

Discussion on the Legalization of Euthanasia in China

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Abstract: As society progresses, individuals increasingly value the personhood and subjectivity of death, contemplating how to depart with dignity. People's Congress representative Liu Guifang advocates for legislation allowing euthanasia, asserting that it reflects the dignity of terminal patients and civilizational progress. Approximately 10% of deaths in our country result from suffering at the end of life, indicating that the legalization of euthanasia meets societal needs. It is an essential choice for improving our legal system and promoting social civilization. This article explores the legitimacy of euthanasia legalization, analyzes its hindrances, and proposes a safeguard mechanism for legalizing euthanasia, aiming to provide legal support for the dignity of patients with terminal illnesses.

1. Introduction

1.1 Concept Definition

The term euthanasia did not originate in China. As an imported vocabulary, it derives from the English word "euthanasia," which is composed of the Greek words "eu" and "thanasia." Here, "eu" corresponds to "good" in English, while "thanasia" relates to "death." Thus, a direct translation into Chinese means "good (happy) death." This indicates that the concept of "euthanasia" has existed since ancient times. The Roman philosopher Seneca once stated, "If I could choose between a painful death and a peaceful death, why would I not choose the latter? When I can free myself from all suffering, why should I endure pain and struggle so desperately?"

In recent years, euthanasia has become a widely debated topic worldwide, prompting various academic fields, including medicine, law, and sociology, to provide conceptual definitions. Research on euthanasia in China has started relatively late, and there has yet to be an accurate definition domestically. Some scholars argue that euthanasia refers to the act of ending the life of a terminally ill patient, who, unable to bear their suffering, explicitly requests it, with the physician carrying out the procedure following legal protocols, aiming to minimize pain. [1] Since the 1980s, starting with the cases of Pu Liansheng and Wang Mingcheng, research on euthanasia in China has made significant progress. Essentially, euthanasia involves acts of assisted dying performed at the request of patients suffering from terminal diseases and enduring extreme physical and mental pain. [2] (G.M. xuan and M.K. chang, 2007). It encompasses measures taken by attending physicians to ensure a painless death in accordance with the voluntary wish of the patient. [3] (J.X sheng, 2008) Euthanasia refers to the act where patients, suffering from terminal illnesses and facing

imminent death, explicitly request assistance to end their lives. [4](L.hui, 2011)This is done by physicians following legal procedures to ensure a merciful and painless death. There are two interpretations of euthanasia: a narrow sense and a broad sense. In the narrow sense, euthanasia pertains specifically to methods that facilitate the rapid, painless death of patients enduring severe suffering from terminal conditions. In the broad sense, euthanasia encompasses the narrow interpretation, along with methods used to allow painless death for severely disabled infants, individuals with dementia, patients with severe mental illnesses, and those in irreversible comas. [5](C.X.liang and Q.X.jiu, 1994)Based on this understanding, this paper examines euthanasia as an act of voluntarily ending one's life in accordance with the principle of autonomy.

1.2 Characteristics of Euthanasia

Firstly, the executor of euthanasia is specific. Current academic consensus holds that only physicians should carry it out, excluding other parties such as relatives or caregivers. The attending physician can accurately assess the medical condition due to their expertise, which reduces potential disputes arising from family ties. To enhance professionalism, it is advised to limit this practice to attending physicians in tertiary hospitals.

Secondly, the subjects of euthanasia are also specific. In a narrow sense, it targets terminally ill patients who suffer greatly, meaning those with no hope for recovery. In a broader context, it includes individuals with severe disabilities or dementia. In criminal law, euthanasia is defined as the act of relieving terminally ill patients from suffering, allowing them to die painlessly according to their wishes.

Thirdly, the aim of euthanasia must be clear. Its purpose is not to hasten death, but to alleviate the physical and mental suffering of patients, uphold their dignity, reduce family burden, and conserve medical resources. Fundamentally, it seeks to protect patient human rights and dignity.

Fourth, euthanasia must respect the patient's autonomous will. Patients should be in a conscious state, fully aware and voluntarily choosing euthanasia. Any unauthorized intervention constitutes an infringement of the right to life. Patients should have the right to apply and have a cooling-off period to reconsider after making a decision.

Finally, the execution procedure for euthanasia must strictly adhere to established protocols. The right to life is constitutionally protected; therefore, relinquishing this right must follow a rigorous process. This process should ensure the patient's voluntary and genuine intent, and be reviewed by professional departments. Such measures help eliminate physician liability, prevent disputes, and ensure the legality and rationality of euthanasia.

2. Justifications for the legalization of euthanasia

2.1 Introduction to Notable Euthanasia Cases

The following cases exemplify the euthanasia discourse and have significantly influenced discussions in their respective locales, possessing considerable research value. Based on these five cases, the author summarizes and analyzes the justifications for euthanasia in our country.

Case 1. (The first euthanasia case in china) Wang Mingcheng's Euthanasia Case

In 1986, Wang Mingcheng, a worker in Xi'an, Shaanxi Province, faced a painful situation when his mother suffered from liver cirrhosis with ascites (end-stage liver cancer). She actively requested, "Let me die." Consequently, he repeatedly urged Dr. Pu Liansheng to fulfill her wishes. The doctor ultimately prescribed "Compound Dormin," and after two injections, his mother passed away. The court later ruled that Wang Mingcheng and Dr. Pu were not guilty.

Case 2. Liang Wanshan's Euthanasia Case

In 2001, Liang Wanshan, a resident of Minhang, Shanghai, dealt with a deeply comatose and paralyzed mother due to a cerebral hemorrhage. With no hope for recovery and unbearable suffering, Liang Wanshan utilized an electric shock method causing his mother's death. The court's first trial verdict deemed Liang guilty of intentional homicide, sentencing him to five years in prison.

Case 3: Li Ping's Euthanasia Case

In 2006, Li Ping, a villager in Gansu, faced a tragic situation with his wife suffering from lupus for eight years, enduring immense pain. Feeling like a burden, she requested suicide, and Li Ping did not counsel her otherwise. The next day, Li Ping sent his wife to purchase pesticides for their crops. Upon returning, she expressed her intention to take the pesticides to commit suicide and ingested them. Li Ping did not intervene. Afterward, as she suffered and did not die immediately, she asked Li Ping to end her suffering, leading him to strangle her with a rope. The court's first trial verdict found Li Ping guilty of intentional homicide, sentencing him to ten years in prison.

Case 4: The First "Assisted Euthanasia" Case in Chongqing

This case occurred in 2010. An octogenarian, long bedridden and unable to care for herself, wished to end her life. A neighboring septuagenarian, Song, assisted her in purchasing poison. After the elder ingested the poison, resuscitation efforts failed, leading to her death. Song was convicted of intentional homicide and sentenced to three years in prison, with a four-year probation.

Case 5: The "Euthanasia" Case in Taizhou, Zhejiang

In May 2018, three individuals faced trial for intentional homicide at the People's Court of Luqiao District, Taizhou, Zhejiang Province. In 2014, a patient, diagnosed with systemic lupus erythematosus, developed suicidal thoughts after being bedridden and unable to care for herself. She frequently requested her son-in-law to aid her in purchasing rat poison for suicide. Ultimately, on August 28, 2017, at her request and in the presence of her husband, daughter, and son-in-law, she ingested the rat poison. The three defendants did not take any measures to intervene or assist. The court heard the case and ultimately sentenced all three to a term of imprisonment of up to three years, with probation ranging from three to five years.

2.2 Justifications of Legitimacy

2.2.1 Ethical Perspective

Personal autonomy constitutes the essence of modern ethics, emphasizing the right of individuals to make their own decisions. Sociology posits that the right to life pertains to both individuals and the community. In euthanasia discussions, honoring patient autonomy signifies allowing them to choose whether to end their lives, reflecting respect for their dignity and choices[6]. For patients suffering from terminal illnesses and extreme pain, euthanasia can alleviate suffering and mental anguish. Advocates assert that when alleviation of pain proves impossible, euthanasia emerges as a humane option. Dignity in life concerns the value of existence, while quality of life focuses on living conditions. In some instances, patients may perceive continued existence as an affront to their dignity. Medical ethics has shifted from "saving lives" to "caring for life and respecting human dignity," diminishing regrets and fears surrounding death and emphasizing end-of-life experiences and dignity. Thus, euthanasia may ethically represent a means to uphold life dignity, easing burdens on patients, their families, and society.

2.2.2 Legal Perspective

The constitution stands as the highest law of the state, establishing the supreme status and efficacy of law, primarily focusing on safeguarding individual rights[7], particularly the right to life. The state legally protects citizens' right to life, preventing public authority from infringing upon

private rights. Individuals possess the right to decide the continuation of life under specific conditions, such as choosing euthanasia in cases of unbearable suffering, which represents an exercise of the right to life. The execution of euthanasia should be conducted by medical professionals to minimize abuse risks, aiming to relieve suffering according to patient wishes. While euthanasia may infringe on the right to life, it differentiates itself from intentional homicide and typically adheres to humanitarian considerations and respect for life dignity. Euthanasia applies to terminally ill patients, and the role of doctors is to assist patients in achieving peaceful death, not to lead. The principle of humility in criminal law is of vital importance to the protection of human rights, and criminal law should play an appropriate role. Excessive and severe penalties are not conducive to social stability.

2.2.3 Social needs

The ageing population, fear of technological abuse and distrust of the medical industry have fuelled discussions on the legalization of euthanasia. With the increase of the elderly population in China, most of the elderly need to be taken care of before they die, and most of them die at home. In 2018, only 0.3% of terminally ill patients in China received care services, indicating that services are not yet universal. People think that patients may choose to give up treatment after considering patient autonomy and medical charity. In the past, the Agency has questioned whether the full condemnation of physician assisted suicide has missed an opportunity to improve care [8]. The public support rate is high, and although doctors are unwilling to implement it in person, they support legalization. This reflects the social demand for the legalization of euthanasia in China.

3. Hindrance Factors to the Legalization of Euthanasia in China

3.1 Conflict with Existing Legislation

Euthanasia remains illegal in China, primarily because it contravenes fundamental principles enshrined in our Constitution, which underscores the protection of citizens' right to life without explicitly permitting individuals to take control over their own lives. The act of euthanasia performed by a physician may be perceived as infringing upon another's right to life, thereby contradicting the spirit of the Constitution. Furthermore, euthanasia is at odds with our criminal law; intentional and unlawful deprivation of another person's life constitutes homicide under this legal framework. Even if a patient voluntarily requests euthanasia, a physician's involvement could still be classified as intentional homicide. While there have been instances where doctors were acquitted under mitigating circumstances, this does not alter the fact that euthanasia fundamentally conflicts with criminal law provisions. Additionally, although the Civil Code recognizes dignity in life within its protective scope, it lacks explicit regulations regarding euthanasia itself—indicating that legislative measures in this domain require further refinement. In summary, the absence of legalization for euthanasia in China stems from its inconsistency with core constitutional principles and existing laws pertaining to both criminal and civil codes; moreover, relevant legal frameworks remain inadequately developed.

3.2 Risk of Intentional Homicide

Physician-assisted suicide introduces ethical and practical dilemmas that could compromise efforts toward humane care while eroding trust between doctors and patients. The legalization of euthanasia has potential implications for redefining medical professionals' roles and society's reverence for life itself. It is important to distinguish between physician-assisted suicide—which

involves aiding a patient in self-administering death—and euthanasia—wherein a doctor directly administers lethal means to end a patient's life. Laws permitting physician-assisted suicide might give rise to concerns about discrimination and abuse particularly against vulnerable populations amid cost-containment pressures coupled with inadequate access to comprehensive healthcare services.

3.3 Contradiction with Traditional Views on Life and Death

The Chinese traditional culture integrates the viewpoints of Confucianism, Buddhism, and Taoism, with Confucianism being the mainstream, which holds a negative stance towards death. The pursuit of life and the fear of death are deeply entrenched in the traditional Chinese concepts of life and death. Traditional Chinese concepts often mention that "the body, hair, and skin are received from parents and should not be abandoned lightly"; there have been countless classics throughout history that seek immortality; and there is also a common saying that "a bad life is better than a good death". To a certain extent, euthanasia is an escape from the suffering part of life, a passive and retreating attitude towards life, and is contrary to such traditional concepts of life and death as "constantly striving for self-improvement and attaching importance to life while fearing death". Additionally, since China has traditionally been an acquaintance society based on families, if life is disposed of at will based on self-determination, it will inevitably affect the continuation and stability of social relationships, and subsequently threaten the existence of the country and society. Although people's attitudes towards life have undergone some changes with social development, a considerable number of people still adhere to traditional views and firmly oppose euthanasia. [9]

4. The realization of legalized euthanasia in our country

4.1 Improvement of the legislative system

Constitutionally, the legality of euthanasia should be based on the relationship and balance between the right to life and human dignity. Because of the fundamental nature of the constitution, it is difficult to legalize euthanasia directly, and it is insufficient to judge its legality only from the perspective of the right to life, so it is necessary to strictly restrict and review the implementation process through the lower law. In the criminal law, we should provide the crime basis for euthanasia by improving the rigor of the constitutive elements of the crime. Considering the specific characteristics of euthanasia, we should distinguish it from intentional murder, strictly limit its constitutive elements, and stipulate its legitimacy in combination with the actual situation.

In order to regulate euthanasia effectively, special legislation should be passed to clarify its applicable conditions and procedures. The subject of application should be limited to terminally ill patients who are dying and in extreme pain, and the subject of application and implementation should be limited to the patients themselves and personnel with professional qualifications. The implementation procedure should be in writing and accompanied by a medical certificate to ensure the true expression of the patient's wishes. Patients should have a cooling-off period and the right to withdraw at any time, and the review should be carried out jointly by medical and judicial authorities, taking into account multiple factors. During the implementation process, the dosage of the drug should be strictly controlled to ensure that the means are mild and the right to life and autonomy of the patient are guaranteed.

4.2 Monitoring procedural justice

In order to ensure the legality of the euthanasia procedure and eliminate the risk of intentional

killing, a sound supervision procedure should be established, which will be carried out from the following three aspects: application, implementation and review. First of all, strict supervision and verification should be carried out on the subject of application, certification materials and execution subjects, so as to avoid the situation of patients applying for euthanasia out of non-subjective voluntary or medical staff based on interests and personal grievances, etc. At the same time, all materials and supervision documents during the application period should be saved and backed up. Second, after giving the patient a cooling-off period of time, a final confirmation will be given for the re-submission of the confirmation. Finally, during the execution period, a professional supervision group composed of professionals from medical and judicial fields should be organized to provide reference and supervision on all aspects of the euthanasia implementation process, such as the type and dosage of drugs, and the professionalism of the execution subject. Euthanasia from application to execution, the whole process needs to form a strict supervision system, any problem in any link must be stopped immediately, and the relevant personnel must be investigated for legal responsibility.

4.3 Sound medical security

Since the 18th National Congress of the Communist Party of China, medical security has entered a new stage, and the reform of national medical insurance has been promoted in depth. We have established supplementary medical insurance systems such as serious illness insurance, fully implemented medical assistance for serious and serious diseases, developed various forms of commercial health insurance, and built a medical security system with universal coverage. Although China's medical system and other aspects are in the process of continuous development at this stage, social security and medical insurance are still not perfect in some economically backward remote areas; In real life, the torture brought by the disease to the patients to remove the pain is more because the huge costs generated by medical treatment are difficult to bear the mental pressure, for the consideration of "not dragging down the family", more people choose to end their lives. In order to improve the legal standardization of the medical insurance system, it is necessary to strengthen the responsibility and self-discipline of both parties to the insurance contract through legal means, ensure that the medical rights and interests of citizens are effectively protected, and give the medical insurance system distinctive socialist characteristics with Chinese characteristics; At the same time, deepen the research of medical insurance management system to ensure the reasonable allocation of medical funds, and formulate insurance plans according to the actual needs of the people; In addition, the compensation mechanism of medical institutions should be improved to enhance the overall efficiency of medical insurance, and the smooth operation of the medical insurance system should be ensured by strengthening the supervision of medical institutions, so as to provide protection for the legalization of euthanasia.

4.4 Correctly promote death education

With the phenomenon of aging in Chinese society, as an inherent link in the life process, death has become an unavoidable topic. As death and life are the same, education on death is also education on life, its core and purpose is to cultivate a healthy and reasonable attitude towards death: how to adopt a positive attitude towards death, face death, know death, know one's own life and the death of others, understand the essence and significance of life and death, and finally cultivate a healthy and positive subject personality. In the new era, we should re-examine the part of the traditional view of life and death that does not adapt to the development of The Times, add relevant courses (such as euthanasia, hospice, dignified death, etc.) to the students' curriculum, strengthen death education and publicity, realize the three-dimensional education mode, and further interpret

modern death.

5. Conclusion

As society develops, people's needs and attitudes towards euthanasia are changing. In view of the insufficient protection of the current system, our country should adopt a gradual approach to explore the legalization of euthanasia. This includes improving the legislative, judicial, medical and educational systems, ensuring that euthanasia is properly protected, and gradually moving from criminalization to decriminalization. The steady progress through pilot projects will eventually lead to the legalization of euthanasia. It is expected that China will pass relevant laws and regulations in the future to provide a new choice for "death" and deepen the meaning of "right to life".

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