

Chapter 14

Euthanasia

14.1 Movie: *A death of one's own*

Introduction – Aspects of the situation to consider:

- fundamental beliefs
- severity of illness
- severity of pain
- support from family and friends
- dignity (and how much indignities one can cope with)

Jim – Horse breeder and veterinary, Louisiana, ALS (Amyotrophic Lateral Sclerosis), 2.5 years to go

- forbidden by the law
 - taboo in the community
 - Care provider: wife
 - Children still “struggling” within their belief system
- “This is a very immature way to deal with the situation”
- “I am going to have to do it before I want to do it”

Kitty – 56, Portland, Oregon, Cancer, a few months to go

- Voluntary Physician-Assisted Suicide authorized in Oregon – conditions: 6 months diagnosis, patient must be mentally capable to make the decision, and physically capable to commit suicide

Other places in the world where Voluntary Physician-Assisted Suicide is authorized:
Belgium, Netherlands, Switzerland

- Care provider: nurse

- Daughters' support

"I want everyday I can get"

"I don't want to be out of control"

Ricky – 44, liver failure, former minister

- Delirium, violence (cognitive abilities impaired)

- No medication will relief pain if kept conscious

- neither food nor fluids

- sedated to death

"He is not Ricky anymore"

"He would not want to be like this"

"We discussed this together before"

"He has a better place to go"

Doctor's and VAS –

The Oath: Conflict between:

- not kill

- relief patient and keep dignity

1. Cancer doctor, has seen 15100 patients die, helps suicide

2. Her colleague: "I cannot directly participate", something "visceral inside [him]" – but ok to increase morphine up to death

3. Ricky's doctor and his students: removing hydration vs. "the disease killed him"

Questions :

Two facts: we are all going to die, and most probably in a hospital/hospice. If not us, someone close will most probably in this situation. So, the matter concerns us all.

Questions of life, death, pain and dignity :

- What do you fear the most: death or constant pain?

- At what point would you deem life unbearable? Jim and his moving deadline ; Kitty

- Under what conditions would you like others to: withhold surgery? withhold medication? withhold fluids and nutrition? actively terminate your life? Compare Kitty's and Ricky's cases

Questions about the role of physicians and medicine :

- Is the job of physician to fight death no matter what it takes? When should a physician stop the fight and retreat? Jim's wife and her mother: surgery and 4 more weeks of suffering
 - VAS as an "act of love"? VAS would be the way to die the way one's want to: at home, surrounded by family, free of pain.
- Assisted / Non-assisted: Jim's suicide

Questions about definitions :

What do you think of the distinction between "making the patient comfortable" ("terminally sedated"), and assisting suicide? What about providing neither food nor fluid?

Distinction: Active / Passive euthanasia :

- Is there really a difference?
- Which one is more compassionate? help die right away or let die from agonizing death? Which is morally preferable?

Questions about the decision :

- Who is to decide on what to do? Ricky's wife vs. Jim's wife (for her husband vs. her mother)

Distinction: Voluntary / Non-voluntary / Involuntary Euthanasia

A duty to die? :

- Who takes care of the care taker? Jim's wife struggle
- Problem of cost for an aging society

14.2 Homework

Readings – RTD 17 (Rachels) and 18 (Doerflinger)

Study questions:

- (On Rachels) What is the argument from mercy in favor of VAS?
- (On Rachels) What is the utilitarian argument in favor of VAS?
- (On Rachels) Why does Rachels reject the utilitarian argument? What refinement does he propose for it?
- (On Doerflinger) What is the argument from autonomy in favor of VAS?
- (On Doerflinger) Why does Rachels reject the argument that VAS can be the ultimate expression of our autonomy?
- (On Doerflinger) What are the abuses does Doerflinger see as possible consequences of having VAS authorized?

14.3 Introduction

Why would suicide be wrong? Why would suicide be a fundamental right?

The importance of the topic – We'll all going to die, and most of us in hospices and hospitals

- What do we consider is the best for us?
- What do we consider is the best for the (aging) society?

Important Distinctions :

- VAS: Voluntary / Nonvoluntary / Involuntary
 - “Involuntary AS” is simply murder: someone does not want to die, and is terminated anyway
 - Non-voluntary is conceptually different: this is the case in which the person is not able to express his will at the moment (either for physical or mental weaknesses)
 - Voluntary Assisted Suicide is when the person is fully able (mentally and physically) to speak his or her voice.

- VAS: Assisted / not assisted

To commit suicide is not a crime according to the law

What is forbidden by the law is for a physician (or any one else) to assist someone to commit suicide – this is considered as a form of murder by all states except Oregon.

- Legal vs. Moral – as in the case of abortion: it is one thing to ask whether VAS is moral, and it is another thing to ask whether it should be made legal. Moral and Legal, Immoral and Illegal don't have to go together:

Moral \longleftrightarrow *Legal*??

Some moral actions are illegal. Segregation laws: it is morally right to ask for equity between black and white people. It has been illegal though. Granted, we tend to think that these laws should be changed, but the point is: some acts are moral but illegal. This undermines the implication from the right to the left.

Many “immoral” actions (or arguably so) are not forbidden by the law: cheating on your boyfriend / girlfriend, telling lies about your opponent during a political campaign, smoking and drinking while carrying a baby. So, some acts are legal but immoral. This undermines the implication from the left to the right.

In sum: to be moral is neither necessary nor sufficient for being legal.

A problematic distinction: Active vs. Passive :

Many physicians and law makers ground their view against VAS in the distinction between active and passive euthanasia.

The idea is that :

- if you give a poison to someone, you're committing an active euthanasia, you've "killed" the patient
- but if you are either withholding surgery, or food and fluids, or if, in order to make the patient "comfortable", you need to administer a dose of pain reliever that you know is lethal, then you are not being active, you "let die" the patient instead

This distinction is highly problematic : There are at least two reasons to doubt that there is a true difference between the two:

- How "passive" is passive euthanasia? no surgery / no food and liquid / sedate to death ?

Examples: Kid in the shower, infant etc.

So, it is not clear that there is a difference. At least some of the well accepted actions taken by physician are more active than passive.

Is there a difference in terms of responsibility? – According to the advocates of the distinction, one is not responsible of the patient's death when proceeding to passive euthanasia, while one is responsible for the patient's death when proceeding to a active euthanasia. Is that true?

Distinction: intended consequences vs. foreseeable consequences (relief of pain / death)

Advocates of this view claim that whenever they don't *aim* at the patient's death (they are aiming at making him comfortable instead), they are not responsible for the "collateral damages" of their action.

If I can clearly foresee the consequences of my action, and if I proceed to do it anyway, it seems pretty clear that I am responsible for my action, *whatever my primary intention is !*

A moral question : Which one is preferable?

What is active euthanasia was less cruel? Would not it make it morally preferable? Compassion.

In sum:

- the distinction is shaky
- even if they were cases in which the distinction works:
 - a. it does not change much in terms of responsibility
 - b. it is not clear that passive euthanasia is better morally

14.4 The argument from autonomy and its critics

Doerflinger "Assisted Suicide: Pro-Choice or Anti-Life?"

Doerflinger is Deputy Director of the Secretariat for Pro-Life Activities, United States Conference of Catholic Bishops

So, Doerflinger speaks from a Christian point of view: Life, as a gift of God, is sacred. That said, Doerflinger recognizes that one needs to argue from a secular point of view if one wants to be convincing at all.

14.4.1 Doerflinger against the argument from autonomy

The argument from autonomy 1. Autonomy (an individual's freedom to make decisions, especially important life-decisions, for herself) is of supreme moral importance and should always be respected.

2. Denying a person the right to assisted suicide would disrespect her autonomy.

3. Therefore, a person should not be denied the right to assisted suicide.

→ *The decision of how and when to die is the ultimate expression of autonomy.*

Doerflinger againsts premise 2 :

1. Life is more fundamental than autonomy because life is a necessary condition for autonomy: "Life, a human being's very earthly existence, is the most fundamental right because it is the necessary condition for all other worldly goods including freedom" (158)

2. Hence suicide under the name of autonomy is self-contradictory: "suicide is not the ultimate exercise of freedom but its ultimate self-contradiction: A free act that by destroying life, destroys all the individual's future earthly freedom."

→ *So: denying someone the right to VAS is not acting against his or her autonomy, but protecting this autonomy instead, in protecting a necessary condition for the exercise of autonomy: to be alive.*

Answer to objection – cases in which the person "can no longer meaningfully exercise other freedoms due to increased suffering and reduced capabilities and lifespan" (159)

Doerflinger's answer: "even these hardships do not constitute a total loss of freedom of choice."

That is to say, none of this pain and reduced capabilities cut off completely the freedom of the person – Only death does.

→ *So, in the end, it seems that the argument from autonomy is difficult to maintain.* Doerflinger has a pretty good point here. It seems contradictory to appeal to autonomy in order to destroy your autonomy.

As Doerflinger suggests, it is more likely that the advocates of VAS really rely on the argument from mercy (decrease suffering).

If this is true, *then advocates of VAS must admit that they don't value life in itself as much as the pursuit of happiness.*

Let us see what this argument is:

14.5 The Utilitarian argument and its possible refinement

From Rachels, "The morality of euthanasia"

The argument from mercy Rachels (RTD p.151):

"The single most powerful argument in support of euthanasia is the argument from mercy. It is also an exceptionally simple argument, at least in its main idea, which makes one uncomplicated point. Terminally ill patients sometimes suffer pain so horrible that it is beyond comprehension of those who have not actually experienced it. Their suffering can be so terrible that we do not like even to read about it or think about it; we recoil even from the description of such agony. The argument from mercy says euthanasia is justified because it provides an end to *that*."

This argument seems simple, but in fact needs elaboration:

The utilitarian argument – Rachels shows how the argument from mercy can be formulated in utilitarian terms:

1. Any action or social policy is morally right if it serves to increase the amount of happiness in the world or to decrease the amount of misery. Conversely, action or social policy is morally wrong if it serves to decrease happiness or to increase misery.
 2. The policy of killing, at their own request, hopelessly ill patients who are suffering great pain would decrease the amount of misery in the world.
- C. Therefore, such a policy would be morally right.

Rachels' criticism against the utilitarian argument

Rachels levels the usual objections against utilitarianism :

The principle of utility (the idea that the ultimate criterion for assessing moral actions is how much happiness this action brings about) is highly controversial. In particular, it conflicts with our notion of rights, and of integrity.

If we push to the extreme, it seems that the argument above could make involuntary euthanasia right: if the amount of happiness is increased enough by terminating a patient, even if this patient does not want to die!

This is clearly unacceptable

Rachels' refinement : Taking into account the criticism above, Rachels proposes the following refinement of the argument:

1. If an action promotes the best interests of everyone concerned *and violates no one's rights*, then that action is morally acceptable.

2. In at least some cases, active euthanasia promotes the best interests of everyone concerned and violates no one's rights.

C. Therefore, in at least some cases, active euthanasia is morally acceptable.

This argument keeps the spirit of the argument of mercy, and avoid the drawbacks of the utilitarian rationale.

14.6 Slippery Slopes and / or the Pandora Box

Doerflinger "Assisted Suicide: Pro-Choice or Anti-Life?"

Slippery slope argument an argument from the claims that (a) permitting x would eventually result in y, and (b) y should not be allowed (or is generally undesirable), to the conclusion that (c) x should not be allowed (or is generally undesirable).

The so-called "slippery slope fallacy" is committed when a person uses a slippery slope argument in the absence of a good reason for thinking that permitting x would eventually result in y (a "fallacy" is a mistake in reasoning).

According to Doerflinger, there are real worries that allowing VAS will lead to unacceptable consequences.

1. Elderly and dying patients are vulnerable to subtle coercion. Once VAS is accepted, patient's choices will be seen as irrational if they don't use it.
2. In the US, there are economic incentives for patients to end their lives. If health care is seen as elective, and not obligatory there will be no incentive to pay for it.
3. Substituted judgment. If VAS were legalized, substituted judgment would basically allow non-voluntary euthanasia (and even involuntary euthanasia).
4. Expanded definitions of terminal illness. Hence more people would get VAS than would be entitled.
5. Prejudice against citizens with disabilities.
6. Changing the character of the medical profession. You may create a body of physicians who advocate expanding the practice?
7. The human will to power. Killing is very attractive, and once someone does it, they will want to do more of it.

14.6.1 Fears and Reality: the facts about Oregon

Oregon's Death with Dignity Act

First, *In order to be eligible* to request a prescription for lethal medication from a licensed Oregon Physician, patients must be:

1. An adult (18 or more)
2. A resident of Oregon
3. Capable intellectually (defined as able to communicate health care decisions)
4. Diagnosed with a terminal illness that will lead to death within six months.

Second, in order to receive the prescription, the following requirements have to be fulfilled:

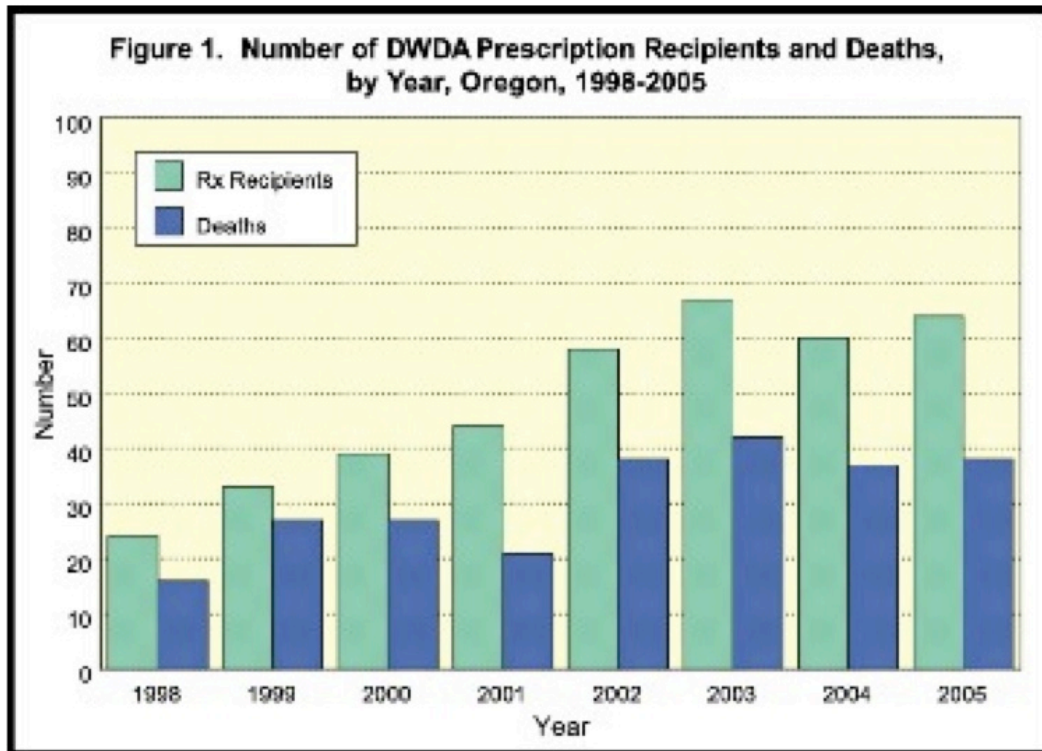
1. The patient must make two oral requests to his / her physician, separated by at least 15 days.
2. The patient must provide a written request to his or her physician, signed in the presence of two witnesses.
3. The prescribing physician and a consulting physician must confirm the diagnosis and prognosis.
4. The prescribing physician and a consulting physician must determine whether the patient is capable.
5. If either physician believes the patient's judgment is impaired by a psychiatric or psychological disorder, the patient must be referred for a psychological examination.
6. The prescribing physician must inform the patient of feasible alternatives to assisted suicide, including comfort care, hospice care, and pain control.
7. The prescribing physician must request, but may not require, the patient to notify his or her next-of-kin of the prescription request.

The results: see Figure 14.6.1 – the number of people with qualifying diseases: around 75,000

14.7 Conclusion

We can conclude that:

- Concerning the question of the morality of VAS
 - The argument from the sanctity of life is directly grounded in religious beliefs – back to difficulties of taking religion as the sole base of morality (Socrates' question)
 - The argument from autonomy is difficult to maintain (seeming self-contradiction)
 - The argument from mercy, especially reformulated in Rachels' way, is tenable
 - The slippery slopes argument are, as usual, good warning guides, but not definitive



- Concerning the question of legality:
 - Sanctity of Life: should the law reflect the beliefs of one religion?
Example: homosexuality, or sexual intercourse outside of wedlock are not illegal.
 - Mercy: should the law be designed so that to increase general welfare without violating anyone's right?
 - Slippery slopes: important for the law maker !