

# Rights and voluntary euthanasia



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This paper tries to set the issue of voluntary euthanasia in a philosophical framework by showing how some of the main philosophical theories about morality would deal with the topic. Philosophers have not discussed euthanasia as such until recently, although it is now a popular topic. What has always been discussed, however, is suicide, which raises much the same moral problems as voluntary euthanasia. The moral similarity between voluntary euthanasia and suicide enables us to make a reasonable guess about what some of the great philosophers would say about voluntary euthanasia.

In this country patients have a legal right to refuse treatment even if death will be the result, though doctors may make it difficult for them to exercise this right. But it is illegal for a doctor actively to bring about the death of his patient at the patient's request, in the way that is now decriminalised in the Netherlands. In this paper I shall concentrate on the controversial issues: whether it is morally permissible for a doctor actively to bring about the death of his patient at the patient's request and whether the law should be altered to permit this.

My title mentions "death with dignity". But dignity is a very complex concept. I shall not attempt to give a definition of dignity here. Instead I shall list aspects of dignity which seem to be important when death with dignity is discussed, recognising that some of these aspects will be more important to some people, others to others. Dignity involves: not being dependent on other people or on things; self-control and autonomy; privacy; the maintenance of one's own standards, of all kinds; self-esteem. A death with

dignity is a death which enables the dying person to retain the elements of dignity which he or she values.

### Consequentialism & Utilitarianism

Traditional philosophical theories about morality have often aimed to find a criterion of morally right action. We can divide such theories into two groups: those which hold that the right action is always that which produces the best consequences, and those which hold that the right action is not always that which produces the best consequences. Theories of the first kind are called Consequentialist theories; theories of the second kind are called Deontological theories, from the Greek words ‘deonto’ meaning ‘to do with obligation’ and ‘logos’ meaning roughly ‘body of knowledge’.

Consequentialist theories can be further subdivided: into Egoistic theories, those which see the consequences which matter morally as including only consequences for the doer of the action, the agent, and Universalistic theories, those which see them as including consequences for all those affected. I shall return to Egoism at the end of my paper. I shall begin with Universalistic Consequentialism, because this view (which still has many philosophical adherents) may strike one at first as the obvious common-sense, rational, secular approach to moral questions.

The first question that arises about Universal Consequentialism is: what counts as good consequences? One popular answer is the one given by John Stuart Mill in his famous essay, Utilitarianism good consequences are simply happiness, and happiness is pleasure and freedom from pain – not only physical pain but also distress of other kinds. According to this view, then,

the right action is that which produces the most pleasure and least pain for all those affected. Another kind of answer is also found in the works of Mill, notably in his *Essay on Liberty* but also in *Utilitarianism*: the view that good consequences depend not only on the quantity of pleasure but also on the quality of the experiences which produce it and of the human being which is developed by them. According to this second conception of good consequences, the right action is that which promotes in oneself and others what we may call a higher happiness, one which stresses self-development and the fostering of the distinctively rational nature of human beings.

Terminology is a problem here. Some philosophers confine the term “Utilitarianism” to the doctrine expounded in Mill’s essay of that name, whereby the good consequences are pleasure and the absence of pain. Others use the term ‘Utilitarianism’ for Universal Consequentialism in general, since all versions of this view judge actions by their results – their usefulness or utility. I shall adopt this terminology, which distinguishes different forms of the theory as ‘Hedonistic’ (pleasure-based) Utilitarianism and ‘Ideal’ Utilitarianism.

I think that both the Hedonistic and the Ideal Utilitarian would argue that voluntary euthanasia is often right. The Hedonistic Utilitarian would say that situations often arise in which a person’s continued existence brings more pain than pleasure both to them and to all those who are distressed by their suffering – not to speak of the resources which are being spent on keeping them alive and which would produce more happiness if used in other ways. The Ideal version of Utilitarianism is even more in tune with the views of those who advocate the possibility of death with dignity through voluntary

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euthanasia. For Ideal Utilitarians can counter the familiar objection to euthanasia – that no one who receives proper expert care need die in pain and distress – by saying that the good that they seek is not mere absence of pain, physical or mental, but the preservation of dignity and the exercise of the human endowment of autonomy.

However, there are severe problems for the Utilitarian approach to the defence of voluntary euthanasia. The first is that it seems to justify too much: might it not sometimes justify involuntary euthanasia? If sufficient numbers of people would gain in happiness and quality of life from the death of one person, the Utilitarian has to agree that such an action would be justified, provided it could be carried out without causing a general panic which would outweigh the hoped-for gain in happiness.

This problem is one example of a general difficulty with Utilitarianism of any kind. If the rightness of an action is to be measured in overall consequences, there is no protection for the individual against the majority: they may do whatever they like to him, provided there is sufficient gain to outweigh his loss. We might put this point by saying that Utilitarianism does not safeguard the individual's rights. And it is just this inability to safeguard individuals' rights that leads many to reject the Utilitarian approach, as yielding results which are too much at variance with our moral intuitions.

A second problem is the line that the Utilitarian has to take on changing the law. We are apt to assume that the law should reflect private morality: if an action is right, then the law should permit it. But for the Utilitarian a law is right if it is useful: that is, if having such a law would maximise the good

results in which he believes. Some Utilitarians say that a change in the law, to permit voluntary euthanasia with due safeguards, would indeed do this. But a more cautious Utilitarian might believe that the existence of such a law would not have the best possible consequences overall: for example, he might think that it would increase distress because ill people would come to feel that they had to ask for euthanasia although they did not want it.

On the Utilitarian view a law which does not have the best consequences is not the right law; so the cautious Utilitarian would have to advocate in public that the law should continue to forbid euthanasia, but in private that people should frequently break it. This possibility of incoherence between what is publicly supported and what is privately enjoined is an example of another general difficulty with the Utilitarian approach: it often means preaching one thing and hoping that people sometimes do another. This kind of dishonesty is another respect in which Utilitarianism goes against many of our moral intuitions. Modern Utilitarians have sophisticated replies to the difficulties which I have raised. But I shall unfairly assume that in the end they cannot be solved, and turn to another approach altogether.

## Deontology

The Deontologist maintains that some or all actions are right or wrong in themselves, because of the type of action they are, whether or not they produce the best consequences. This type of view is less easy to systematise than the Consequentialist view. But for present purposes Deontologists can be divided into those who start from lists of separate duties or rights, and those who start from one general formula from which more particular duties

may all be derived. The source of the list or the formula is typically said to be reason or rational intuition. But a religious philosopher might ground them in God's commandments, even if he thought, as many did, that we can be aware of such commandments by the light of reason without the need of religious revelation.

I shall begin with the list-makers. Examples of these would be John Locke in the seventeenth century, Richard Price in the eighteenth century and David Ross and H. A. Prichard in the twentieth. Some Deontological philosophers speak in terms of duties, others of rights, but for our purposes they may be grouped together. However, we need to distinguish between two kinds of rights. Some rights, commonly called negative rights, are rights not to be treated in certain ways, and there are corresponding duties not to treat the owners of these rights in these ways. Other rights are positive rights to receive goods or services. Other people may have a duty to provide these, though it tends to be difficult to decide exactly who, as with such rights as the right to work.

There are two negative rights, found in most lists, which are particularly relevant to voluntary euthanasia. These are: the right not to be killed, corresponding to a duty not to kill, and the right to liberty corresponding to a duty to respect others' liberty. I shall say a little about each of these. The notion of a duty not to kill seems at first to rule out euthanasia of any kind, and those who oppose euthanasia sometimes seem to think that all they need to do is to say 'Thou shalt not kill' in a suitably solemn voice. But we do not regard the prohibition of killing as absolute: we may think there can be justified wars or justified capital punishment, or that killing in self-

defence or defence of others is justified. And it is easier to justify voluntary euthanasia than the killing in these other cases, where the person who dies does not choose to do so. If the reason why in general we ought not to kill is that life is a person's most precious possession, then that reason can be overturned if the person no longer wants to live.

...those who oppose euthanasia sometimes seem to think that all they need to do is to say “Thou shalt not kill” in a suitably solemn voice. However, if we argue in the language of rights, the issue is more complex. A person's right to life corresponds to a duty of others not to kill him. Now rights can be waived or renounced, and if that happens others no longer have a duty on that ground not to kill him. (As we shall see, they may feel that they still have such a duty on other grounds.) But when someone requests voluntary euthanasia, he is not only renouncing the negative right not to be killed; he is also asserting a positive right to be killed in that particular way. The issue then arises of who has the duty to provide this, and many doctors who are happy about letting people die or even about assisting suicide may not see themselves as having this positive duty.

Another negative right which features on many lists is a right to do as one sees fit, or right of liberty. Clearly this right cannot be unlimited. I do not have a right to harm others, and if what I want to do interferes with what they want to do we will need to arrive at some compromise. I will also have some specific obligations to some other people, and probably general duties to contribute to the welfare of others – though the extent and even the existence of this last kind of duty is controversial. But it might be thought that if what I want to do neither harms nor interferes with others, and if I



have duly fulfilled my obligations to others and contributed to their welfare, and if I am of sound mind, then I have the right to do as I see fit in other matters, and others have the corresponding duty not to interfere.

But, as before, the distinction between negative and positive rights is relevant. The negative right to liberty entails that no one may prevent another person from committing suicide (if he is of sound mind, and so on) or from helping another person to die if they both wish this. It would not follow that there is a positive right to be helped to exercise this liberty to die. But why should anyone have any reason not to help?

One reason for many is that they feel uneasy about regarding life itself as just a possession which can be dealt with in the same way as any other. Sometimes the source of the uneasiness is religious. I cannot consider here whether Christianity, to take only one religion, necessarily implies a condemnation of voluntary euthanasia; this seems to me to be a very complex question. But I think one can say that whereas believers are entitled to their own misgivings, they are not entitled to impose them on others who do not share their religion or do not interpret it in the same way.

However, there are also secular points of view which give a special status to human life and which at first sight seem to rule out voluntary euthanasia. I will consider two of these. Both belong to the other wing of the Deontological position: that which deals in general formulae rather than specific lists.

The first formula I shall consider is Natural Law. This term can be used broadly to mean morality, seen as like law but distinct from the man-made laws of particular states and conceived of as prescribed by reason and

perhaps ultimately by God. But I am using the term more specifically, to mean the idea that the right action is always that which fulfils and respects human nature – our potential and purpose as human beings – in ourselves and others. This idea is often religious and based on God's purpose for human beings. But it also exists in a secular form.

This formula is often thought to rule out suicide and therefore also voluntary euthanasia. For example, it is argued that human beings have a natural instinct of self-preservation which bids them preserve their lives, so it is going against nature to seek one's own destruction. But one can reply that a human being's nature is not only instinct.

Human beings also have by nature the capacity to use reason to consider their own greatest welfare and ask whether instinct is serving them well, and the decision that existence is no longer worth having is one which exercises just those faculties which are traditionally thought to be peculiarly human. We might also say that it is particularly characteristic of human nature to wish to preserve its own dignity and autonomy. I would therefore argue that the formula of Natural Law need not be seen as ruling out either suicide or voluntary euthanasia. The other formula that I wish to consider is Respect for Persons as Ends. The puzzling phrase 'as ends' means that human beings are to be valued for their own sakes and not simply used as a means to the fulfilment of anyone's wishes. They have a unique worth which cannot be measured in terms of any amount of other goods.

This rather cloudy idea, developed in these terms by Kant in the eighteenth century, is easier to revere than to apply. Kant himself certainly thought that

it ruled out suicide. He thought that suicide was the destruction of a uniquely valuable human self for the sake of some mere wish – for example, the wish to relieve pain or misery. Presumably Kant would have taken the same line about voluntary euthanasia. But it is not clear that Respect for Persons must condemn all cases of suicide and voluntary euthanasia, particularly as personhood is conceived of in terms of reason and capacity for morality, not merely being alive. I would argue that many choosers of voluntary euthanasia show rather than deny Respect for Persons: they believe they are called upon to exercise their autonomy to prevent the gradual change of their personhood into something less – animal, vegetable or even machine.

The decision that existence is no longer worth having is one which exercises just those faculties which are traditionally thought to be peculiarly human. I hope to have shown that those branches of Deontology that I have considered – the right to life and liberty among list items, and the general formulae of Natural Law and Respect for Persons – do not necessarily forbid voluntary euthanasia and may even enjoin allowing it. These are not the only list items or formulae that might be considered. But they might be enough to show that the Deontological approach can permit euthanasia and safeguards individual rights better than Utilitarianism.

What about the law? The typical Deontological approach to the law would be that it should reflect morality, rather than be independently assessed in purely pragmatic terms, as with Utilitarianism: if voluntary euthanasia is morally permissible, the law should allow it. But if unwanted consequences do arise from a permissive law, the Deontologist has a dilemma, rather like that which faces liberals in the United States, where the constitution

guarantees the right to freedom of speech and therefore allows people to deliver with impunity racist and religious abuse that would be illegal in Britain. Should a right to voluntary euthanasia be enshrined in law even if the existence of that law has undesirable results? The proper resolution of this dilemma would depend on the details of what happens, so I cannot discuss it here. Instead, I shall look briefly at the branch of Consequentialism that I mentioned at the beginning without discussion: Egoism.

### Consequentialism Revisited – Egoism

The Egoist believes that the right action is always that which has the best consequences for the doer of the action, or agent. As with Utilitarianism, there are different versions of this doctrine according to whether the good consequences are seen in terms of maximum pleasure, minimum pain (Hedonistic Egoism) or in terms of other good consequences for the agent, such as his or her self- development or flourishing.

At first sight, Hedonistic Egoism seems to prescribe a life spent trampling on anyone who gets in one's way, and so to be ruled out as contrary to everything that is normally thought of as right. But ever since Plato philosophers have realised that in general human beings cannot maximise pleasure in that way. Most people are not strong enough to do this with impunity, and in any case most people need friendship and cooperation with others for their own happiness. So Hedonistic Egoism cannot be dismissed quite so hastily. However, occasions would arise where Hedonistic Egoism, like Hedonistic Utilitarianism, demands ruthless action. For example, it would prescribe involuntary euthanasia to a doctor or carer who would gain a good

deal from someone's death, did not care enough about the victim to miss him personally and could conceal his deed from anyone who did. Such people, if rational, would not even feel guilty, for they would by their creed have done the right thing. A doctrine which prescribes this, even if on rare occasions, is too much at variance with our ordinary ideas of morality to be persuasive.

However, Higher Egoism is another matter. For example, Aristotle's doctrine is that the right policy in life is not to pursue our own pleasure but to develop our own flourishing or foster our best selves. And the best self is a non-egoistic self, who cultivates the kind of friendship in which friends are second selves and possesses all the moral virtues, including other-regarding ones such as generosity and justice.

This kind of Egoism, instead of telling us always to pursue our own welfare, in a sense breaks down the distinction between self and others; we could not readily criticise it on the ground that it was obviously at variance with our ordinary moral views. On the other hand, it is not much use as a guide to action. We first need to know what kinds of action are virtuous in order to cultivate the virtues Aristotle speaks of. The appeal of the Aristotelian approach today is not as a guide, but as a general framework in which one may set the moral life, and indeed all aspects of life. Aristotle thinks we cannot but pursue our own good as we see it, and perhaps he is right. But he aims to win us to a noble view of that good, in which our own true welfare is to be the best we can be. He lays stress on the distinctive nature of man and on the best life as one in which rational faculties are well exercised. The idea

of a death with dignity, one in which these values are preserved, fits well with his outlook.

## Conclusion

In this paper I have tried to show in outline how various well-known philosophical theories of morality can be applied to the dilemma of death with dignity. I have argued that none of these theories need be interpreted as forbidding voluntary euthanasia and that several of them can provide a convincing justification of it.