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HAM
Euthanasia

A STUDY OF EUTHANASIA

An Honors Paper
Presented to
Dr. James Berryman
Ouachita Baptist University

In Fulfillment
of the Requirements for
Honors 492

by
Allen Hampton
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#174

The place is a Belgium court room, the scene is a murder trial, the defendants are several including a medical doctor, and the plaintiff is the state. The prosecuting attorney rises and begins to speak to the doctor who is on the witness stand. The attorney first reads the following;

I will look upon him who taught me this art even as one of my parents. I will share my substance with him, and I will supply his necessities if he be in need. I will regard his offspring even as my own brethren, and I will teach them this art, if they would learn it, without fee or covenant. I will impart this art by precept, by lecture, and by every mode of teaching not only to my own sons, but to the sons of him who taught me, and to the disciples bound by covenant and oath, according to the Law of Medicine.

The regiment I adopt shall be for the benefit of my patient according to my ability and judgement, and not for his hurt or for any wrong. I will give no deadly drug to any, though it may be asked me, nor will I counsel such, and especially I will not aid a woman to procure abortion. Whatsoever house I enter, there will I go for the benefit of the sick, refraining from all wrongdoing and corruption especially from any act of seduction, of male or female, of bond or free. Whatsoever things I see or hear concerning the life of men, in my attendance of the sick, or even apart therefrom, which ought not to be noised abroad, I will keep silence thereon, counting such things to be as sacred secrets.¹

The prosecutor questions the doctor, "Now doctor, did you take this oath before beginning your practice of medicine?" The doctor replies in the affirmative and then is asked more questions. "Did you prescribe the drug used to kill the Van de Put baby?"

¹ J. Beavan, "Patients' Right to Live and Die," New York Times, August 9, 1959, 14, p. 17.

"Yes, I did prescribe the drug the night before the baby's death."

"Didn't you break your professional oath by such an act as prescribing a deadly drug?"

"Yes, but my actions were for the benefit of my patient according to my ability and judgement; this action is within the keeping of my oath as a medical doctor."²

Thus the trial began, and continued for several weeks as the government of Belgium sought to convict four persons of murder in the first degree. Suzanne Van de Put had given birth to the victim who was a deformed Thalidomide baby. Although the child was of normal intelligence, she had no arms, rudimentary flipper-like appendages extending from her shoulders, a misplaced anal canal, and a deformed face. The mother wanted the baby dead for the child's own happiness. Since the infant girl had normal intelligence, the mother reasoned that the child would be even more unhappy with her physical body. Therefore, the infant must die. The grandmother went into hysterics and pushed her daughter to kill the baby girl. The child's father was too mild to oppose the dominating women, and the family doctor felt responsible for the baby being deformed. Since the family doctor had prescribed the Thalidomide during early months

²J. Gallahue, "Tragedy at Liege; Van de Put's Thalidomide Baby," Look, 27, March 12, 1963, pp. 72-74.

of the pregnancy, he was compelled to help the family. Thus the doctor prescribed the deadly drug which was then administered to the infant by the family.

All four defendants hid nothing and readily admitted their part in the killing; however, their court case was built upon their act of mercy to the deformed infant.

Finally the day of judgement arrived, and the court building was filled with countless people wanting to hear the final outcome. Swayed by a poll favoring the defendants ten to one, the jury reached the verdict of not guilty after a little over an hour's contemplation. Most people were very surprised, some reacted with fear, and others highly praised the decision of the all male jury. The acquittal was flashed to everyone by every source of news media possible. The decision struck people like the shot heard around the world did.

After the initial reactions had slowly died away, groups as well as individuals began to seriously consider the implications of what had happened. Was mercy killing now legal? Could a physician take one's life simply because he judged it best to do so? Would mothers begin taking the lives of their deformed children? Does a doctor have the right to terminate hopeless cases, and if so, when should he perform the act? Are doctors playing God when they decide if another human being is to die or not? As one can see, the situation is not merely a

case of labling the issue "Euthanasia" and then voting yes or no for the name.³ The issue is very complex and accompanied by many pro and con arguments. While this paper is a study of the complexities of the mercy killing issue, the scope of this study does not allow a complete analyzation of the problem. However this paper does provide enough information to give some insights into the situation. The writer hopes that the following will be both informative and useful.

Since Belgium is a predominately Catholic country, the issue of natural law was certainly an argument much explored during and following the Van de Put trial. The basic conflict of ideas surrounding this issue stems from one's view of the relationship between man and nature. One side of this argument maintains that interfering with nature is wrong. In the case of someone with a terminal illness, the advocates of natural law let the individual die at the appointed time nature had set for his death. The Catholic church has by tradition accepted this natural law view in making moral decisions, deciding social issues, and producing theological concepts. Primarily the Roman Catholic church is the leader in the natural law issue as related to euthanasia. A second part of the natural law argument sees God in every human being regardless of his mental

³ Joseph Fletcher, "Patient's Right to Die," Harper's Magazine, 221, (October, 1960), 138.

or physical condition. The Catholic Church has used this point in expressing its views on mercy killing. Other groups have taken the same stand concerning euthanasia; however the Catholic church is credited as the originators of this view.

Shortly after the Van de Put trial, the cardinals of Europe met and issued this statement: "To deliberately terminate life whether by suicide, direct abortion, euthanasia, or any other means is wrong in the sight of God."⁴ When asked later to explain this statement, Cardinal Suenens, Archbishop of Malines-Brussels and Primate of Belgium stated, "Revelation shows God the creator and sustainer of life. Through the laws of nature He gives and takes life. We are scarcely in the position to decree what the future of an afflicted person may be."⁵ Cardinal Suenens agrees also with the second part of the natural law view, for he says, "Sick man, mental patient, and old man in a coma are all just part of Christ because devine life flows in each of them!"⁶

Other advocates of natural law have taken a stand for what might be called "Modified Euthanasia!" This sect maintains that life is to be sustained, but one should not strive uselessly

⁴ R. Oulahan, Jr., "Euthanasia; Should One Kill a Child in Mercy?", Life Magazine, 53 (August 10, 1962), 34.

⁵ W. M. Abbott, "Sacredness of Life", America, 108 (March 9, 1963), 326.

⁶ Ibid.

to keep alive the hopeless cases. This group maintains that one would be foolish to keep alive someone who will die very shortly. The words of the poet Arthur Hugh Clough are used as a statement of the thoughts of this sect of natural law followers. Clough said, "thou shalt not kill; but need'st not strive officiously to keep alive."⁷ The poet's thoughts are shared by such men as Dr. Robert Mortimer, Bishop of Exeter, who said, "Medical procedures that involve very great expenditure, inconvenience, or hardship, and which at the same time offer no reasonable expectation of success, or benefit are not obligatory."⁸ The men from this school of thought do not advocate direct mercy killing, but the withholding of treatment from terminal cases. By not giving the necessary treatment, nature can take its course, and the patient can die as nature intended for him.

The opposition to the natural law advocates have mercy as their motto. When one is hopelessly condemned to death by a disease, the only true solution is to have mercy and relieve the suffering through the death of the patient, according to this group of individuals. Not only will this act of mercy be to the benefit of the patient, but also to the family who suffers emotionally, financially, etc. Natural law should not

⁷"Modified Euthanasia," Time Magazine, 76(July 4, 1960), 38.

⁸Ibid.

override man's spirit of humanitarianism. Although God did command not to kill, He also commanded to have mercy and show love. Advocates of this view maintain that the same God that commanded, "Thou shalt not kill;" also said, "Blessed are the merciful."⁹ Nature is cruel in its tactics and especially in killing life. Man must yield to the reason that God has placed within him and thus be merciful where nature is cruel.¹⁰ One must likewise realize that "Medicine has a duty to relieve the suffering of natural events equal to preserving life."¹¹ Such a stand as this mercy view sanctions not only the killing of terminal cases but also the killing of those who are hopelessly deformed. This school of thought goes on to say, "Those who say, 'Leave it to God,' must realize that prolonging life as well as taking life is going against the laws of nature."¹²

Dr. Maurice Mallard, a noted British physician, once gave a lecture to a group of laymen, and mentioned a doctor who had given a shot to an eighty year old cancer victim. The lady was destined to die within a short time, and since

⁹ Oulahan, p. 35.

¹⁰ Fletcher, p. 143.

¹¹ Ibid.

¹² Ibid., pp. 140-141.

she had requested the fatal shot, the doctor gave her the deadly drug. Also the only members of the lady's family had given their consent in writing to have the drug administered. Thus the eighty year old spinster was given a dose that would put her to sleep for the last time. Dr. Mallard then identified himself as the doctor in this case, and the next morning he was the subject of many editorials. The same argument was cited as in the Van de Put trial; that is, the part of the Hippocratic Oath which says, "I will give no deadly drug to anyone even if asked, nor suggest any such counsel." Dr. Mallard replied that the drug was given to relieve pain and therefore was justified.¹³ Clearly, Dr. Mallard is an example of the mercy school of thought.

The second conflict over euthanasia hinges on the individual's definition of life. To some, life continues as long as there is breath in the body regardless of the mental and spiritual state of the patient. To the opposition, life is more than holding on to a physical existence; life is the totality of the human being responding to his environment. A person having mere physical breath is not a human being according to this second viewpoint. The debates stemming from this conflict are many and rather thought-provoking.

¹³"The Old Lady Slept," Time Magazine, 53 (May 18, 1959), pp. 44-45.

The reactions to the case of Mrs. Sherri Finkbine clearly defined the issue of life.. Mrs. Finkbine was faced with the decision to let her unborn child be killed or not. She had taken Thalidomide during her pregnancy, and the chances were very high that her child would be born either deformed physically or deficient mentally. To avoid the possibility of raising such a child, Mrs. Finkbine went to another country to have an abortion which is illegal in the United States. Although an abortion case is slightly different from a case of mercy killing, the same concepts of viewing life are present. When the news media carried accounts of what Mrs. Finkbine was considering, a family of eight children pleaded with her to not get the abortion. The family said that they would take the child if it was deformed and love it very much. Just because a child is deformed is no reason for taking its life. The physical existence is important enough that a child should be allowed to live. Therefore, the family made its request which was rejected by Mrs. Finkbine.¹⁴ Mrs. Finkbine had the abortion shortly after the request was made. One can only sigh the many afflicted people who have made a positive contribution to society according to this view of the definition of life. By looking at these many afflicted people,

¹⁴C. J. McNapsy, "Murder for Mercy's Sake," America,

107 (December 15, 1962), p. 1239.

one can only see that a deformed person is not necessarily a partial individual. Helen Keller and Ludwig Beethoven are two prime examples of afflicted but useful people, and thus all should be allowed to have life.¹⁵

Still others take the opposing view of life and give the words of Nietzsche as their guideline. Nietzsche said, "In certain cases, it is indecent to go on living." This stand point is the one taken by Dr. P. David Sholin, Rector, St. Mark's Presbyterian Church, Tucson, Arizona. About twenty years ago, Dr. Sholin had a son born with serious brain damage, and the son could only live with the help of an oxygen chamber. The infant son could not respond to his surroundings, move, make the normal movements of a baby, or utter a sound. All the son could do was breathe. The physician suggested that the son should be taken out of the oxygen environment for periods of time. Essentially the doctor was suggesting that if the boy could not make his body live in normal conditions, then he should die. Dr. Sholin realized what his physician was suggesting, and after much anguish, and after considerable thought, gave his consent to take the son out of the oxygen environment. Dr. Sholin realized that this boy was not the son he and his wife had hoped for all through the pregnancy. Instead the infant

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McNapsy, p. 1240.

would never accomplish anything, could never react to the world around him, and would never know how to love. Two days after exposing the baby to the natural environment for short periods of time, the son was dead. Dr. Sholin says he would do the same thing now twenty years later. He states;

If we are dedicated to preserving life under all circumstances, then we are worshipping life in the place of God. Legislation should be passed recognizing there is no point in prolonging life beyond the point where a patient can respond to his environment and surroundings.¹⁶

Bishop Fulton J. Sheen agrees with this viewpoint and thus opposes the official stand of the Roman Catholic Church of which he is a part. He states;

If a doctor told me that extraordinary means would be needed and I was dying with a body full of tubes, I would ask him to take them out. There is no moral difficulty involved in such a situation.¹⁷

Dr. Edward R. Rynearson of the Mayo Clinic makes the following statement;

It is wrong for a doctor to see how long he can keep a vegetable alive... With enough tubes in a person and surrounded by enough oxygen, there is hardly any way a person (or 'vegetable') can possibly die.¹⁸

Bishop Sheen says that if he were faced with a terminal

¹⁶ P. D. Sholin, "Death of a Son," Ladies' Home Journal, 85 (October, 1968), p. 68.

¹⁷"Let the Hopelessly Ill Die?" U. S. News and World Report, 55(July 1, 1963), p. 18.

¹⁸Ibid.

illness, he would want Dr. Rynearson to be his doctor and he would take Dr. Rynearson's advice concerning his life or death.¹⁹

Thus one sees the arguments for and against the life or 'vegetable' issue. Both sides have strong points which makes the decision for or against mercy killing an even harder one to make. The whole problem of euthanasia is complicated by both schools of thought.

The third main complexity of euthanasia is the conflict between medical morals and civil law. The main problem is that most modern law is based upon the laws of the seventeenth century, and particularly the laws of Great Britain and the United States. A great amount of the laws of these two countries are based upon the common laws of the seventeenth century. According to common law killing is forbidden for any reason, and this law did not foresee the day when man could keep the physical body alive long after the conscious mind had stopped functioning. Modern medical morals have not kept in line with the thought of these laws. Recently a speaker asked an audience of Midwest physicians to raise their hands if they had never practiced euthanasia. Out of an audience of several hundred physicians, not a single hand went up.²⁰ Cases like the Van de Put case and Dr. Mallard's action in Great Britain

¹⁹ "Let the Hopelessly Ill Die?," p. 19.

²⁰ Fletcher, p. 138.

likewise show a view of euthanasia which is coming forth in medical morals. However, euthanasia is murder by the present system of laws.

Shortly after the decision of the Van de Put trial, an editorial stated, "Even though there was sympathy and sentiment, murder is still murder by law; words like 'mercy' and 'release' do not change murder."²¹ The trial of George Ernest Johnson serves as an example of this principle. Mr. Johnson had killed his son who was a mongolian idiot. The son was killed when the father went into the kitchen of his house one night and gased his son. He admitted the killing but built his defense on the mercy he had shown to his son. The court sympathized with Mr. Johnson; however, the law is the law. George Johnson was therefore found guilty. The court did lessen the charge from murder in the first degree to manslaughter which is a twelve month prison term as punishment. The presiding judge brought the issue into the open when he spoke to the convicted man, for the judge said, "The court can and does sympathize with you, but you knew the law at the time that you acted. The court has no choice but to sentence you as an example to others."²² Since the Van de Put decision,

²¹"Lesson of Liege," America, 107(December 15, 1962), p. 1239.

²²"Quality of Mercy; mongoloid son," Time Magazine, 76(July 11, 1960), p. 64.

two other Belgium mothers have killed their deformed infants.²³ The judge of the Johnson case was trying to avoid this very situation in his own country. Thus the law and the morals are in conflict as can be seen from these examples. In one case the law won, while in the other case the morals of the people predominated.

A consideration of the medical morals involved within the issue brings even more complications. First there are three types of euthanasia: (1)Administering a death-dealing pain killer, (2)Ceasing treatments that prolong life or death (3)Withholding any form of treatment altogether.²⁴ The first type is considered murder, while the two other types are not considered murder or simply are not mentioned by the existing laws. As a result, the second two types can be used according to the descretion of the physician, and since there are statements in the Hippocratic Oath both supporting and condemning the act of mercy killing, the decision is not an easy one to make when faced with a terminal patient.

Various systems of ethics have had an effect on the physicians' decisions concerning mercy killing also. Some have taken the view of the situationalists and said that

²³ Gallaheu, pp. 73-74.

²⁴ Fletcher, pp. 139-140.

the ends justify the means. These physicians practice the indirect types (last two types mentioned above) because of the law of love. Because of love, this set of doctors believe it is their duty to mercy kill. The end of relieving pain justifies the means of killing according to this standpoint. Others follow the statement of Kant who said, "If we will an end, we will the means." Followers of this doctrine advocate the letting of people die without giving aids of mercy. The advocates see the patients as individuals who have life as their most prized possession. The job of the physician is to preserve that life at any cost, so even the doctors are divided in relation to their obligations to the patient.

A good number of the physicians have admitted using at least the indirect methods of mercy killing, and by so doing have walked on thin ice. Although the law does not actually label indirect mercy killing as murder, some have been convicted of murder in the present courts because the law did not speak on the issue. Somehow the law system and the medical morals must coincide, and there would be less controversy and confusion on the issue. One writer stated the situation this way;

Direct euthanasia is not likely to be legalized. Current thought suggest that the indirect methods will be legal in the next few years. To bring this matter into the open practice of medicine would harmonize the civil

law with medical morals, which must be concerned with the quality of life, not merely the quantity of life.²⁵

Clearly the starting place is the legal system; however, a system of checks must be included so that physicians will not be able to abuse the right to use indirect mercy killing. Some doctors reject the idea of legalizing euthanasia because of the pressure that would be on the physician.²⁶ Some see so many complications in setting up such a check and balance system that the whole idea of legalization is rejected. The British Society for Euthanasia has presented a system which would be workable, and yet the society has generally been condemned for their proposal. The general guidelines of this system are;

- (1) The patient must be at least 21, of sound mind, and suffering from a disease to be terminal.
- (2) The patient shall make application to be mercifully killed.
- (3) There shall be two diagnoses as to whether the disease is terminal or not.
- (4) A government euthanasia official will then visit the patient and recommend the acceptance or rejection of the request.
- (5) The patient would then be killed by an official especially for the job of mercy killing.²⁷

²⁵ Fletcher, pp. 142-143.

²⁶ Beavan, p. 17.

²⁷ Ibid.

The reaction to this proposal was one of fear with some people. "We are scarcely in the position to decide what the future of a human being should be," stated one prominent writer.²⁸ The religious world immediately rejected the proposal as a whole: religious leaders said, "We have gone back to the times of the Barbarians and must return to the Judaeo-Christian concepts."²⁹ By the return to Judaeo-Christian concepts, religious leaders were referring to any act of killing as murder. This stand brings forth another solution; that is, condemn all acts of killing as murder. Do not allow any room for killing of any kind. Many see this as the only solution because even mercy killing is looked upon as murder.

A third solution has been proposed which would let the decision be strictly between the doctor, the patient, and the patient's family. The doctor would talk with the patient about his condition and offer euthanasia as one of the possible means of death. If the patient chose this method, the family would then be consented, and if their approval is given, the physician would then give some means of killing the patient. Although this system opposes the system of the Society for

²⁸ McNapsy, p. 1240.

²⁹ Ibid.

Euthanasia proposal, it has one element in common; there must be a law passed before it is put into effect.

One final proposal is that only one type of mercy killing should be legalized. The physician should be allowed to take away the medical facilities which are keeping a mere 'vegetable' alive. Once again a law would need to be passed before this solution would be workable, and this law would have to condemn any other form of euthanasia as murder. The problem of just when is a person a 'vegetable' would still be present, also.

Thus one can see that there is no easy solution to the question of euthanasia, there are no easy answers to the question of the rightness or wrongness of mercy killing, and there are no concrete facts concerning the whole subject. Aware of the many complexities of this many-sided problem, the writer can only try to place himself in the situation, and try to predict what he would do. First what would he do if his child were born badly deformed either physically or mentally? For the good of all concerned, he might allow the infant to be killed. Second, what would the writer do if one of his family had a terminal illness or injury? He would probably take the mercy killing route in order to avoid the unnecessary pain involved in a long death period. Last, what would the writer do if faced with a terminal disease

within his own body? Probably he would give much consideration to a mercy killing request, and the chances are that the writer would make the request. The exact decision would depend upon the circumstances of the situation. If the writer decided to request a mercy killing, would there be a law to allow this to be done? At the present time, no such law exists. What about the reader? Would he like a law passed so that he could request a mercy killing if he so desired? If such a law did exist, how would the reader react to the situations listed above?

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