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VOLUNTARY EUTHANASIA OR DOCTOR-ASSISTED DYING

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TABLE OF CONTENTS

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VOLUNTARY EUTHANASIA OR DOCTOR-ASSISTED DYING

LIST OF ABBREVIATIONS

PAS	Physician Assisted Suicide
DWDA	Death with Dignity Act
TLRSA	Termination of Life on Request and Assisted Suicide Act

VOLUNTARY EUTHANASIA OR DOCTOR-ASSISTED DYING

ABSTRACT

Euthanasia is defined as "*an act of ending one's life to relieve pain and suffering*" (Singer, 1993: 175). Being one of the controversial topics in bioethics, it has proponents that call it a peaceful death and opponents that call it murder. The advocates of voluntary euthanasia bring the following arguments for legalization of euthanasia; personal autonomy, relieve pain and suffering, kill or letting die, whereas the opponents bring the slippery slope, religion, trust in doctors and medical practice, availability of alternatives as the arguments against the legalization. The aim of this paper is to understand whether voluntary euthanasia should be legalized or not, and, if so, what are the conditions that the law should include in order to avoid abuses and misuses of euthanasia. However, the safeguards that should protect terminally ill patients from abuses and misuses of euthanasia prove to be in some aspects ineffective. The findings indicate that Oregon's law is more successful than Netherlands and Belgium's laws (Green, 2002). Even though neither of the laws and systems described in the paper are perfect, the legislation of the countries that legalized euthanasia give possibilities to terminally ill patients of choice. So, it is concluded that there is a need to make the laws stricter and to provide sufficient tougher safeguards against misuses and abuses of the euthanasia law.

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INTRODUCTION

Euthanasia is defined as *"an act of ending one's life to end pain or suffering, usually in a medical facility to terminally ill patients"* (Singer, 1993: 175). According to the dictionary, euthanasia means a gentle and easy death or death with dignity (Singer, 1993). This topic is considered as one of the most controversial ones in bioethics, with supporters calling it as a peaceful way to die, while their opponents label it as a murder.

There are several variations of euthanasia: voluntary, non-voluntary and involuntary. Voluntary euthanasia is conducted when the agreement of a patient is available (Rachel, 1975). Non-voluntary euthanasia is happening in cases when the consent of the patient is unavailable (an example is a newborn child with an incurable disease) (Rachel, 1975). The last type is involuntary euthanasia is happening without a wish and consent of a terminally ill patient. So, involuntary euthanasia is the same as murder (Rachel, 1975).

Furthermore, euthanasia comes in several different forms, and each one, in its turn, brings to the different consequences and rights. The major two types of euthanasia are active and passive (Rachel, 1975). In the case of active euthanasia, a person directly causes a death of a person, whereas in the case of a passive euthanasia a death of a person is brought by withdrawing or withholding treatment (Rachel, 1975). However, the main focus of this paper will be only on the active (voluntary) euthanasia.

Countries stand in the way of their choice about the death until nowadays. The debate over legalization of euthanasia gathers momentum. Countries that want to legalize euthanasia and PAS are the ones relatively developed, educated and well-off. Some European countries, Colombia and 5 American states allow some form of euthanasia (Malpas & Owens, 2016).

Around the world, 44 countries consider assisted suicide illegal. So, the countries that allow *both voluntary euthanasia and physician-assisted suicide (PAS) are*

- The Netherlands
- Luxemburg
- Belgium

The countries that legalized *only physician-assisted suicide are*

- The United States, the states *Oregon*, *Washington, Colorado, California, and Vermont.*
- Colombia
- Germany
- Finland
- Canada

Country that allows *non-physician to assist suicide and non-citizen to conduct euthanasia is*

- Switzerland (Malpas & Owens, 2016)

So, there is a need to understand whether voluntary euthanasia should be legalized or not, and, if so, what are the conditions that the law should include. The paper will be divided into three parts in order to understand whether voluntary euthanasia should be legalized. In the first part of the paper, the arguments in favor of legalization of voluntary euthanasia and PAS will be critically analyzed. In the second part, the arguments against will be critically assessed. In the third part, the main concentration will be made on the safeguards argument and understanding whether safeguards will be the guarantee for euthanasia. Finally, in conclusion, the summary of the analysis will be presented.

PART 1

ARGUMENTS IN FAVOR OF LEGALIZING VOLUNTARY EUTHANASIA OR PAS

The debate over legalization of voluntary euthanasia and physician-assisted suicide (PAS) have been looked at from different angles. In order to understand whether the voluntary euthanasia or PAS should be legalized the arguments will be divided into the following subgroups 1) Personal Autonomy, 2) Pain and Suffering, 3) Kill or Letting Die.

PERSONAL AUTONOMY

One of the strongest arguments in favor of the morality of legalization of voluntary euthanasia or PAS is the individual autonomy. Nowadays, personal autonomy is a central thought in political theory and bio-medical ethics. The basic explanation of individual autonomy is that a person has a right to decide what is better for him or her (Young, 1996). John Stuart Mill is one of the philosophers who elaborated on the liberty principle and personal autonomy. Mill's liberty principle states that a person should be free from restrictions as long as they are not harming others. According to this principle, the only cases when the individual's freedom can be limited is self-protection. Mill argued that for the development of a person's individuality freedom is an absolute necessity. His argument is based on the view that *"Without individual liberty, we will be unable to find and pursue the activities most conducive to the achievement of individuality"* (Clarke, 2015: 12). In addition, it is important to offer to society different varieties of situations from which a person can choose the one that best suits him or her (Roig, 2009; Clarke, 2015).

From the perspective of the request of euthanasia, Mill's principle is applicable. Each person should be free to decide for himself whether his life is worth living. While exercising personal autonomy, people understand and take responsibility for their lives, so at the same

time, they can decide when and where to die. The terminally ill patient in most of the cases decides to die when he or she realizes that his/her life becomes an intolerable burden. In this case, a patient while making a decision to die exercises not only his liberty but also thinks about his/her well-being (Tooley, 2005; Young, 1996). Thus, it is rational and morally permissible to request a death and die in comfort, ensured that it would be painless, minimally shocking to others and successful. Several authors admitted that people have the right to die when life has become intolerable and that voluntary euthanasia should be permitted in the case when the outcome is better rather than worse (Emanuel, 1999; McMahan, 2002; Pereira, 2011).

Personal autonomy has been regarded as one of the most valuable arguments for euthanasia. For the sake of this essay, it is important to bring the quote by Dr. Jack Kevorkian, who is known as Dr. Death in the court mentioned that *"The patient's autonomy always, always should be respected, even if it is absolutely contrary - the decision is contrary to the best medical advice and what the physician wants"* (Aphilosopherstake.com, 2015). So, from this quote, it can be highlighted how a doctor, who exercise euthanasia, feel about the issue. Dr. Death understood the problem better because he was the one who prepared lethal injection for the patients, accordingly, no one will understand a patient's determination and psychology better.

In contrast, Callahan in his article argued that *"Euthanasia is not a private matter of self-determination. It is an act that requires two people to make it possible, and complicit society to make it acceptable"* (Callahan, 1992: 713). Till this point of discussion about the argument of self-determination, the authors, while talking about euthanasia and personal autonomy, underline that it depends on someone's personal beliefs and understanding. However, Callahan's argument is contrary to this notion because an important role is played by the one who exercises an act of euthanasia and the society which makes it acceptable

(Callahan, 1992). It can be observed that Callahan viewed this argument from the different perspective, but the main point on which the concentration should be paid in the case of the personal autonomy argument is freedom of choice. However, it is important to underline that personal autonomy argument in the case voluntary euthanasia and PAS refers to a person's decision. In addition, as it was mentioned at the beginning of the personal autonomy argument the freedom of an individual is an absolute necessity. In every situation, each person should have the liberty and right to choose what is right for him, as far as it is not harming another person.

PAIN AND SUFFERING

Another argument for legalizing voluntary euthanasia or PAS is considered the relieve pain and suffering for a terminally ill patient who suffers from pain due to which the life becomes an intolerable burden. So, opponents argue that voluntary euthanasia and PAS can be an option to relieve pain and suffering. At the same time, it is arguable what is pain and what is suffering. It has been claimed that pain is a shared thought and that there are measures for physicians to understand how much it is painful for a patient to give drugs to relieve pain. Suffering is a mental notion, and there is no shared interpretation of it. Moreover, some argue that the doctor has no moral right to turn back to the patient's request to relieve pain and suffering. So, it is considered that if the voluntary euthanasia or PAS can relieve pain or suffering than it may perhaps be permissible (Emanuel, 1999; Green, 2002).

It is believed that pain and suffering can be relieved by a good palliative care. Palliative care is defined as *"an approach that improves the quality of life of patient and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychological and spiritual"* (Worldwide

Palliative Care Alliance, 2014: 3). Palliative care also includes psychological help and support of family members and relatives. So, good palliative care should reduce the pain and suffering of a terminally ill patient. Meanwhile, the barriers to access to palliative care are considered the economic situation of a family, lack of awareness, cultural and social factors. Though, palliative care has a positive effect when it is implemented in the early stages of illness (Worldwide Palliative Care Alliance, 2014). However, there is no guarantee that good palliative care will relieve suffering. There may be patients that will desire to die rather suffer (Miller & Fletcher, 1993). From the humanitarian side, it is absolutely right because no one should suffer from disease and fill like a human vegetable. Being as a human vegetable will not only increase the suffering of a terminally ill patient but also undermine his self-confidence and personal values.

Meanwhile, it should be mentioned that palliative care has side effects. Such side effects can be sleepiness, suppress of breathing that can lead to death. Besides, giving massive doses of drugs to relieve pain and suffering by itself can cause death. Opponents bring the findings that were reported in the Journal of the American Medical Association (JAMA) in 1992, that the ones who got drugs lived longer than the ones who suffered from pain but did not take them. It was admitted that the adequate dosage of medications will relieve pain and suffering and will minimize the risk of death (Doerflinger & Comez, 2017). From the discussion above, it can be underlined that in some cases, doctors will be afraid to give high doses of painkiller in order not to cause death.

The Oregon example was the counter argument against the relief of pain and suffering. While requesting euthanasia only in minor cases was mentioned about pain and suffering (Callahan, 2005). Meanwhile, the Gallup Poll revealed that 68% of survey respondents (N = 1024) agreed with the statement that “in the case if a disease cannot be cured and the patient lives in severe pain the voluntary euthanasia should be allowed by the

law" (Gallup, 2015). Obviously, there may be cases that a terminally ill patient feels the pain from disease and suffers from the fact that he/she feels obligations, duties to others, which make his/her life more miserable and unworthy (Tooley, 2005). Furthermore, Pereira underlined that *"In most of the cases the terminally ill patient afraid of what the future may hold, experiencing burnout from unrelenting disease, having the wish and need to control the illness, experiencing depression, extremes of suffering, including refractory pain and other symptoms"* (Pereira, 2011: 43).

KILLING OR LETTING DIE

The majority of societies permit passive euthanasia, but not the active one. However, some people are holding the view that *"there is no morally important difference between killing and allowing to die"* (Rachel, 1975: 111). For the ones who hold this view brought it as an argument in favor of euthanasia. It is important to underline that while speaking about killing it refers to active euthanasia whereas letting die applies to passive euthanasia. In both cases the doctor who makes an action of the killing or letting die conduct it with an intention. The difference here is that in one case the doctor is not the one who brought about the death, whereas in the second case he undertakes action to bring about the death. However, from the point of morality, there is no difference between two actions (Becker, & Becker, 2001; Rachel, 1975). In the same way, Rachel tries to argue that there is no difference between the killing and letting die or to show that both actions are equally bad. Generally speaking, it is believed that it is worse to kill someone because the cause of death is not the disease. This notion doctor called *'*the principle of double effect.' So, the principle of double effect means that *"the action in itself from its very object be good or at least indifferent; that the good effect and not the evil effect be intended; that the good effect be not produced by means of the evil effect; that there be a proportionately grave reason for permitting the evil effect"* (Mangan, 1949: 43). It is the only reason why active euthanasia seems bad than passive

euthanasia in the eyes of people. Another important aspect considered the intention of actions. So, in the case of active euthanasia, the intention is to cause death, whereas in passive euthanasia the intention is to let a terminally ill patient die naturally (Becker, & Becker, 2001; Rachel, 1975). Nevertheless, in both of the cases the end is the same and if people judge based on the consequences of actions killing and letting a terminally ill patient die is the same (Becker, & Becker, 2001; Rachel, 1975). From the arguments of authors, it can be stated that the only reason why some people are against the legalization of euthanasia is that they feel involved in death.

At the same time, people tend to feel guilt when they caused someone's death, or in cases when they failed to help someone to stay alive. However, it is wrong to think about feelings in case of euthanasia. First of all, one should decide what will be right based on objective judgments. A rational human being after deciding what is right can determine if it is worth to feel guilt (Becker, & Becker, 2001; Rachel, 1975). Contrary to this Callahan argued that there is a difference between the killing and letting die because it requires clear judgment about the quality and meaning of the life of a terminally ill patient. As doctors usually conduct voluntary euthanasia, Callahan stated that the ones who make that judgment about the significance and quality of life are physicians, who are not competent to make it. In fact, when the medical treatment is no longer effective in any case, doctors may decide to give a favor to the quick and direct killing (Callahan, 1992). The opposing argument to Callahan's point of view is that doctors by themselves want to stay away from being involved in the death process. Moreover, many doctors feel guilt when they cannot heal someone. Thus, the personal qualities of a physician play a significant role in this case. Besides, the careful examination of death cases in the hospitals may reveal that some doctors do not conduct their obligations and in opposite that some fight for the life of patients.

Unquestionably most cases of the killing are indeed terrible, and people learned to react poorly each time they hear about a case of murder. From the articles mentioned above, it becomes evident that intention plays a role in medical experience as well as in legal culpability. In another article, it was argued that the human being is equally morally responsible for every decision taken because intentions drive every action or inaction. Though, it may be difficult to determine the intention of a person. However, in some cases, voluntary euthanasia or PAS is a desirable end for a terminally ill patient. Thus, the causality and intention play a significant role, both in legal and medical practices (Bishop, 2006).

In the context of killing or letting die it is important to mention the role of law. The criminal law forbids people to do harm and to kill a person, but at the same time, it does not require to give charity. In this case, the question of killing or letting die is not only about the law but also about morality. It is important to mention that law does not require to help someone in Africa that does not have food or water, no one will judge someone for not helping them. On the other hand, if someone did not contribute to the one who is sick or needs help, may be judged not only based on the laws of being a cause of death of a person but also by society. Similarly, Tooley, while speaking about the killing and letting die, agreed that the motives of an individual who kills someone are worse than the purpose of a person who lets someone die (Tooley, 1980). Thus, the human's moral duty to not do harm is established in core values and moreover when someone speaks about euthanasia in the form of the killing and letting die is morally right to let him die by his/her death rather kill him/her.

PART 2

ARGUMENTS AGAINST LEGALIZING VOLUNTARY EUTHANASIA OR PAS

Against arguments supporting legalizing euthanasia, there are counter-arguments regarding voluntary euthanasia and physician-assisted suicide. The arguments of the opponents can be divided into the following subgroups 1) The Slippery slope, 2) Religion, 3) Trust in Doctors and Medical Practice, 4) The Availability of Alternatives.

THE SLIPPERY SLOPE

The slippery slope is one of the arguments raised in bioethics. This argument arises whenever a morally contested social change is proposed. Opponents of this issue argue that the legalization of voluntary euthanasia will lead to the legalization of non-voluntary and involuntary euthanasia (Lewis, 2007). The slippery slope arguments are mostly used in legal contexts. Lewis mentioned that the empirical slippery slope argument is based on the idea that there is a moral and legal difference between voluntary and non-voluntary euthanasia (Lewis, 2007). By this, emphasizing the fact that the opponents who bring the slippery slope argument do not have enough evidence that can prove the tendency of sliding down.

The opponents of the slippery slope argument bring an evidence of the Nazi regime to raise awareness of people that the slippery slope already happened. Hence there are some reasons to think that it could happen again. So, it is important to understand the slippery slope argument in the Nazi context. At the beginning of the program, the only target of the Nazi regime was terminally ill children. After a period, the program expanded its boundaries and started to conduct euthanasia for terminally ill adults who lived in the territories of Germany. The euthanasia program that was also named ‘T4’ did not stop only in this and continue to enlarge the program. So, the ‘T4’ program touched not only the ones who were terminally ill

but also, the ones who were suffering from chronic diseases or the people who were not of the German or German-related blood, criminals, etc. (Aly et al., 2005; Burleigh & Boyd, 1995; Friedlander, 2000). The opponents of legalization of voluntary euthanasia and PAS bring the evidence of the Nazi regime to indicate that the Nazis also started from the small, and after a while expanded its boundaries and brought to the acceptance of non-voluntary and involuntary euthanasia (Green, 2002).

It should be pointed out that what Nazis have done was not an easy death or mercy killing at all. What they have done was more about genocide or mass killing (Fletcher, 1973). The major risk for the opponents of legalization of voluntary euthanasia and PAS is that societies will become tolerant to the euthanasia in general, as in the case of the Nazi regime (Lewis, 2007). This will lead to the weakening of attitudes regarding death and cause the legalization of non-voluntary and involuntary euthanasia (Lewis, 2007). However, it is important to realize that people learn from the history and understand that they should care not only about themselves but also about society in a whole by pushing on the Governments to control and prevent the cases of non-voluntary and involuntary euthanasia.

In addition, there is no evidence of the slippery slope argument from places that legalized voluntary euthanasia such as in the Netherlands, Belgium, and some states of USA (Miller & Fletcher, 1993; The Economist, 2015). It is important to bring the example of the Netherlands, which underlined the missing evidence for the proof of the slippery slope argument. When the Netherlands legalized voluntary euthanasia and PAS at first, it was permitted only for terminally ill patients to request euthanasia. However, after a while, the Netherlands also legalized it for patients who are competent at the time of the request, but due to illness, they have become incompetent (Miller & Fletcher, 1993; Netherlands Upper House, 2002; Benatar, 2011). The important point here is that the request for euthanasia should be made in advance when the patient is competent. Additionally, the Netherlands law

permits the children between the age 12 and 16 to request euthanasia with a consent of their family member whereas children older 16 do not need consent from the parent, but family members should be involved in decision making (Miller & Fletcher, 1993; Netherlands Upper House, 2002; Benatar, 2011). Even though it led to some changes in the law it covers only voluntary cases, there is no legislative change toward non-voluntary euthanasia. So, from this, it can be stated that legalization of voluntary euthanasia and PAS do not lead to the legalization of involuntary euthanasia. The careful examination of the law underlines the fact that the incompetent patient is allowed to have euthanasia only if they had requested euthanasia before they became incompetent. The only major concern is the broader acceptance of euthanasia, which may lead to the non-voluntary and involuntary euthanasia (Lerner & Caplan, 2015). Further presented evidence can prove that there is no tendency toward legalization of non-voluntary or involuntary euthanasia.

One of the studies revealed that the non-voluntary euthanasia has decreased from 0.8% of deaths in 1990 to 0.2% of deaths in 2010 (Onwuteaka-Philipsen et al., 2012). This research was conducted in the Netherlands based on the reported cases and mailed questionnaires to physicians attending exact deaths (Onwuteaka-Philipsen et al., 2012). The findings of the scholars indicate the fact that there is no evidence to support the slippery slope argument. In addition, another study underlined that in Belgium, the rates of non-voluntary euthanasia decreased from 3.2% in 1998 to 1.7 % in 2013, which indicated the role of established proper safeguards (Chambaere et al., 2015). Interestingly the numbers changed after the Netherlands and Belgium changed some aspects of the euthanasia law and made it stricter. Markedly, these findings are relevant because they proved that there is no tendency toward sliding down and accepting non-voluntary and involuntary euthanasia.

So, what can be inferred from the results and discussion above is that the countries that legalized voluntary euthanasia ensure that it does not lead to the acceptance of non-

voluntary and involuntary euthanasia. Some societies become tolerant to the voluntary euthanasia but not to non-voluntary and involuntary euthanasia, particularly those where euthanasia is legalized. The response to this can be that people understand that every individual has an inherent right to choose how to live and end his life. Besides, the laws and strict regulations ensure that all the cases are conducted in a proper manner according to the law, which in its turn will ensure not to lead to non-voluntary and involuntary euthanasia cases.

RELIGION

Religion plays a crucial role in the moral life of believers. Three major religions, Christianity, Judaism, and Islam, shape people's attitude toward legalization of voluntary euthanasia and PAS (Brown, 1973; Fromm, 1978). However, the general view of opponents of this argument is that no one, besides God, has a moral right to take the life of another person. They hold the view that God gives people's life, so only God has the right to take it away (Rachel, 1975; Moratti, 2008). Studies conducted in Oregon and Michigan suggest that the ones who are opposed to legalization of voluntary euthanasia and PAS did so because of religion views. People believe that death must come without the assistance of a doctor or a third person. Each person should take what God gives and bear it, with pain, suffering and should not wish to end the life through 'easy death' (Bachman et al., 1996). While many will argue with this point of view, in 1958 Pope Pius XII underlined that *"It should be allowed to the patients who are virtually already dead to pass away in peace"* (Rachel, 1975: 106). By this statement, Pope showed how the Catholic Church thinks about the death of a terminally ill person.

Furthermore, God was believed to have a monopoly and supreme power of controlling birth and death. Nevertheless, in the past few decades, God lost its monopoly

power as men turn into God by taking control over birth and death. Also, it is undeniable that humanity made progress. Nowadays, treatments, respiratory devices, heart-lung machines help hundreds of peoples to avoid death, which was impossible decades ago. Terminally ill patients who are suffering from diseases such as cancer can prolong their life due to medical progress, so the real God based on terminally ill patients are the doctors who save their lives.

Moreover, as it was mentioned above in the past few decades, doctors started to control birth and countries legalize abortion. Another key point is that if in the case of pregnancy when a baby has a defect or the pregnancy will cause serious harms to mother's health a doctor has a moral right to end a pregnancy. So the same way a doctor should have a moral right to end a terminally ill person's hopes when the disease is impossible to cure (Fletcher, 1973). So, it can be inferred that for some people it is questionable why humanity feels obliged toward ending a pregnancy in a case of defects whereas toward a terminally ill person who is suffering they do not feel the same way. In contrast, they bring an argument about religion and God. Although these all may be true, the decision upon conducting euthanasia or abortion depend on the person's conscience.

Moreover, it is important to bring the finding of the Gallup Poll that was conducted in the US during 2003-2006 that the majority of Catholics, Protestants and without religious affiliation who participate in survey support both euthanasia and physician-assisted suicide (Gallup, 2006). These findings underline that during the time people's attitude changes and they understand that it is wrong to let a terminally ill person suffer from an intolerable burden that is caused by the disease. In the same manner, the Pew Poll in 2013 revealed that the majority of Catholics, Protestants and the ones without religious affiliation that took part in the survey are not against euthanasia (PewResearchCentre, 2013). So, as it can be noted the religion has less power, and countries decide on their own what should be legalized based on the need and concerns of the society.

Another reply to the religious argument against legalizing voluntary euthanasia is that state laws and policies should not enforce religious ideas. Smith and Strauss claim that *"Religion reasons can play only a limited role in justifying coercive laws, as coercive laws that require a religious rationale lack moral legitimacy"* (Smith & Strauss, 2006: 1). It should be noted that each person has an inherent right to respect, freedom of religion, etc. So, anyone can decide what is good and what is evil for him (Rawls, 1997; Eberle & Cuneo, 2015). In like manner, it was believed that the religion should not interfere in affairs of governments so in its turn government does not interfere in religious matters. This belief was named as secularism. The reason behind this doctrine is to protect both believer and non-believers' rights, feelings and beliefs. It is also believed that secularism is for democracy and fairness ("National Secular Society - What is Secularism?," n.d.). Thus, for example, the constitution of some countries has an article concerning the freedom of belief, which means that each person should decide on their own to be Christian, Buddhist or be an atheist. Moreover, the ones who are suffering from terminal illness and their relatives argue that the religion has no moral right to decide and to tell what they should do with their lives. In general, voluntary euthanasia or PAS is a matter of a personal decision based on a person's beliefs and values. So, it can be noted that somehow the religion may play a role, but the ones who do not believe in religious views should not suffer from it.

TRUST IN DOCTORS AND MEDICAL PRACTICE

Opponents of voluntary euthanasia and PAS argue that legalization will undermine the trust in doctors and medical practice. The main argument is that the role of physicians is to heal the illness or relieve pain by drugs but not kill them. It was believed that doctors are healers, sometimes they are compared with Gods and are the ones who give the answers to the questions of the patients. People think that doctors have the gift of healing as God has. So, doctors should relieve pain, do what they can to help a patient and fight to keep them

alive (Callahan, 1992). Moreover, throughout centuries, doctors opposed using their knowledge and skills against humanity (Callahan, 2005). In this manner, when doctors conduct, voluntary euthanasia and PAS they use their knowledge, skills against the patient who is suffering from the illness. So, the issues that will be elaborated in this part are 1) Trust in doctors, 2) The role of doctors in society.

First of all, it is believed that the legalization of voluntary euthanasia or PAS could reduce trust in doctors. So, the American Medical Association (AMA), claims that one of the risks of the legalization of voluntary euthanasia or PAS is linked to the public trust in medicine. The AMA stated that the trust between doctors and patients would be undermined, and patients will think that they may be a subject of involuntary euthanasia (Miller & Fletcher, 1993). However, research conducted in the USA suggests that 58% of survey participants disagreed (N = 1117) with the statement that the trust to doctors will be undermined if euthanasia is legalized and doctors can help patients to die. Besides, the study suggests that even though there is widespread concern about the undermining trust in medicine (by the legalization of voluntary euthanasia and PAS), the evidence in the USA did not prove this point of view (Hall, Trachtenberg, & Dugan, 2005). In the same manner, the Gallup Poll found out that 68% of survey respondents (N = 1024) state that "doctors should be legally allowed to assist the terminally ill patient in committing suicide" (Gallup, 2015). Moreover, public opinion polls conducted by the Gallup Poll in the USA find out that in 2015 56% of participants (N = 1024) agreed with the statement that it is morally acceptable for the doctor to assist euthanasia (Gallup, 2015). The findings underlined that it is meaningless to think that legalization of voluntary euthanasia will undermine the trust in doctors and medicine.

Opponents of the legalization of voluntary euthanasia and PAS argue that it will contradict to the Hippocratic Oath, which states that *'one must not induce harm onto others.'*

According to the Hippocratic Oath, doctors should preserve a life of the patients and heal them. Moreover, legalization will undermine the role of the doctors (Green, 2002; Chowdhury, 2012; Australian Human Rights Commission, 2016). Many Americans think that voluntary euthanasia and PAS contradict to the medical practice. They believe that doctors should keep patients alive and not kill them even if the patient expresses a wish to be killed (Callahan, 2005; Ferrante, 2013).

Fletcher and Amarasekera underlined that the examination of the Hippocratic Oath shows that there is nothing in it about the preservation of life. In the Hippocratic Oath, it was mentioned that the power given to the doctors should be used to carry out everything possible for the benefit of the ill patient and keep them away from harm and wrong decisions (Fletcher, 1973; Amarasekara, 1997). So, the question is: how a person understands harm and benefit? For example, from the perspective of a terminally ill person who is suffering from the incurable disease, the benefit is the relieve of pain or suffering, and possessing some control over the disease.

Generally speaking, opponents of legalization of euthanasia may argue that it will decrease the motivation of researchers to find medicines and cure people with terminal illnesses. Nonetheless, it should be underlined that the role of medicine in society is to develop and find new medications. It is notable that, for example, in 15th or 16th-century people could not even imagine the progress that humanity might achieve. Unquestionable, doctors and researchers should continue to develop, and maybe someday they would find the medication to all diseases. Of course, humanity made enormous progress, but till now there are no means to cure some types of diseases such as cancer, diabetes, atherosclerosis, etc. The ones who suffer from these kinds of diseases have a full understanding of it and may wish to die without suffering. No one can tell them to wait because for example, cancer, can progress in months or less and a probability of discovering a new medication in some cases may be

low. So, when a person recognizes that it is impossible to cure the disease, he or she may express a wish to die with the help of voluntary euthanasia of PAS.

THE AVAILABILITY OF ALTERNATIVES

Another argument against voluntary euthanasia and PAS is the availability of alternatives, such as good palliative care and pain control. The alternative argument is based on the ideas that in the 21st-century advancements in the palliative care and mental health treatment make the legalization of voluntary euthanasia and PAS unnecessary. According to this argument, if the person gets the right care, there should be no reason why a patient will give priority to the euthanasia instead the natural death. In addition, palliative care encompasses all the needs of a patient such as physical, emotional, spiritual and social. Anderson suggests that people who want to die suffer from depression, mental or physical illnesses (Anderson, 2015). Based on the ideas of Dr. Aaron Kheriaty people who express the wish to end their life in most cases want to escape from the pain and suffering, and when a terminally ill person get proper care the desire to die fades (Anderson, 2015). Moreover, it is argued that a good palliative care could improve the quality of life of a terminally ill patient and he/she will eventually decide not to request voluntary euthanasia (Emanuel, 1999; Anderson, 2015).

It was mentioned that palliative care tries to improve a patient's quality of life by decreasing pain and suffering. As a matter of fact, the terminally ill patients mentioned that the palliative care helps them to forget about the disease. However, it does not take long because after a certain period medications lose their ability to relieve pain. Of course, for someone it is an opportunity to live longer, to spend more time with their family members which also increases the quality of life. However, it also depends on how a person understands what the quality of life is. For someone taking pills, drugs and visiting a doctor

every week, is not a high-quality life. Obviously, everyone should know that the alternatives exist and they are not only in the form of choosing euthanasia but also in good palliative care and pain control.

Meanwhile, it is important to note that palliative care cannot fully relieve pain and suffering, and it is more likely that voluntary euthanasia or PAS will continue to be an option for terminally ill patients (Hudson et al., 2015). Moreover, the findings of the Oregon Health Authority underlined that the terminally ill patient not always expresses a wish to die due to pain and suffering. Thus, the results of the research of the Oregon Public Health Division revealed that "91% of those who were assisted to suicide mentioned the loss of autonomy as their motivation to die, 87 % decreasing ability to participate in activities that made life enjoyable, 71% loss of dignity and only 31% relief of pain and suffering" (Oregon Public Health Division, 2014: 2). According to the findings, it becomes obvious that the reason behind conducting euthanasia is not relief of pain and that palliative care cannot ensure people that they will not lose their autonomy or dignity. However, some scholars believe that governments of all countries should pay attention to the availability of good palliative care in order to minimize requests for voluntary euthanasia or PAS (Omipidam, 2013). In addition, countries that legalized voluntary euthanasia or PAS ought to take into consideration the fact that the cost of palliative care and euthanasia should not differ in a sense that the cheapest alternative for a terminally ill patient is easy death.

PART 3

SAFEGUARDS FOR VOLUNTARY EUTHANASIA AND PAS

The purpose of this essay is to understand whether there is a need to legalize voluntary euthanasia and PAS, and, if so, what are the conditions that the law should include to avoid abuse and misuse of cases. A primary concern of the opponents of the legalization of voluntary euthanasia and PAS is that it will lead to abuses and misuses. However, the proponents argue that human has an inherent right to decide whether to continue to live based on the liberty principle. So, one of the biggest challenges for the states that legalized voluntary euthanasia or PAS is to find adequate safeguards. Hence, the one of primary insurance of the countries concerning voluntary euthanasia and PAS considered safeguards, which will follow the right of the patients not to be violated, and regulations of the euthanasia law to be kept. So, in this part of the essay, the main issue will be to understand whether safeguards are enough to avoid abuse and misuse of cases and whether that institution failed or succeeded.

First of all, it should be noted that depending on the country the principles for the euthanasia differ. However, some general criteria are standard across different jurisdictions. Universal principles require a) patient should be 18 years or older, b) voluntary and the written consent of a patient, c) physical and mental capability of a patient to make decisions, d) diagnosis of terminal illness of a patient, e) cooling period after the first request (15 days) and second application, f) mandatory reporting of cases, g) euthanasia should be conducted only by physicians, h) second opinion by a doctor and physician, i) consultation with other physicians and psychologists. The preconditions, to carry out a voluntary euthanasia or PAS are 1) a patient initiates and freely requests euthanasia or physician-assisted dying (PAS), 2) feel uncontrolled pain and suffering, 3) the second physician assesses a patient's decision-

making capacity and voluntariness (Emanuel, 1999; Pereira, 2011). In the context of law, voluntary written consent is crucial. The argument of a legal requirement is that voluntary written consent will help to avoid abuses and misuse of voluntary euthanasia and PAS. The next requirement is that physicians and nurses should conduct voluntary euthanasia or PAS. Exception from the requirements is Switzerland, requiring requires that the second physician role is important to ensure that all the principles of the law are kept, but not in the process of conducting euthanasia. The second opinion and consultation is another requirement of the jurisdictions. The role of these two requirements is to be sure that patients who request voluntary euthanasia and PAS understand the consequences, to be certain that the disease of the patient is incurable and that his/her psychological situation of the patient is stable. Moreover, in cases when the second doctor or psychologist is not sure about the medical history of the patient he/she can consult with another specialist (Pereira, 2011).

It is important to keep in mind that countries use all available means and resources to avoid abuses and misuse of cases of voluntary euthanasia and PAS. The question of acceptance of euthanasia is not one of the easiest for the society, and it creates a lot of controversies. So, by each conducted and reported case the police open investigation to be sure that euthanasia was carried out based on the voluntary request and the other requirements of the laws were kept. Studies conducted in the Netherlands revealed that in 1990 only 18% of the cases of euthanasia were reported whereas, in 2005, the percentage of reported cases increase till 80%. This percentage indicates that the safeguards and laws have made enormous progress (Rietjens et al., 2009).

Furthermore, another important aspect is that the administration of voluntary euthanasia must be regulated by proper medical standards and procedures. Zakaria underlines that the problems affecting euthanasia are related to the lack of professionalism of its participants and administering on trial and error basis (Zakaria, 2014). Particularly, patient

request euthanasia in order to result in quick death, but if the dosage of the drug is wrong, it can have an opposite effect. It has been underlined that euthanasia should be painless or *'do no harm',* in this case the safeguards' institution is crucial. It is important that during the euthanasia a second physician who is administering euthanasia and has proper knowledge about the dosage and drugs assists the doctor whom the patient requested to end his or her life (Zakaria, 2014). However, as it was mentioned above the exception from this is Switzerland. The organization Dignitas allows conducting voluntary euthanasia based on the request of the patient, who is terminally ill, without the assistance of the doctor. In some cases, the lethal dosage was given by a social worker of a Dignitas. For the Dignitas, it never creates a problem; they have established their rules and even record all the cases to ensure that all requirements of the laws were kept.

In contrast to this, another study suggests that even though the law forbids nurses to conduct euthanasia overall 12% (N = 1678) of the cases of euthanasia in Belgium were done by them. The study was performed with the nurses in 2007 by the help of surveys (Inghelbrecht et al., 2010). From the findings, it can be underlined that the Belgian law has some weaknesses, but mainly it can be connected to the fact that a family member or a friend who might be a witness of the process may have benefits from death (for example, financial benefits) of a terminally ill patient and give extra money to nurses to conduct illegal euthanasia. Moreover, not only nurses help patients to die but also relatives and friends by violating the laws. It should be stated that during the process of giving a drug to a person there are no safeguards that can ensure the proper implementation of euthanasia, which is one of the biggest gaps in the law.

Nevertheless, the consultation, the second opinion of the doctor and psychologist is crucial in any organization or countries that legalized and practice voluntary euthanasia or PAS. The reason behind these principles is to ensure that the illness is a terminal, the

suffering of the patient is unbearable, the request is valid and to be away from the abuse and misuse of voluntary euthanasia and PAS. Moreover, it should be underlined that the laws across countries mention that voluntary euthanasia and PAS are for the terminally ill patients where the terminal illness is defined as a disease which will cause a death of a person without treatment in six months (Zakaria, 2014). Interestingly, according to Oregon state law, the ones who suffer from diabetes, hepatitis, and HIV can get a lethal injection (Powell, 2015). The mentioned diseases are incurable and create difficulties for the person to continue to live as a full member of society and enjoy the life. However, studies suggest that the doctor's decision in some cases may be based on different values, concerns, which may be diverse. So, what mainly the authors underlines is the need for independent safeguards (Tariman et al., 2012). Moreover, Marsilla claimed that when a person has a wish to die, but he/she are not terminally ill by getting a refusal from the doctors for the euthanasia they try to find another doctor who will give the approval (Marsilla, 2015).

So, in order to eliminate the illegal practices of voluntary euthanasia and physician-assisted suicide, the Canadian Nurses Association suggest that besides safeguards special committees can help to guarantee the proper implementation of procedures. According to the Canadian Nurses Association, the committees should consist of independent and professional nurses, pharmacists, psychologist and social workers (Canadian Nurses Association, 2015). The primary functions of the committees will be 1) to confirm that a patient requesting assistance to die terminally ill, 2) to assure that the patient is capable, 3) that her or his application form assistance is genuinely voluntary. The committee receiving a request for euthanasia will need to understand whether a request is the result of depression or is influenced by other factors (Miller & Fletcher, 1993). Wilson found out that depression has an effect on the decision of a person. Researchers find out the that 25% of people who are suffering from terminal illness are depressed. The study that was conducted with 200

terminally ill people which underlined that 59% of the participants were depressed (Wilson et al., 2007). Interestingly, in Belgium twins were euthanized due to worsening of psychological pain. The European Institute of Bioethics expresses its opinion about this case by mentioning that "It was against the euthanasia law and the doctors should be in jail" (Marsilla, 2015: 3). Moreover, another girl was approved for doctor-assisted death because she thought that life is not for her (Marsilla, 2015). Whereas, the reason behind her thoughts were psychological (Marsilla, 2015). So mainly what author was trying to prove is that doctors in Belgium continue to ignore laws even though there were changes in law and safeguards were put in place. At the same time, there is a prevailing opinion that often terminally ill patient feel guilt behind his or her family members or pressure because of the economic situation and expresses a wish to end his/her life. So, the safeguards' role is vital because the issue of euthanasia is a sensual and psychological one where these two factors may have an effect on a person's decision making. Thus, from the findings, it becomes obvious that safeguards institution is important to ensure that requests of the patients are based on rational judgments.

Furthermore, it should be stated that the safeguards function is not to approve the act of euthanasia, rather it should determine whether a patient's request meets the principles mentioned in the law. On the other hand, another significant role of safeguards is not to complicate the system but eliminate illegal practices (Zakaria, 2014). It is important to indicate that safeguards ensure that patients and their family members have access to information, resources, and support (Miller & Fletcher, 1993).

In order to find an answer to the question whether there should be a law on euthanasia and, if so, what are the conditions that the law should include, it is equally important to examine the laws of Oregon and the Netherlands as both of the cases implement the institution of safeguards to prevent the misuse and abuse of voluntary euthanasia and PAS (Green, 2002; Pereira, 2011). Oregon's Death with Dignity Act (DWDA) allows "PAS and

strictly prohibits euthanasia" (Green, 2002: 676). Whereas the Netherlands Termination of Life on the Request and Assisted Suicide Act (TLRASA) that came into force in 2002 allows both voluntary euthanasia and PAS (Green, 2002). Both of the countries agreed that safeguards role is necessary to avoid abuse and misuse of voluntary euthanasia and PAS (Green, 2002).

However, opponents argued that the Netherlands TLRASA does not provide sufficient safeguards for the protection of the vulnerable groups. Based on the law voluntary request to die can be made since a person turned 12, however only in the case if the consent of a parent is provided. Whereas in Oregon only a person above 18 years old can request a death. This age issue is the primary argument that the opponents bring that the DWDA's standards are more objective and can ensure better protection for the vulnerable groups than TLRASA (Green, 2002). At the same time, the opponents of legalizing voluntary euthanasia or PAS argued that safeguards are not a guarantee to avoid abuses or misuses. Especially, the written consent in the jurisdiction in most of the cases was not kept, and most of the time they were not reported (Benatar, 2011). For that purpose, in the case of Oregon DWDA, for example, the procedure imposes strict rules and criminal liabilities for the ones who falsify the request of euthanasia for the personal gains or having other aims (Green, 2002).

Furthermore, as it was discussed in the slippery slope argument, the percentages of non-voluntary euthanasia decreased both in the Netherlands and Belgium (see page 17, paragraph 2). The study underlined that after the changes in both countries' laws non-voluntary euthanasia dropped. However, another study that was conducted in Belgium by random sampling found out that 0.2% (N = 6861) of all the cases included in the sample were done without an explicit consent of a patient (Onwuteaka-Philipsen et al., 2012). Moreover, another study indicated that mainly the ones who are dying without an explicit request are seniors of 80 years old, who constitute the vulnerable group (Chambaere et al., 2010). The

findings illustrate that there is a need to change the laws and underline the need for tougher safeguards.

So, the examination of existing literature reveals that the major problem and gap in the euthanasia law is connected with the decision-making process by doctors and vulnerable groups (people with disabilities and seniors). First of all, the examination of the euthanasia law revealed that in the law there are not-determined cases when a doctor should help a patient to die. Moreover, the law does not provide sufficient information about the cases when the assisted dying is illegal for both doctor and assistant. From the findings mentioned above, it becomes apparent that nurses by violating the law help patient to die. So, the problem behind this is that nurses do not have a fear of being prosecuted or lose medical licenses. Apparently, the laws need to clearly state in what conditions a doctor should help a patient, secondly to underline who can assist and thirdly to mention in what cases a physician and assistant will be prosecuted.

Secondly, during the conducted research significant findings highlighted that there is no safety information for those who are seeking euthanasia. Although these may not be a problem for those, who have a close friend who is a doctor that is willing to assist them or those who have a possibility to request euthanasia in Switzerland, Dignitas. So, the problem is that the lack of information plays a significant role for those who want to die with dignity. Those people who want to die can rely on amateur assistance that does not have much practice in the field and do not request much money. Thus, this gap may result in a painful death for a person who seeks euthanasia.

Finally, findings underlined that the majority of the cases that are happening without request are conducted with vulnerable groups. Concerning elderly people, the decision-making process in some cases remains on doctors and caregivers. However, this result on euthanasia cases that are happening without a wish of a patient. The terminally ill patients

may feel pressure, get suggestions by caregivers about the situation or be a burden to their family. Even though the number of such cases is law and in the decision-making process one of the family members is involved the risk continued to be. So, the suggestion for this case is to leave the decision-making process to the courts, which have no benefits from approval/rejection of providing a possibility of euthanasia. Moreover, in the Netherlands where children from 12 to 16 can be euthanized was based on the decisions and consent of their parents. Even though the parents are the ones who want the best for their children should not decide upon the question of euthanasia. So, the case of children also should be left to the courts. Such undertaking measures will make safeguard institution tougher that can protect the right of patients, including elderly, children and patients with disabilities.

CONCLUSION

Overall, the arguments in favor are stronger than the arguments against. Even though there are some weaknesses in the laws of euthanasia the evidence and findings of different scholars underlined that slippery slope, religion, trust in doctors and medical practice, and the availability of alternatives somehow failed (Hall et al., 2005; Gallup, 2006; PewResearchCentre, 2013; Oregon Public Health Division, 2014; Gallup, 2015; Chambaere et al., 2015; Powell, 2015).

As can be seen, all the experience of euthanasia law of countries is different, some of them are doing well and some not. However, as it was stated, the purpose of this paper is to understand whether there should be a law, and, if so, what are the conditions that laws should include in order to avoid abuses and misuses of euthanasia. So, the findings of scholars mainly underlined that the strict rules in the Netherlands, Belgium have a positive effect on the decrease of non-voluntary euthanasia cases, and it is a positive sign. However, the Netherlands and Belgium continued having problems with compliance to the laws, non-voluntary euthanasia mainly connected to the vulnerable groups, euthanasia cases conducted by nurses, etc. Whereas Oregon example highlights the positive effect of the strict laws, that provide a full explanation of all the conditions and consequences of administering euthanasia.

All things considered, it can be stated that neither of the laws and system described in the paper is perfect, but it should be noted that the legislation of the countries gives possibilities to terminally ill patients of choice. People should understand that the lack of knowledge, an experience is a factor that has an adverse effect on the euthanasia in general. So, there is a need for practice exchange between the countries that legalized voluntary euthanasia or PAS, which will help to make the system as perfect as possible and avoid the misuse/abuses of euthanasia. At the same time, the risk of unreported cases, inadequate

palliative care, and slippery slope will always be a counter argument for the legalization of euthanasia. As a conclusion, it is important to bring a quote from the debate on Euthanasia in New Zealand that *"It is not possible to draft legislation that cannot be circumvented"* (Street & Schadenberg, 2012).

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