

Should euthanasia be legalised?



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Modern medicine has been beneficial in improving the quality of life, but sometimes it has been accompanied by harmful and dehumanising effects. Many terminally ill people have been kept alive against their will by advanced medical technologies and have been denied assistance in dying. Should now be the time for our society to recognise that terminally ill individuals have the right to choose the time, place, and manner of their own death? Should euthanasia be legalised because our *right* as human beings allows us to make our *own* decisions? If the right to life is to be a genuine right, rather than a duty to remain alive for as long as possible, shouldn't people be free to choose their right to die if they consider it worthwhile to do so? Shouldn't these persons be allowed their human rights, dignity, and self-determination and ultimately the right to die?

The European Convention on Human Rights, Article 2, recognises the right to life by implication, providing:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
 1. in defence of any person from unlawful violence;
 2. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

3. in action lawfully taken for the purpose of quelling a riot or insurrection.

While the Convention requires national authorities to protect the right of ‘*everyone*’ to life, it does not define ‘*everyone*.’ Therefore, although fundamental, the right to life is generally not regarded as absolute. Indeed, there are circumstances in which it is lawful to take another man’s life, for example by a lawful act of self-defence. The present author not concerned with cases such as these but rather the controversial nature of the range of entities which have the right and the content of the right in different circumstances: those for which the European Convention makes no provision. For example, opponents of euthanasia, may recognize the legitimacy of abortion; a process which involves taking *some* life.

Furthermore, the right of a person to commit suicide is recognised by some people, due to the belief that the right to self determination is the most essential human right. The debate on whether euthanasia and thus the right to die in some forms might be morally acceptable practice is the subject of this essay. For the purposes of this essay and the limitations in word count, there will be no dividing line between refusal of treatment, suicide, assisted suicide and euthanasia. Rather, Lord Donaldson’s remarks about the right to choose how to live, rather than the right to die, will be taken as true.

There is no ambiguity in the law of the United Kingdom towards a positive act of euthanasia; it is murder. The motive to ‘kill’ is certainly irrelevant; intention is the deciding factor. There have been recommendations of a special offence for ‘mercy killing,’ and although there appears to be no intention to translate this into law, the courts seem reluctant to convict a ‘

mercy killer' to mandatory life imprisonment. The sympathetic view of the judges has still, until recently, consisted of predominately unsuccessful attacks on the legality of euthanasia. However, lawful euthanasia has arrived in some jurisdictions and has added a new aspect to the debate.

In the Netherlands, medically practised euthanasia became lawful in November 2000. The doctor is required to believe that the patient's request was 'voluntary and well considered' and that the patient's suffering was 'lasting and unbearable.' It is also a requirement that the doctor has consulted an independent physician. The legislation also allows for advanced consent, which carries controversies in relation to the patient who does not wish to die but is killed by a doctor due to earlier written authorisation. However, the main argument against the legislation is that once a prohibition against killing is removed, it is far more difficult to control the practice. Indeed, there is evidence that euthanasia has been practised in many cases without the patient's consent. Another concern is that eventually, the grounds for the exercise of euthanasia will become more trivial so that the want itself will overpower the grounds. One example is the physical healthy woman who becomes depressed. And what of the controversial provision on euthanasia for minors? This practice therefore warns of the dangers of an over sensitive right to die.

Similar chances for legislation in the United Kingdom are remote: 'The Government can see no basis for permitting suicide. Such a change would be open to abuse and put the lives of the vulnerable and weak at risk.' The uncertainty of the common law has, in the past, been used as a justification for a change in the law but, it is submitted that the decisions in *Pretty* and <https://assignbuster.com/should-euthanasia-be-legalised/>

Mrs B clarify the boundaries between the right to live and the right to die. Acts committed with an intention of bringing life to an end are legally impermissible, save where the patient performs them; treatment may be withdrawn from a competent adult, although the legal prohibition for assisted suicide remains. For the reasons explained in relation to the Netherlands, it is submitted that the right to die is adequately provided for in existing convention and that there is no requirement for legislation.

In conclusion, it is true that a profound respect for the sanctity of human life should be embedded in our law and moral philosophy; that is why murder has always been treated as the most grave and heinous of all crimes. However, the arguments considered above explicate that the law has to take into account a myriad of interests which are problematic and surprisingly conditional. In matters of life and death, we are dealing with what Professor Laurence Tribe called the 'clash of absolutes.' Under these conditions, rules cannot dictate answers. The best that can be hoped for is to provide answers which are not too inconsistent with too many of them.