

Study on the feasibility and strategy of legalizing euthanasia

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Abstract

For the study of "euthanasia", firstly, it can not be separated from the background of the rule of law in our country. "Euthanasia" includes two situations, whether the acceleration or promotion of the death of others can be used as "because I love him (her), so I will euthanize him (her)" the means of justification? At present, our country has been holding a more conservative and cautious attitude towards the legalization of "euthanasia". Under the current legal environment in our country, "euthanasia" is not recognized and protected. The reason why the law dare not legalize the euthanasia at present is to rule out the euthanasia for some lawless elements to take advantage of others' right of life. This practice protects human rights to a considerable extent, but the author thinks whether the legalization of "euthanasia" can also be regarded as the protection of human rights in another sense? This paper will study the feasibility and implementation strategy of euthanasia.

Keywords

Euthanasia current legal environment legalization strategy research

1. Feasibility and necessity of legalizing euthanasia

The topic of "euthanasia" has been widely discussed in recent years. In the medical field, euthanasia is divided into two forms. One is active "euthanasia", which means that when the patient cannot bear the pain and suffering, he takes measures to end his life by causing the patient to die; the other is passive euthanasia, which means that the patient stops treatment or using drugs for an incurable patient. To allow the patient to die painlessly. Simply put, the former belongs to the implementation of "euthanasia" by inaction, while the latter is the implementation of "euthanasia" as a means. If the past conservative and prudent attitude towards "euthanasia" is due to the limited medical conditions and social ethical and moral acceptability and other reasons, resulting in the implementation of "euthanasia" not high operability or conflict with the mainstream social ideology, In today's era of relatively developed medical conditions and social ethical thoughts, the feasibility and necessity of "euthanasia" can continue to be fully discussed.

(1) Many countries recognize the legalization of "euthanasia", and its realization can be used for reference

At present, many countries and regions in the world have legalized euthanasia. Among them, the Netherlands passed the "Euthanasia and Assisted Suicide Related Evaluation Committee Act" in 1993, which stipulates that doctors can only perform euthanasia if certain conditions are met, such as voluntary request of the patient, incurable disease, and unbearable pain of the patient. According to statistics, more than 70,000 euthanasia cases have been carried out in the Netherlands by 2021. Belgium passed the Euthanasia and Assisted Suicide Act in 2002, which allows doctors to carry out euthanasia only under conditions similar to those in the Netherlands, and it is estimated that about 2,000 people choose euthanasia every year. Luxembourg passed the Death with Dignity Act in 2009, which allows adult patients to choose euthanasia or refuse unnecessary medical treatment if they meet certain conditions. [1]However, even in the many countries that have legalized euthanasia, there are very strict rules and procedures. The

promulgation of these bills provides a feasible reference for the legalization of euthanasia in our country.

(2) From the perspective of constitutional personality right, it is of great significance to the legislation of "euthanasia"

Personality right is a very important concept in constitutional jurisprudence. It refers to an absolute, indivisible and inviolable basic right of natural person. The content of personality right covers many kinds of rights such as the right to life, the right to health, the right to freedom and the right to dignity. Among them, the right to life is the most important one which is closely related to euthanasia. Viewing euthanasia from the perspective of constitutional personality right is helpful to effectively protect the patient's right to life and freedom, and is also conducive to respecting the patient's personal dignity. [2]With the development of science and technology and medicine, people begin to improve their understanding of death, and gradually realize that death under certain conditions is not only a relief to the patient's pain, but also a reduction of social burden and an effective use of social health resources. More people realize the necessity of euthanasia and hope that euthanasia can be called a way to legalize, legal and reasonable use of "euthanasia", for the protection of "personality rights" has an important significance that can not be ignored.

(3) Fully respect the wishes of patients, the legalization of "euthanasia" is the embodiment of humanitarianism

"Euthanasia" is applicable to patients suffering from terminal diseases and great pain and suffering, and the subjective aspect of the application of "euthanasia" is to relieve and eliminate the patient's pain. As the target of euthanasia, the patient is suffering from great physical and psychological suffering. While the physical pain is unbearable, there are also realistic factors such as "unable to take care of themselves after the illness and financial difficulties of the family", [3] and the mental pain is even more fatal to the patient. On the one hand, life is sacred and cannot be arbitrarily disposed of by human beings, but on the other hand, life is also free. [4]We should fully consider the patient's physical and psychological pressure and pain, the final disposal of the life of critically ill patients should be returned to them, from this sense, "euthanasia" is the respect and release of life, is to fully respect the patient's will on the basis of giving them the right to choose freely and human dignity.

2. Second, the obstacles facing the legalization of "euthanasia"

The legalization of "euthanasia" may challenge the doctor-patient trust relationship

It is a doctor's medical ethics and professional code to save the patient's life, alleviate the patient's pain and improve the patient's quality of life. The legalization of "euthanasia" is bound to violate doctors' duty of "saving the dying and healing the wounded" and the principle of "no harm" under the current medical order, and cause serious mental burden and trauma to the doctors who perform "euthanasia" and their families, which may cause psychological side effects such as guilt, fear and pain. And what is more serious is that it will bring multiple moral and legal pressures to the sacred profession of "doctor", thus damaging the mutual trust and cooperation between doctors and patients, affecting the quality and effect [5] of medical treatment. On the one hand, patients may distrust the motivation and ability of doctors to treat, and even refuse to accept normal treatment and care. On the other hand, Doctors may also be confused and disgusted by the needs and wishes of patients, and even give up the treatment and care for patients.

(2) Criminals may use the legalization of "euthanasia" to violate human rights

The legalization of "euthanasia" means that it can be used as a legal way of "assisted suicide". What is assisted suicide? Under what circumstances can it be considered "assisted suicide"? Can a doctor ensure that the right to "assisted suicide" can be legitimately exercised in a critical

condition or even in an unconscious state? These disputes are closely related to human morality. We cannot guarantee that everyone will uphold justice and abide by the law. And the legalization of "euthanasia" seems to provide a greater possibility for more lawbreakers to kill, which is one of the important reasons for our country to maintain a cautious attitude towards the legalization of "euthanasia" at present.

(3) To some extent, the legalization of "euthanasia" may violate ethics

In the mainstream view of society, "euthanasia" essence is a kind of behavior of "helping others to commit suicide". The criminal legislation and the judiciary of our country believe that no matter what the perpetrator's purpose is, it does not affect its subjective vicious situation, because the perpetrator of euthanasia in any case is depriving the precious life of a patient who has no ability to resist. The criminal law is the final maintenance of life. The sanctity of life; In the eyes of the justice department, the act of helping someone to commit suicide not only deprives that person of life, but also leaves the victim's loved ones tormented and tortured. [6]Whether "euthanasia" conforms to the moral ethics of "rebirth" in our country over the years is still worth thinking about.

3. Third, the legalization of euthanasia legislative preventive measures

Euthanasia as a foreign ideology, its ethics and cultural background and our country have much different, it breaks the traditional ethics and moral idea; Moreover, after the legalization of euthanasia, criminals may use it to carry out illegal violations. They are hindered by all kinds of moral and legal implementation dilemmas. There are more obstacles and it is faced with many resistances. [7]How to better promote the legalization of euthanasia, effectively solve the above problems, is also the focus of this article.

(1) The implementation of euthanasia needs to fully respect the true wishes of patients

Compared with the relatively backward medical technology in modern times, the modern medical level is enough to make terminally ill patients live for several years or even decades, which also means that patients have to endure more years or even decades of pain and suffering. Just as Mr. Qiu Renzong said, modern medicine prolongs people's death, not their life. [8]Based on this, we believe that "euthanasia" is necessary, but we can not ignore the mainstream view of society -- "terminal disease is more of a torture for patients, the use of euthanasia can liberate patients suffering from pain", there are still some patients willing to continue to fight against the disease, unwilling to easily end their lives. The right to life always belongs to the patients themselves, and the final decision should also be made by the patients themselves. This also means that euthanasia should be seen as an agreement between the doctor and the patient, allowing the terminally ill and suffering patient to act on his or her own choice and decision. As legislators, we should emphasize respecting the true wishes of patients and taking the doctor-patient agreement as the rule. In practice, when a patient is diagnosed with an incurable disease and is nearing death, he or she can voluntarily propose to end his or her life early and sign a written "euthanasia" agreement with the attending doctor, indicating that he or she voluntarily gives up treatment or voluntarily ends his or her life early by adopting an active euthanasia method. In practice, it is necessary to pay special attention to whether the objective conditions of patients who can be euthanized are satisfied: that is, whether the patient is suffering from an incurable disease and is on the verge of death from the perspective of modern medical knowledge and technology; Second, whether the patient's extreme pain has become unbearable (personally, such pain should be determined by the modern medical physical examination report and various index data, the objective evaluation of the doctor and the comprehensive consideration of the patient's daily self-care); Third, whether it is implemented to solve the patient's pain before death, rather than for the interests of his relatives, the country and society; Fourth, there must be a sincere entrust or consent from the patient while he was sane; Whether

it is to be carried out by the physician himself; And whether it was performed in a manner recognized by the ethical norms of society. Based on this, we believe that the implementation of "euthanasia" and the full respect for the patient's true will does not violate the social public order and good customs.

(2) Medically, there are strict restrictions on the types of behaviors that can be euthanized

Since euthanasia is essentially the end of the patient's life, strict restrictions must be placed on the types of patients who can be euthanized and the ways in which the right to life can be implemented in the euthanasia era, so as to avoid illegal deprivation of the right to life or allowing criminals to take advantage of it and harm the patient's right to life.

1. Limit the types of patients who can be euthanized

In a broad sense, euthanasia is applicable to patients with severe mental illness and severely disabled people who can die without pain. In a narrow sense, euthanasia refers to a way to promote the rapid and painless death of patients who are terminally ill, near death and in extreme pain. For the two statements of "severe" and "extreme pain", should be combined with the patient's specific vital signs, the doctor's opinion and the patient's physical condition and other comprehensive judgment to determine. Among them, some scholars also put forward that euthanasia needs to meet the following conditions: from the perspective of modern medical knowledge and technology, the patient is suffering from an incurable disease and is near death; The patient is in extreme pain and unbearable; Must be carried out for the relief of the patient's suffering before death, and not for the benefit of relatives, the state or society; There must be a sincere request or consent from the patient in his lucid state of mind; In principle it must be carried out by a physician; It must be done in a way that is acceptable to the ethical norms of society. In the discussion of the possibility of "euthanasia," a distinction should also be made between euthanasia for dying patients and euthanasia for non-dying patients. For the former, euthanasia is carried out to advance the time of death, while for the latter, it is because the patient can live for a long time without euthanasia, but their conscious pain and there is a psychological pressure that "may increase the burden of the family", euthanasia is carried out in such cases.

2. Limit the types of behaviors that are euthanized

In terms of the ways in which "euthanasia" is carried out, it can be divided into positive euthanasia and negative euthanasia. The former refers to the adoption of measures to promote the death of the patient and end his life, such as when the patient can not bear the long-term torture of the disease, while the latter means that the critically ill patients in the rescue do not give or withdraw treatment measures, and let them die. There should also be restrictions on the use of drugs in active euthanasia,

(3) For patients with doubts about euthanasia, the burden of proof should be borne by the doctor

The doctor should do a good job of whether the patient has the characteristics of "euthanasia", whether to comply with the patient's true wishes before death and do a good job of agreement identification and storage, and in the case of communication and approval of the patient's family to legally use medical means to euthanize the patient. If the patient's family members file a lawsuit against the doctor for questioning the patient's euthanasia, as the subject of euthanasia, they should bear the burden of proof for the reasonable and lawful implementation of "euthanasia". On the one hand, this enables doctors to maintain a highly prudent attitude towards the adoption of "euthanasia" to end the patient's life and a reasonable way to preserve the rights of doctor-patient disputes.

It is undeniable that euthanasia is still controversial in many aspects at present. From the perspective of jurisprudence, euthanasia will lead to debates on the values of freedom and life, and from the perspective of constitution, euthanasia will lead to debates on whether the right

to life includes the individual's right to dispose of life. However,^[9] we should also see the positive significance of legalizing euthanasia. In the study of whether euthanasia should be legalized and legalization of the path to continue in-depth discussion.

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