due caution, it is critically important to introduce euthanasia into the legal field, to reach the widest possible common position on the moral, political and legal boundaries of euthanasia. From a philosophical point of view, euthanasia is a measure of last resort, which can only be used if all its alternatives have been clearly exhausted.

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## Легітимація рішень щодо евтаназії: філософська оцінка штучного переривання життя людини

**Мета.** Автори цієї статті ставлять за основну мету виявити, чи впливають філософсько-антропологічні дослідження природи людини на легітимацію рішень щодо її життя і смерті на прикладі філософського аналізу проблеми евтаназії. **Теоретичний базис.** Методологією дослідження обрано обґрунтований із філософсько-антропологічної позиції ситуативний аналіз у біоетиці, що розкриває легітимацію евтаназії як складне і вкрай відповідалне моральне рішення, яке має ґрунтуватися як на врахуванні всіх особливих обставин пацієнта, так і на компетентному й адекватному застосуванні фундаментальних знань про людину. **Наукова новизна.** Із філософського погляду коректним буде легалізувати евтаназію, але за умови суттєвого обмеження випадків її застосування, чіткого визначення умов надання і жорсткого контролю за її проведенням. Морально неприпустимо виправдовувати ані вбивства, ані тортури, тому евтаназія постає як спроба уникнути водночас того й іншого. **Висновки.** Конкретне розв'язання практичних проблем нерідко вказує на необхідний напрям вирішення теоретичних ускладнень. Так, прийняття належних моральних рішень щодо евтаназії потребує опертя на фундаментальні знання про людину, але водночас дає аргументи "за" і "проти" штучного переривання життя. Базові принципи біоетики – автономія, незавдання шкоди, благодіяння та повага до гідності людського життя – виступають при цьому як критерії прийняття виважених етичних рішень і в теорії, і на практиці. Ці принципи мають бути доповненими узгодженою етичною, правовою та філософською позиціями щодо евтаназії, які досягаються через процедури легітимації. Вирішальним для прийняття рішення про евтаназію має бути тверде бажання самого пацієнта.

*Ключові слова:* життя людини; смерть людини; евтаназія; легітимація; принципи біоетики

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