Eutanasia y estigma: ¿El derecho a la muerte digna es contrario a la ley universal?

Euthanasia and stigma: is the right to a dignified death against the universal law?

Santiago Mora Martínez [a], Laura Camila Barahona Machado [b].

a. M.D. Researcher in the Health Knowledge Management research group of the Faculty of Medicine of the Corporación Universitaria Empresarial Alexander von Humboldt. Professor of emergency medicine and critical care. ORCID: https://orcid.org/0000-0001-8122-6180

b. M.D. Faculty of Medicine, Universidad del Quindío, Armenia, Quindío. ORCID: https://orcid.org/0000-0003-1152-8145

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Abstract

The word euthanasia (from the Greek "eu" (good or happy) and "thanatos" (death)) designates a procedure questioned by many social and religious groups. The people who practice it, as well as their families, are stigmatized by their detractors. Even though Colombia is one of the few countries that has regulated this practice since 2015, even allowing it in underage children, the bill has not passed the debates in Congress, and attempts to access it are frustrated by bureaucratic red tape (1). This reflection article aims to address the concept of euthanasia from philosophy, history, medicine, and jurisprudence.

Keywords:

Euthanasia, human rights, bioethics, philosophy.

Resumen:

La palabra eutanasia (del griego "eu" (bueno o feliz) y "thanatos" (muerte)) designa a un procedimiento cuestionado por múltiples grupos sociales y religiosos. Las personas que la practican, como sus familias, son estigmatizados por sus detractores. A pesar de que Colombia es uno de los pocos países que ha regulado esta práctica desde el 2015, incluso permitiéndola en menores, el proyecto de ley no ha pasado los debates en el Congreso, y los intentos de acceder a él se ven frustrados por trámites burocráticos (1). Este artículo de reflexión tiene como objetivo abordar el concepto de la eutanasia desde la filosofía, historia, medicina y la jurisprudencia.

Palabras clave:
Eutanasia, derechos humanos, bioética, filosofía

Introduction:

In clinical practice, decision making has an intuitive and a deliberate component. Given the complexity of the human being, medicine supports its behaviors not only on pathophysiological, biological, anatomical, biochemical and pharmacological knowledge, but also on humanistic knowledge, a set of fields that include philosophy, bioethics, jurisprudence and history. The Social Sciences are of great importance when it comes to accompanying the clinical process in situations that, given their complexity, trigger reflections on the appropriate way to ensure respect for a dignified life. Over the years, the human perspective on euthanasia has evolved, adapting to different historical contexts, generating multiple definitions and philosophical representations about its definition and relevance (1). The following will explain the practice of euthanasia from several points of view.

1. A holistic concept:

The word "euthanasia" can be considered poetic; its etymological origin means happy death. It seeks to give the patient expiration free of suffering, preserving their human dignity (2); it considers the disease process, interpersonal relationships, economic situation, and experiences, being each case unique. It defends the freedom and autonomy of the patient, which is expressed through informed consent (3). Despite its humanistic connotation, some thinkers, such as Narciso Jubany, define it as an action whose purpose is to cause the death of a human being in order to avoid suffering, either at their request or because they consider that their life lacks the minimum quality to merit the qualification of dignity, thus being a mercy homicide (4). Malespina classifies it as killing another person at their own request, mentioning that, in positive law, the states that regulate this practice require it to be carried out by a physician who determines that the patient's suffering is unbearable and incurable (5). However, euthanasia and murder are incompatible concepts; the first one cannot be involuntary, it requires the explicit consent of the affected person. It would be an oxymoron for a death to be desired and, at the same time, contrary to the autonomy of the patient (2).

Academic views on euthanasia have been variable (1). Marcus Aurelius, Epictetus, Zeno and Seneca -Nero's advisor- defended that the portal of death is always open, representing a way out when existence is unacceptable. In The Republic, Plato considers that those beings who are useless to

themselves and to society should not receive assistance; a position shared by Aristotle. The Stoics defend that we can separate ourselves from life in the face of overwhelming torments, justifying death when pain impedes that for which life is worthy. Cicero defined euthanasia as the glorious end of life. For his part, the 12th century Islamic philosopher Averroes, in his works, maintains a favorable position on this practice (4). With the rise of Christianity during the Middle Ages, Augustine of Hippo and Thomas Aquinas condemned euthanasia as a practice contrary to the will of God; a position that has persisted to the present day through the Doctrine of the Faith, the Episcopal Declaration, etc., despite its authority, euthanasia has been considered a possible way forward by the common people (4), although there is still a refusal within Judaism and Orthodox Christianity to accept 21st century rights such as euthanasia and abortion (2).

In the Renaissance, Montaigne, in defense of euthanasia, affirms that God gives the intelligence to decide when to put an end to a state in which living is unworthy. In *Historia vitae et mortis*, Bacon, argues the lawfulness of this practice; as does Thomas More in "Utopia", who distinguishes between euthanasia and suicide, considering the former as a pious practice (4). In the Enlightenment, Immanuel Kant describes the categorical imperative and the universal law, concepts that will be discussed further on (6). From the 19th century onwards, positivists, philosophical pessimists and existentialists, contributed a contradictory opinion on the subject; for example, in "Thus Spoke Zarathustra" the choice of a free death is safeguarded; but, in other sections, Nietzsche considers it a sign of mediocrity. Since the 20th century, euthanasia, in general, has been considered a distinctive sign of freedom and autonomy, as advocated by thinkers of the Frankfurt school (4).

2. Is death with dignity contrary to universal law?:

Empathy, from the cognitivist theoretical approach, is the result of the capacity to experience emotions, the context, and the value judgment with which one responds to the suffering of others (6). Through empathy, euthanasia should be considered as an alternative to guarantee a dignified death. This decision highlights the moral conflict between living in suffering or dying with

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dignity. The cognitive evaluative approach embodies a neo-stoic theoretical vision of emotions; it considers them as intentional mental states, capable of generating value judgments, secondary to the subjectivity of reality. This system is compatible with the philosophical doctrine of Seneca, Cicero, Aristotle, Chrysippus, Descartes, Hume, and Spinoza. Adam Smith considered empathy as a human quality consisting in sharing the feelings of another human being through the projection of the other, allowing to build bridges even if one does not agree with certain ethical principles of the other (6).

Understanding empathy as a motor reduces the contextual complexity of this act to a physiological concept; since it is understood as a neuronal response in the cerebral cortex when observing the reaction of another living being, registering physical sensations. However, this approach is reductionist since humans are not always empathic and predictable. Empathy is not an automatic response and sometimes, in the absence of findings suggestive of sociopathy, it does not develop in the face of third-party adversity (6).

Empathy is considered an ethical concept; therefore, its absence may be indicative of cruelty. According to Baum, the principle of autonomy allows humans to design their life project, avoiding suffering. This suffering can have its genesis in internal and external restrictions of freedom. The former are ethical, moral principles that guide decisions. The external ones are juridical, contrary to self-determination from the Kantian perspective, being an obstacle to freedom according to universal law. For Kant every action is justified if one's freedom of will can exist alongside that of others. This is guaranteed when the person is honest, does not commit injustice to others or is a member of a society in which everyone can obtain and keep his own. Therefore, starting from human rights, by allowing the patient to decide about his life, euthanasia does not violate universal law; on the contrary, it protects it (6). It must therefore be seen from the patient's perspective, protecting his autonomy and freedom in making choices about his illness, palliative care or request for death (3).

3. Perceptions and motivations about euthanasia:

Vézina-Im et al. (8) conducted a systematic review to identify the motives of doctors and nurses for performing euthanasia, comparing the findings in countries where this practice is illegal and those where it is legal. They concluded that the most important variables associated with a positive stance toward euthanasia are: 1) Past experience with the procedure; 2) Specialty in permanent contact with chronic and terminal patients; 3) The absence of

depression in the patient; and 4) A short life expectancy. Their stance may be influenced, to a lesser extent, by psychological variables, such as fear of consequences, role, identity, moral or religious beliefs. Social-demographic parameters such as sex, experience, age and educational level may have different impacts. Gutierrez et al. concluded that European medical students have a more favorable position on euthanasia; they found that clinical experience influences the acceptance of this behavior and is directly related to exposure to patients. A higher educational level is associated with a better disposition to euthanasia. It was documented that belief and religiosity have a negative influence on tolerance to this procedure, along with the traditional precepts stipulated in the Hippocratic oath (7, 8). Patel et al. conducted a meta-analysis of the experiences and perspectives of health professionals who have performed euthanasia; they found that physicians formulated their opinions based on their political, professional, individual, interpersonal, analytical, psychological and emotional positions (9). Finally, Gamondi et al. emphasized the role of the family during this procedure. Thus, despite the stigma of euthanasia, blood relatives should support their loved one's decision by providing support and maintaining open communication (10).

4. Regulations in Colombia:

Colombia was the first developing country to legalize active euthanasia, defined as the application of an action that causes the death of the patient, as opposed to passive euthanasia, in which actions that sustain vital signs cease. Some professors sub-categorize this classification as voluntary or involuntary, despite the semantic contradictions that this entails, it is considered involuntary when a committee approves the procedure without knowing the actual will of the patient given his mental state or it is carried out based on a previous decision. The euthanasia is regulated through Resolution 1216 of 2015, which complies with the fourth order of judgment T-970 and ensures the creation of guidelines to guarantee the operation of interdisciplinary scientific committees, formed by an expert doctor, a lawyer and a psychiatrist or psychologist, to give effectiveness to the right to a dignified death. These act under the conditions defined by judgments C-239 of 1997 and T-970 of

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2014, in the context of a terminally ill patient, considering Law 1733 of 2014 that regulates palliative care in the country; highlighting that the right to a dignified life implies the fundamental right to die with dignity, the decision to die is autonomous. In cases in which the patient is unable to express his will, the request can be submitted by his family if the patient left a valid document expressing his wish. After externalizing his attempt, the committee will be informed within 24 hours, and it will be studied in 10 days that the necessary requirements, raised in the sentence T-970 of 2014 and the sentence T-423 of 2017, are met. After reiterating the decision, euthanasia will be performed in 15 days, a procedure that must be done after having an informed and free consent, must be executed by a doctor and the passive subject has to suffer from a terminal illness. Through resolution 0971 of 2021, the procedure for reception, processing and reporting is established, as well as the guidelines for the committee. In minors, euthanasia is regulated through resolution 0825 of 2018, allowing from six to fourteen years of age to perform the procedure after the consent of those with parental authority; and providing autonomy to those over 14 years of age (11, 12, 13).

5. Conclusion:

The secondary suffering caused by illness is of great concern to society, engendering radical behaviors in an attempt to preserve health that can lead to therapeutic overkill (dysthanasia). The stigmatization of palliative care and euthanasia coerces universal law; it dehumanizes the patient, suppresses their freedom and autonomy. Under no epistemological precept can the prohibition of euthanasia be imposed since it violates the right to a dignified death when the therapeutic treatment is insufficient and orthothanasia cannot be guaranteed. A dignified life entails a peaceful death. It is necessary to protect the expression of the patient's autonomy, which lies in informed consents and advance directives; these are tools that facilitate decisions for family members and doctors. Despite being decriminalized, access to euthanasia is limited by orthodox sectors of society. Therefore, the state is obliged

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to educate the population about access to palliative care and to ensure the protection of autonomy.

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