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EVOLUTION AND JURISPRUDENCE BEHIND THE IDEA OF EUTHANASIA

AUTHORED BY - DRISHTI MEENA

INTRODUCTION

The Greek words "eu," which means good, and "thanatos," which means death, are the sources that constructs the word "euthanasia," which has the etymological meaning of "good death." But with evolving time the meaning of the word varied and now is considered as form of eradicating what is considered as leading less dignified lives, hence, accepting as a "dignified death."¹ Now, the question that arises here is what entails 'dignified life' and who decides such thing? History has been an example of justifying such concept arbitrarily.

With the evolving times the concept of euthanasia has been accepted and legalized in many countries in various forms. Currently countries like Belgium (since 2002), Canada (since 2016), Colombia (since 2015), Luxemburg (since 2009), Netherlands (since 2002), Victoria (since 2017) and Western Australia (since 2019) and other nations have implemented legislations to recognize and legalize euthanasia.² However, the issues and debate associated with euthanasia has been centuries old.³

1. EUTHANASIA DURING ANCIENT TIMES

Hippocrates, known for his Hippocratic Oath, protected patient's life through medicine prone to fatal illness.⁴ Around 4th-5th century BC, this oath, a guide for doctors, stated that "I will not give

¹ Yelson Alejandro Picón-Jaimes, Ivan David Lozada-Martinez, Javier Esteban Orozco-Chinome, Lina María Montaña-Gómez, María Paz Bolaño-Romero, Luis Rafael Moscote-Salazar, Tariq Janjua, and Sabrina Rahman, "Euthanasia and assisted suicide: An in-depth review of relevant historical aspects," (2022) 75 *Annals of Medicine and Surgery* <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8857436/#bib1>> accessed 24 January 2024.

² Sarah Mroz, Sigrid Dierickx, Luc Deliens, Joachim Cohen and Kenneth Chambaere, "Assisted dying around the world: a status quaestionis," (2021) 10(3) *Annals of Palliative Medicine* <<https://apm.amegroups.org/article/view/50986/html>> accessed 28 January 2024.

³ Jack C. Willke, *Assisted Suicide and Euthanasia: Past and Present* (Hayes Pub 1998); Georgia Noon, "On Suicide," (1978) 39(3) *Journal of the History of Ideas* <<https://www.jstor.org/stable/2709383?origin=crossref>> accessed 28 January 2024.

⁴ Maribel Bont, Katherine Dorta, Julio Ceballos, Anna Randazzo and Eliexer Urdaneta-Carruyo, "Euthanasia: a Historical Hermeneutical," (2007) 5(2) *Community and Health* <http://www.scielo.org.ve/scielo.php?script=sci_arttext&pid=S1690-32932007000200005> accessed 03 February 2024.

poison to anyone, even if they ask me, nor will I suggest to anyone that they take it.” It is essential to observe that the Hippocratic school marks the true beginning of scientific medicine since it is able to distinguish between the healer and the sorcerer, the one who preserves life and the one who terminates it.⁵

Since suicide brought on by impatience and a failure to find a solution to pain or illness was tolerated when access to medications was limited, it was believed that terminally ill people who has ended their lives had good reason to do so throughout the Roman Empire.⁶ Later, with the rise of the Catholic church, this altered. Anyone who tried to take their own life during this time was not allowed to be buried in the earth.⁷

1.1 IDEAS FROM GREEK AND ROMAN THOUGHTS

During classic Greek era there was no “euthanasia” as a concept but rather it was considered as suicide which often times are result of collaboration of other people like doctors who provided poison to end the life. There is no uniformity on such thoughts among Greek and Latin philosophers.⁸

1.1.1 SOCRATES AND PLATO

The components like moral truth based upon human nature and use of human reason are the discussed and defended under Socrates’ and Plato’s thoughts. Plato in his well-known work, *Phaedo*, presents his opposition to the suicide.⁹ In this work, life is not considered as possession of human to be disposed of at will. The life is given by gods and hence, can’t abandon it at free will.¹⁰ Socrates recognizes that a human body to seek the truth are placed with many impediments such as pain, desire, suffering etc., but the same cannot be despised to suffer such impediments.¹¹ Socrates relayed that any impediment that flourishes does not entail that the care of the body can be readily rejected.¹²

⁵ Pablo Requena Meana, “Euthanasia,” (2012) *Philosophica: Philosophical Encyclopedia* online <<https://www.philosophica.info/archivo/2012/voces/eutanasia/Eutanasia.html>> accessed 24 January 2024.

⁶ *ibid.*

⁷ Picón-Jaimes and others (n 1).

⁸ Meana (n 5).

⁹ Plato, *Complete Works: Phaedo* (John M. Cooper ed, Hackett Publishing Company, Inc., 1997).

¹⁰ John M. Cooper, “Greek Philosophers on Euthanasia and Suicide,” in *Suicide and Euthanasia: Historical and Contemporary Themes* (Baruch Brody ed, Kluwer Academic Press, 1989).

¹¹ Michael M. Uhlmann, “Western Thought,” in *Last Rights?: Assisted Suicide and Euthanasia Debated* (Michael H. Uhlmann ed, William B. Eerdmans Publishing, 1998).

¹² David Novak, *Suicide and Morality: The Theories of Plato, Aquinas and Kant* (Scholars Press, 1975).

Later, Plato's Republic gave some support to suicide or voluntary euthanasia for certain situations. Plato argues that rational suicide is possible in case where a person is suffering from incurable and wasting disease or disability.¹³ And he understood that it is not ideal justice to strive every possible means to keep alive.¹⁴ Here, Plato differentiated between use of every possible means to sustain bodily life and use of "reasonable means" based on person's benefits and burdens. Therefore, the case presented here is to allow in certain situations to die rather than opting for self-killing.¹⁵ Plato in his work Book of Laws¹⁶ have given certain exceptions to justify such practices but in reality, such action is just to show some compassion to people who have acted upon their decision to take their life.

1.1.2 ARISTOTLE

Aristotle questions the legality of suicide in his work Nicomachean Ethics.¹⁷ According to Aristotle, every voluntary human act has purpose i.e. have a good life flourishing with human happiness.¹⁸ Aristotle considered justice as one of the moral virtues in relation to suicide and saw suicide as an injustice. He does not saw suicide as an injustice against the person who takes his own life but rather considered it as an injustice against the very state or society that is deprived of the participation of life of that person.¹⁹ He considered suicides as an act of weakness in the face of affliction, lack of courage or from the contrary, rashness, i.e., an excess of courage.²⁰ Therefore, for Aristotle, no prudent person with reasonable thinking will commit an act of suicide.²¹

1.1.3 STOIC AND CICERO

Stoic's philosophy was based on understanding order and reason for the things, giving rationality as to how the universe is governed. He defined life and death as a primary purpose to determine such rationality. The primary purpose of human existence is to live in conformity with such

¹³ Paul Carrick, *Medical Ethics in Antiquity: Philosophical Perspectives on Abortion and Euthanasia* (D. Reidel Publishing Company, 1985).

¹⁴ Christopher Rowe, *Greek Ethics* (Hutchison, 1976).

¹⁵ David Novak, *Suicide and Morality: The Theories of Plato, Aquinas and Kant* (Scholars Press, 1975).

¹⁶ Plato, *The Laws* (G. M. A. Grube ed., Hackett Publishing Company, Inc., 1984).

¹⁷ Aristotle, *Nicomachean Ethics. The Basic Works of Aristotle* (Richard McKeon ed, W. D. Ross trs, Random House, 1941).

¹⁸ J.L. Ackrill, *Aristotle* (Clarendon Press, 1981).

¹⁹ Cooper (n 10) 22-34.

²⁰ Carrick (n 13) 143.

²¹ A.W. Mair, "Suicide (Greek and Roman)," in *Encyclopaedia of Religion and Ethics*, vol. 12 (J. Hastings ed, T & T. Clark, 1992), 26-30; Kenneth W. Kemp, "Euthanasia," (1998) 72 *American Catholic Philosophical Quarterly* <https://www.pdnet.org/collection/show?id=acpapro_1998_0072_0000_0315_0328&file_type=pdf> accessed 30 January 2024.

reason as to give rationality to the nature. According to Stoic suicide with reason which is morally accepted is acceptable, as it is the only one which can justify the virtue of the act.²²

There are many reasons given by Stoic to justify the act of suicide as an obligation to others for the sake of family, friends, country, causes, etc.²³ Another morally accepted is 'rational suicide' by killing own self to free themselves from pain, incurable illness or mutilation. To put it another way, death was an act of reclaiming authority, bravely thwarting the threat of apathy.²⁴

According to Cicero, there is a natural rule that may be discovered by human investigation and is used by rational reason to understand the purposes of human goodness. While acknowledging the internal good of self-determination takes precedence over the influence of external events and that virtues are important to attain this, he also acknowledged the significance of recognizing a person's integration of mind and body.²⁵ Cicero felt that physical existence could not be viewed as a mere desire or as an optional tool in the pursuit of the more "noble good," which in the idea of the Socrates was perfection of soul. In simpler words, unless there was a clear indication from the gods that the deed was in accordance with the natural rule prescribed by just reason i.e. human reason in accordance with the will of the eternal, a person could not commit suicide, even in more extreme circumstances.²⁶

1.1.4 EPICUREANISM

The crucial aspect in comprehending Epicurus's position is that he was actually more cautious about endorsing suicide. He explained that conquering the fear of dying and fighting against the body's need to hurt ourselves in order to experience the "higher pleasure" of doing so was a crucial component of the objective of fulfilling our wishes.²⁷ Such thoughts can easily be misunderstood being influenced by hedonistic doctrine. Their stance on self-killing is more akin to one of tolerance for individuals who were unable to exhibit the required level of control than it is to be extremely accepting of the activity.²⁸ It was Hegesias that made the audacious claim that some

²² Miriam Griffin, "Philosophy, Cato, and Roman Suicide," (1986) 33 *Greece and Rome*.

²³ Miriam Griffin, "Roman Suicide," in *Medicine and Moral Reasoning* (K. W. M. Fulford, Grant R. Gillett and Janet Martin Soskice eds, Cambridge University Press, 1994).

²⁴ *ibid* 115.

²⁵ Cicero, *On Old Age (De Senectute)* <<https://oll.libertyfund.org/title/cicero-on-old-age-de-senectute>> accessed 31 January 2024.

²⁶ Craig Paterson, "A History of Ideas Concerning the Morality of Suicide, Assisted Suicide and Voluntary Euthanasia" in *Physician Assisted Euthanasia* (Rajitha Tadikonda ed, Icfai University Press, 2009).

²⁷ *ibid* 112-114.

²⁸ Cooper (n 10) 29.

suicides were acceptable. He preached that suicide was a desirable way to end a painful life that could not be endured.²⁹

2. EUTHANASIA DURING THE MIDDLE AGE

In this era the arts, sciences, and medicine were all ruled by Catholicism, it is then when the science went asleep. Suicide was not widely accepted because of this strong religious inclination. At this period, suicide victims were not allowed to be buried "Christianly," which meant they were not eligible for a funeral or for their relatives to be present during a religious ceremony. Particularly for those whose lives were dominated by illness and suffering, the manner in which one passed away was considered the ultimate measure of one's worth, therefore it was unimaginable to get any form of compassionate relief, no matter how severe the agony.³⁰

2.1 IDEAS FROM AUGUSTINE OF HIPPO AND THOMAS AQUINAS

Can "voluntary martyrdom" be considered as suicide? If yes, why was it accepted by society as an act of selflessness and self-killing was abhorred by the society as an act against natural order of life? To justify martyrdom, it has to be differentiated from intention self-killing. One of the elements that play roles in such scenarios is, facing death rather than renouncing faith. Although accepting death rather than rejecting religion is a free decision, death need not be considered to be a component of the martyr's purpose.³¹ The term "voluntary martyrdom" emphasizes a willingness to face death for the sake of a 'just' cause whether it is in name of religion, political goals etc.,³² but it does not sufficiently distinguish between cases where martyrdom has been caused by self-intended death and where it has not.³³

2.1.1 AUGUSTINE

Influenced by neo-Platonic thoughts, Augustine didn't devalue corporeal body in anticipation of eternal life.³⁴ He saw life as a free gift from the God to be respected.³⁵ For Augustine there is contrast between life of Jesus and zealous of martyrdom, that didn't adhere with earthly life and

²⁹ Griffin, *Roman Suicide* (n 23) 114.

³⁰ Bont and others (n 4).

³¹ Augustine Regan, "The Worth of Human Life," (1968) 6 *Studia Moralia*.

³² Christopher Kaczor, "Faith and Reason and Physician-Assisted Suicide," (1998) 4(2) *Christian Bioethics* <<https://academic.oup.com/cb/article-abstract/4/2/183/2264548?redirectedFrom=fulltext>> accessed 01 February 2024.

³³ *ibid* 184-187.

³⁴ Christopher Kirwan, *Augustine* (Routledge, 1989).

³⁵ Darrel. W. Amundsen, *Medicine, Society, and Faith in the Ancient and Medieval Worlds* (Johns Hopkin Press, 1996).

duties of stewardship.³⁶ Such stewardship was evident to Augustine when Christian virgins refrained from taking their own lives in retaliation for being defiled.³⁷ Therefore, Augustine believed that the value of corporeal life was so great that even a serious violation of human dignity could not justify suicide.³⁸ He relays that even under these conditions a private person does not have the right or authority to choose how and when to leave earthly life.³⁹ According to Augustine, authentic martyrdom necessitated a restriction on the methods used to witness to religion.

2.1.2 THOMAS AQUINAS

According to Aquinas, pursuing and doing the good refers specifically to pursuing those things that are recognized as legitimate human goods by reason and our capacity. He included preservation of human life in existence as one of such goods.⁴⁰ Aquinas doesn't support the intentional killing whether self-inflicted or by the help of others.⁴¹

Aquinas gave four reasons for his condemnation of suicide.⁴² First, dominion to make such decision is with God and its delegates, the government, not with the individuals.⁴³ Second, he consider suicide as an injustice against society. Since no individual exists in isolation, their acts always have an impact on the larger community, which is realized within the framework of a shared participative common good. It is impossible to separate an individual's actions from their effects.⁴⁴ Third, pursuing good of preserving existence of human life which shows capacity for practical human reason.⁴⁵ Fourth, acting against such good would be acting against charity i.e. love that one owes to everyone, including oneself. Suicide is an act which is against such charity. It is impossible to genuinely love oneself and act towards one's own demise.⁴⁶

³⁶ William E. Stempsey, "Laying Down One's Life for Oneself," (1998) 4(2) *Christian Bioethics* <<https://academic.oup.com/cb/article-abstract/4/2/202/2264549?redirectedFrom=fulltext>> accessed 01 February 2024.

³⁷ Kirwan (n 34) 204-208.

³⁸ Augustine of Hippo, *City of God* (H. Bettenson trs, Penguin, 1972).

³⁹ *ibid* 22-27.

⁴⁰ Thomas Aquinas, *Summa Theologica* (English Dominican Fathers trs, Benziger, 1948).

⁴¹ Joseph Boyle, "Praeter Intentionem in Aquinas," (1978) 42(4) *Thomist*; Christian Brugger, "Praeter Intentionem in Aquinas and Issues in Bioethics" in *Bioethics with Liberty and Justice* (Christopher Tollesfsen ed, Philosophy and Medicine, 2011) <https://www.researchgate.net/profile/Christian-Brugger/publication/227123491_Praeter_Intentionem_in_Aquinas_and_Issues_in_Bioethics/links/55edc34008ae199d47be314a/Praeter-Intentionem-in-Aquinas-and-Issues-in-Bioethics.pdf> accessed 02 February 2024.

⁴² Aquinas (n 40) II-II, q. 64, a 5.

⁴³ Stempsey (n 36) 215.

⁴⁴ Augustine Regan, "Moral Argument on Self-Killing," (1980) 18 *Studia Moralia*.

⁴⁵ Joseph Boyle, "Sanctity of life and Suicide: Tensions and Developments within Common Morality," in *Suicide and Euthanasia: Historical and Contemporary Themes* (Baruch Brody ed, Philosophy and Medicine, 1989).

⁴⁶ Regan (n 44) 301-307.

3. EUTHANASIA DURING RENAISSANCE

Thomas More and Francis Bacon gave the concept of euthanasia a eugenic meaning in their discourse, which was comparable to the ideas presented in Plato's Republic i.e. hastening the demise of a gravely ill individual who is not expected to recover. During this time, death started to be viewed as the final act of life, and euthanasia gained its contemporary meaning.⁴⁷

Thomas More asserted in his work "Utopia" that the dying should receive the necessary and supportive care in the ideal society and in cases of extreme suffering, it may be advised to end the suffering, but only with the consent of the patient.⁴⁸ This thoughts was refuted in 17th century by Johann Andreae in his work "Christianopolis," arguing that the severely and incurably ill have the right to live even in the face of distress and alienation and that their care should be centered on indulgence and support.⁴⁹ This view was supported by many physicians such as physician Christoph Hufeland stated that a doctor's sole responsibility was to save life, regardless of whether it was a fortunate or unlucky circumstance or if it was worthwhile to live.⁵⁰

3.1 IDEAS FROM EARLY MODERN THOUGHTS

The Renaissance saw the emergence of what is known as a "turn to the subject," and with it the notion that mankind is more dependent on its own self-created identity than on any external design, whether by nature or divine interference.⁵¹ Pico della Mirandola, in his work "Oration on the Dignity of Man," articulated the view that the human being is more the creator and shaper of its own existence than any external force.⁵² Mirandola believed that suicide may be an indication of the dignity of the human individual as a competent sculptor of their own existence.⁵³

⁴⁷ Soheil Sabriseilabi and James Williams, "Dimensions of religion and attitudes toward euthanasia," (2022) 46(5) *Death Studies* <<https://www.tandfonline.com/doi/full/10.1080/07481187.2020.1800863>> accessed 05 February 2024.

⁴⁸ Ezekiel J Emanuel, Bregje D Onwuteaka-Philipsen, John W Urwin and Joachim Cohen, "Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe," (2016) 316(1) *JAMA* <<https://pubmed.ncbi.nlm.nih.gov/27380345/>> accessed 26 January 2024.

⁴⁹ Klaus Bergdolt, "Current and historical aspects of euthanasia," (2016) 32(2) *Ars Medica Magazine of Medical Sciences* <<https://www.arsmedica.cl/index.php/MED/article/view/268>> accessed 05 February 2024.

⁵⁰ Dietrich Von Engelhardt, "Euthanasia in between shortening life and aiding death: past experiences, present challenges," (2002) 8(1) *Acta Bioethica* <<https://actabioethica.uchile.cl/index.php/AB/article/view/16863>> accessed 05 February 2024.

⁵¹ Gary B. Ferngren, "The Ethics of Suicide in the Renaissance and Reformation," in *Suicide and Euthanasia: Historical and Contemporary Perspectives* (Baruch A. Brody ed, Kluwer Academic Publishers, 1989).

⁵² Giovanni Pico della Mirandola, *Oration on the Dignity of Man* (A. Robert Caponigri trs, Regnery/Gateway, 1956).

⁵³ Jacques Choron, *Death and Western Thought* (Macmillan, 1963).

3.1.1 MICHEL DE MONTAIGNE

He articulated a combination of Epicurean and Stoic perspectives in favor of the legality of suicide in specific situations.⁵⁴ The best death is the one that is most willing. Life depends on other people's happiness; death depends on autonomy on oneself.⁵⁵ Suicide should therefore not be the subject of any kind of absolute norm that forbids the practice, rather, it should be seen more as a matter of personal decision-making, to be left to be made on the conscience of the individual (at least in situations where the act of self-intentional killing is motivated as a mercy from conditions of incurable pain and suffering).⁵⁶

3.1.2 JOHN DONNE

One noteworthy aspect of Donne's work was his attempt to show that suicide did not violate the laws of reason or nature or the law of the God.⁵⁷ Donne claimed in Part I of *Biathanatos* that, death itself can also be considered natural if life is. One may argue that a natural desire to die is a component of what it is to be human. He explained that the yearning for "death as release" is also part of "nature's fabric."⁵⁸

Donne argued in Part Two of *Biathanatos* that, suicide cannot always be viewed as being against the law of reason, which is present in both civil and canon law. Suicide was not an essential wrong that required it to be considered a crime against the state or the society.⁵⁹

Donne, in Part Three of *Biathanatos*, made the case that suicide and God's will do not always conflict. He said that the Bible's canon contains no prohibitions against suicide. It did not seem essential to violate this natural inclination to die if one chose to expedite one's own demise.⁶⁰

3.1.3 THOMAS HOBBS

The strongest opposition to suicide notions may be found in Thomas Hobbes' writings and his interpretation of the "law of human nature."⁶¹ Hobbes' materialist interpretation of human nature, which reduces everything to an analysis of wants and aversions, suggests that humans' innate need of their self-preservation is just a recurrent drive.⁶²

⁵⁴ Mark Sacharoff, "Suicide and Brutus," (1972) 33(1) *Journal of the History of Ideas*.

⁵⁵ Michel de Montaigne, *The Essays* (Charles Cotton trs, Britannica, 1952).

⁵⁶ Paterson (n 26) 15.

⁵⁷ John Donne, *Biathanatos* (Michael Rudick and Margaret P. ed, Garland, 1982).

⁵⁸ *ibid* 45-83.

⁵⁹ *ibid* 84-144.

⁶⁰ *Ibid* 145-190.

⁶¹ Georges Minois, *History of Suicide: Voluntary Death in Western Culture* (Johns Hopkins University Press, 1999)

⁶² Gary B. Herbert, "Fear of Death and the Foundations of Natural Right in the Philosophy of Thomas Hobbes," (1994) 7 *Hobbes Studies*.

Hobbes believed that it is self-evident that the human desires and aversions inevitably strives to continue existing, and that to actively resist this drive would be to violate this rule of human nature. Therefore, to block this great permanent urge would be to act against this rule of our nature.⁶³ Hobbes believed that the only thing that might lead a person to conclude that going against one's inherent instinct for survival would be "unnatural," is in cases of insanity.⁶⁴

4. EUTHANASIA DURING 19TH CENTURY

There were two incidences of euthanasia that occurred in 19th century. First, in 1860, Sicily, Italy, where Giuseppe Bandi, an officer of Giuseppe Garibaldi,⁶⁵ got injured in the Battle of Calatafimi and was admitted in San Michele Convent. There he met two soldiers, one of which was suffering from broken leg who had gangrene and the other from bullet to his right arm. Both of them were extremely sick, and none of the medical staff had the supplies necessary to provide them with proper medical care. They pleaded to be allowed to die after which they were given an opium tablet, which soothed them till they died.⁶⁶

Second, where a Swedish doctor, Alex Munthe,⁶⁷ seeing so much suffering of patients in Hotel Dieu in Paris, France, began administering morphine. In his memoir he recounted an incident where surgeon, Paul Jules Tillaux and Pasteur of Pasteur Insitute, made an honorable decision to help two Russian men who had contracted rabies, die softly.⁶⁸

4.1 IDEAS FROM UTILITARIAN THOUGHTS

4.1.1 JEREMY BENTHAM

The capacity of a rule or set of actions to maximize pleasure and minimize pain is evaluated.⁶⁹ He had a purely hedonistic stance, believing that people should pursue pleasure and avoid pain. Bentham's basic stance on the subject of suicide was that, if a person's existence became too burdensome, it may be ethically acceptable to try to terminate it since the life had outlived their usefulness or utility. The claim that society has on an individual's life wanes with such suffering.⁷⁰

⁶³ ibid 56-68.

⁶⁴ Thomas Hobbes, *A Dialogue Between a Philosopher and a Student of the Common Laws of England* (University of Chicago Press, 1971).

⁶⁵ Giuseppe Bandi, *I Mille Da Genova a Capua (The thousand: from Genoa to Capua)* (Nabu Press, 2014).

⁶⁶ Marta Licata, Federico Nicoli and Giuseppe Armocida, "Forgotten episodes of euthanasia in the 19th century," (2017) 390 *The Lancet* <[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(17\)32168-2/fulltext?rss%3Dyes=#back-bib1](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)32168-2/fulltext?rss%3Dyes=#back-bib1)> accessed 08 February 2024.

⁶⁷ Axel Munthe, *The Story of San Michele* (John Murray Publishers Ltd, 2004).

⁶⁸ Licata, Nicoli and Armocida (n 66).

⁶⁹ Geoffrey Scarre, *Utilitarianism* (Routledge, 1993).

⁷⁰ Mary P. Mack, *Jeremy Bentham* (Columbia University Press, 1963).

Bentham was against the adoption of criminal sanctions that prohibit the practice of suicide.⁷¹ If life loses its beneficial qualities because of pain and suffering, it can no longer be an overall good but instead cause positive harm to the individual who is impacted, hence such a legislation would not be in the best interests of maximum people.⁷²

While evaluating morality of actions, Bentham was extremely critical of what he perceived to be significant systemic flaws in traditional natural law theory regarding the examination of actions surrounding killing. Questions arose such as what made killing non-innocent human life acceptable as a punishment? Why was there no longer sanctified protection for that life? Why is it that the non-innocent man was considered no longer useful to the society and subjected to death sentence and the person who is in pain or suffering and have nothing to contribute to the society is still made to live? Bentham believed that traditional natural theory was rife with contradictions because of the exceptions it attempted to make around the concept of innocent human life.⁷³

4.1.2 JOHN STUART MILL

Mill accepted the central tenet of Bentham's philosophy: that acts should be judged according to how best to advance the greatest pleasure for the greatest number.⁷⁴ Mill emphasized individual liberty and freedom from restraint as the most effective means of maximizing pleasure for humans.⁷⁵ Encouraging autonomy and personal growth would be the ideal means of advancing this overarching utilitarian objective.

The renowned "harm principle," eloquently articulates Mill's defense of individual liberty. He believed that certain damages that are essentially self-serving might be limited in order to protect liberty itself, even if doing so would clearly contradict advancing the greater good and the long-term interests of humanity as a progressive species.⁷⁶

The fundamental tenet of Mill's argument is that the government ought to maintain a high degree of neutrality when it comes to imposing coercive theories based on constrained perfectionist conceptions of the ideal existence. However, this freedom is limited by the need to prevent harm

⁷¹ *ibid* 112-13.

⁷² Paterson (n 26) 23.

⁷³ Ross Harrison, *Bentham* (Routledge, 1983).

⁷⁴ Wendy Donner, *The Liberal Self* (Cornell University Press, 1991).

⁷⁵ David Lyons, "Liberty and Harm to Others," *Mill's On Liberty: Critical Essays* (Gerald Dworkin ed, Rowman & Littlefield, 1997).

⁷⁶ John Stuart Mill, *Utilitarianism. On Liberty* (Mary Warnock ed, Fontana, 1962).

to others' rights.⁷⁷ On the lines of Mill's thoughts on liberty, it can be interpreted that individuals have the right to live or die as they see fit, as long as they do not cause harm to others and make a rational and voluntary decision. If a rational individual decides to die quickly due to great pain or suffering, it should be considered a valid exercise of liberty and not prohibited by the state.⁷⁸

5. EUTHANASIA DURING 20TH CENTURY

5.1 NAZI HOLOCAUST

The Nazi Holocaust was the systematic persecution and death of about six million Jews by the Nazi regime and its accomplices. The word "Holocaust" is of Greek origin and means "sacrifice by fire." Nazis belief was that Germans were a "master race" whereas Jews, mentally and physically disabled and various other Slavic groups are of "inferior" origin and did not deserve to exist.⁷⁹ During Adolf Hitler's Euthanasia program, around 275,000 people with physical or mental disabilities were killed.⁸⁰

The Nazis used the term "Euthanasia" as systematic death of persons with "life unworthy of living" who were imprisoned in institutions, whether they were there with their consent or if any family member was aware of their whereabouts.⁸¹ The code name for this covert operation was Aktion T4. The initiative initially targeted infants and extremely young children. The program swiftly grew to include adults and older children with disabilities. T4 troops brought the chosen victims to the central gassing facilities. The victims were informed they were going to get a physical examination and a shower to clean themselves, instead, they were killed in those gas chambers.⁸²

In 1938, one of the earliest documented examples of euthanasia occurred in Germany. That history knows it as the story of child K, in which the minor's father wrote to Hitler requesting euthanasia for his son since the boy had a serious mental handicap and major morphic problems. Hitler agreed to carry out the treatment on child K and the program spread across Aleman territory. A list of disorders and conditions that were judged undesirable to be transferred to

⁷⁷ Paterson (n 26) 25.

⁷⁸ Dan Brock, "Physician-Assisted Suicide is Sometimes Morally Justified" in *Physician-Assisted Suicide* (Robert Weir ed, Indiana University Press, 1997).

⁷⁹ Bont and others (n 4).

⁸⁰ Picón-Jaimes and others (n 1).

⁸¹ United States Holocaust Memorial Museum, "Euthanasia Program and Aktion T4," Holocaust Encyclopedia <<https://encyclopedia.ushmm.org/content/en/article/euthanasia-program>> accessed 11 February 2024.

⁸² *ibid.*

Hitler's superior Aryan race was established, consequently, any infant with stupidity, mongolism, deafness, vision impairment, paralysis, and spinal, head or hip deformities or disfigurements were considered eligible for euthanasia.⁸³

In 1941, Church representatives condemned the program's acts, describing them as sheer murder. On August 23, 1941, Hitler had ordered suspension of Aktion T4 but they were covertly restarted in August 1942.⁸⁴ Instead of being killed at central gassing facilities, victims were now fatally injected or overdosed on drugs or starvation in a number of clinics located across Austria and Germany. It was dubbed "savage euthanasia." Up to the last stages of World War II, the Euthanasia Program was in place.⁸⁵

After Nuremberg Trials, the emergence of novel approaches to interfere in the health-disease dynamic spurred biotechnology. Furthermore, the idea of the critically sick patient and the final stage of life changed as a result of rising life expectancy and the emergence of illnesses that impair people's health on a chronic basis.⁸⁶

6. EUTHANASIA IN CURRENT TIMES

In 1995, the Northern Territory of Australia became the first jurisdiction in the world to legalize euthanasia; however, the Australian federal Parliament reversed the law within nine months.⁸⁷ Before euthanasia was made legal in the Netherlands in 2002, it was tolerated for a while between the middle of the 1980s until 2001, as long as certain guidelines for practice were followed, as set forth by the Royal Dutch Medical Association.⁸⁸ The only nation in Latin America that allows assisted suicide that cannot be carried out without the consent of an impartial committee is Colombia.⁸⁹ Despite the fact that "mercy homicide" was declared legal by the Colombian Constitutional Court in 1997, procedure guidelines were not implemented until 2015.⁹⁰ Following

⁸³ Maria Paz Campos Pérez, "Eutanasia Y Nazismo," (2014) Universidad Pública de Navarra <<https://academic.e.unavarra.es/xmlui/handle/2454/11239>> accessed 11 February 2024.

⁸⁴ United States Holocaust Memorial Museum (n 81).

⁸⁵ Bont and others (n 4).

⁸⁶ Inés Ma Barrio Cantalejo and Pablo Simón Lorda, "Ethical Criteria for Substitute Decision-Making in People Without Capacity," (2006) 80(4) Revista Espanola de Salud Pública <<https://pubmed.ncbi.nlm.nih.gov/16913607/>> accessed 12 February 2024.

⁸⁷ Joachim Cohen and Kenneth Chambaere, "Euthanasia," (2021) Access Science, McGraw Hill <<https://www.accessscience.com/content/article/a246850>> accessed 26 January 2024.

⁸⁸ *ibid.*

⁸⁹ Emanuel and others (n 48).

⁹⁰ Owen Dyer, Caroline White and Aser García Rada, "Assisted Dying: Law and Practice Around the World," (2015) 351 BMJ <<https://www.bmj.com/content/351/bmj.h4481.long>> accessed 12 February 2024.

the *Carter v. Canada*, Supreme Court judgment, euthanasia became lawful in Canada. Provinces were mandated to create euthanasia-related laws by February 2016, however this deadline was eventually extended to June 2016.⁹¹

Switzerland's penal law from 1942 stated that helping someone commit suicide is not illegal as long as there are no selfish motives involved. Since the 1980s, organizations dedicated to the right-to-die movement have interpreted the statute as granting them the legal authority to run centers that aid anybody seeking assisted suicide, even those who are non-residents.⁹² The Federal Court of Switzerland established uniform procedure guidelines in 2006, mandating enhanced paperwork and reporting from the organizations who provide assisted suicide, and expanded the statute to cover those with mental illnesses.⁹³

CONCLUSION

Throughout human history, the development of assisted suicide and euthanasia has been painful. In developing these conceptions, the role of the church, politics, and biological science has been crucial. The euthanasia legal framework and bioethical principles have been reinforced throughout time. On the other hand, there is still more to be done to educate the public and medical professionals about dignified dying and end-of-life care.⁹⁴ The goals of global bioethics to control assisted suicide and euthanasia that may be accessed in all health systems include scientific literacy, the definition of brain death, and the reasonable application of these concepts.⁹⁵ End-of-life care is a topic that many nations are now debating, and new assisted dying laws have been proposed in a number of jurisdictions. The foundation of comprehending the necessity to create medical-legal instruments that ensure people's integrity till the end of their lives appears to be medical education and preparation in the view of death, particularly of a dignified death.⁹⁶

⁹¹ Cohen and Chambaere (n 87).

⁹² Rod D MacLeod, Donna M Wilson and Phillipa Malpas, "Assisted or Hastened Death: The Healthcare Practitioner's Dilemma," (2012) 4(6) Global Journal of Health Science <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4776959/>> accessed 12 February 2024.

⁹³ Christine Bartsch, Karin Landolt, Anita Ristic, Thomas Reisch and Vladeta Ajdacic-Gross, "Assisted Suicide in Switzerland: An Analysis of Death Records From Swiss Institutes of Forensic Medicine," (2019) 116(33-34) Deutsches Arzteblatt International <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6794705/>> accessed 12 February 2024.

⁹⁴ Picón-Jaimes and others (n 1).

⁹⁵ Carmen Velasco Bernal and Jose Maria Trejo-Gabriel-Galan, "Euthanasia laws in Spain and in the world: Medical aspects," (2022) 54(1) Atencion Primaria <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8605061/>> accessed 12 February 2024.

⁹⁶ Marco Di Paolo, Federica Gori, Luigi Papi and Emanuela Turillazzi, "A review and analysis of new Italian law 219/2017: Provisions for informed consent and advance directives treatment," (2019) 20 BMC Medical Ethics <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6399822/>> accessed 12 February 2024.