Esther Muñoz Tovar

Rey Juan Carlos University ORCID: 0000-0001-7320-5929

33/2022 Political Dialogues DOI: http://dx.doi.org/10.12775/DP.2022.014

Moral Approaches to the Term "Good Death": The Case of Ángel Hernández and María José Carrasco

Abstract:

The legalization of the so-called "good death" raises a moral debate in which society has not reached any common point. Those who confirm that it is an absolutely fundamental right for the common good confront with those who consider it a privation of the right to life. Through this research, it is intended to present the arguments for and against these practices. Furthermore, the aim is to defend the reasons why governments and society should fight for this legalization. In addition to supporting the position in those arguments in favor of these practices, the utilitarian perspective is key to reinforcing this position. Therefore, this theory defends that an action is correct if it is focused on increasing the general amount of pleasure and happiness.

Keywords: assisted suicide, euthanasia, good death, legalization, life, utilitarianism

There are only five countries where euthanasia is legal: the Netherlands, Belgium, Luxemburg, Canada, and Spain. Moreover, Colombia, New Zealand, some states in the United States and Australia maintain it, but it is not regulated there as De Benito (2021) confirms. The intention of this article is to give arguments for the "good death" regulation in democratic regimes through the real case of a couple that was forced to practice assisted suicide illegally. Furthermore, different philosophical and moral theories will support throughout the argumentation the need to legally implement this practice.

María José Carrasco was 32 years old when diagnosed with multiple sclerosis in 1989. Over the years, she lost her mobility until it was taken to a situation of great dependence and associated loss of vision and hearing. Ángel Hernández, her husband,

did everything he could to make his wife's life as comfortable as possible, knowing that the degenerative disease that accompanied her would end up leaving her breathless.

At the age of 61, after 30 years of illness, María José decided that her suffering was unbearable. She had many pains, and she was already going through palliative care. Doctors only increased the doses of morphine because euthanasia was not yet legal in Spain. For that reason, she planned her death together with her husband Ángel, who helped her end her life by letting her supply herself a lethal substance (sodium pentothal). María José bought this poison secretly online when she still had some mobility. The couple had been keeping it at home for three years, waiting for a euthanasia law that never came.

On the 3 April 2019, Ángel Hernández helped his wife take her life with the poison. This can be seen in a video that both recorded, which shows the consent and the request of the patient to die. After the death of his wife, Ángel disseminated the video through the media. For this reason, Ángel Hernández became the first detainee in Spain, the fact that the Spanish public opinion did not approve. His case was even sent to a court on gender violence, but the instructor refused to try him, as María José gave her clear consent. Finally, Ángel Hernández was acquitted of all charges by the head of the Criminal Court number 34 of Madrid. It was understood that his action was covered by the new euthanasia law, although when the act was carried out this was not contemplated.

According to this case, many questions need to be answered: What are the moral differences between the practices that are known as "good death"? Which approaches argue for and which against the decision taken by María José? What does it mean to die with dignity?

Euthanasia etymologically means "Good Death." As the Asociación Federal Derecho a Morir Dignamente (2020)¹ points out, the difference between euthanasia and assisted suicide is basically between who manages the drug: the doctors or non-medical professional.

Álvarez (2013) explains that euthanasia is the action practice by a doctor to let the patient die without pain by his request. By this definition, euthanasia is understood as an act that is voluntary, active, and direct. According to Harris (2001), euthanasia can be understood as voluntary or involuntary. The voluntary occurs when the patient asks for the termination of life with an informed request, while the involuntary is the result of the nonspecific consent of the patient. However, the literature on euthanasia also makes a distinction between active euthanasia, which "takes place if deliberate steps

¹ In English: Federal Association for the Right to Die With Dignity (2020).

are taken to end a patient's life;" and passive euthanasia, which "is the withholding of treatments necessary for the continuance of life" (Harris, 2001, p. 1).

Steinbock (2009) prefers to talk about termination of life-prolonging instead of active and passive euthanasia. This author limits two situations in which the purpose of this treatment cannot be related to the intentional ending of an individual's life by another: the first, when the patient refuses treatment; the second, when the treatment does not have many opportunities to improve the patient's condition and discomfort. In the rejection, he does not understand the possibility of voluntary euthanasia because it would be admitting the right to be abandoned and to be killed. Therefore, she claims that there are other reasons to end the treatment that prolongs life versus providing death.

In the assisted suicide, the person is given what is necessary, commonly a lethal drug, to end his life, but the supply is not managed in a medical context (Álvarez, 2013). Through these definitions, it is clear whose role is to have the control. While in euthanasia the death is performed by a doctor, in assisted suicide it is not. For this reason, the exposed case is an assisted suicide, since Ángel helps his wife to take the drugs.

The moral dilemmas related to euthanasia have been a serious debate topic for a long time. In all these discussions, issues such as the value and the sanctity of life or the autonomy of the patient in contrast with the rights and duties of the doctor play a specific part in the arguments for and against euthanasia.

As a matter of fact, Harris (1995) suggests euthanasia is morally connected with the value, protection and upholding of life. For this reason, he argues that the importance of a human life is related to what defines an individual as a person, as it permits to value its own existence and, however, also assess if it is wrong to deprive of it. From this statement, it seems clear that individuals who want to live are being harmed if they are deprived from something they value (life), whereas those who do not want to live are not being wronged by the concession of die. As the principal harm of this last action is directly to the individual who takes this decision, Harris (1995) believes that voluntary euthanasia cannot be considered harmful to these individuals, as the issues of autonomy and integrity are being defended.

Dworkin (1994) claims that the intrinsic and cosmic value of live has a strong connection with religion. Those who are opposed to these methods indicate that the presumed right to assisted suicide is an opinion or desire and understand that choosing these methods is as if a homicide was being performed, since they understand that the protection of human life is a political duty (Associació Catalana d'Estudis Bioétics,² 2006). Speaking from a religious perspective, the Catholic Church's point of view is completely opposed to legalization. Following that standpoint, we can see

² In English: Catalan Association of Bioethics Studies.

several reasons. First, the church sees life as a gift. They believe that if the state defends euthanasia, there is a moral rupture, a change in the state's purpose, from defending life to being responsible for the death inflicted. In short, they do not understand death as a solution. Furthermore, the Catholic Church believes that there is no such subject as an untreatable disease, even if it is no curable. They have the opinion that it is the task of medicine to cure, to cure but also to care, soothe and comfort, especially at the end of life. In other words, they support palliative care (Comisión Ejecutiva de la Conferencia Episcopal Española, 2020). Continuing with this source, the legalization of euthanasia incites the death of the weakest and is a simple form of surrender. To rely on this method is to deny God's gift of life.

Although Harris (1995) understands the sanctity of life as possibly cosmically important, he finds out that the individuals desire for taking decision about his/her own fate, in which the manner and timing of his/her own death can be included, is more important. However, against the root idea of the sanctity of life, he points out that "making someone die in a way he finds horrifying is an odious form of tyranny" (p. 15). At this point of the argumentation, the atheistic existentialism theory should be considered. It confronts anxiety in the face of death without appealing to the hope of God's salvation or other metaphysical salvations. Jean Paul Sartre is one of the main defenders of "existence precedes essence." According to Malishev (1996), by denying the existence of God, we cannot leave to this figure our justifications or excuses, since we find ourselves alone and, therefore, we are the only authors of our acts. Thus, Sartre indicates that the human being has complete individual responsibility for his intentional acts and behavior and that he is condemned to be free. However, if guarantees are restricted, the possibility and obligation to be free in one's own decisions are denied. Not only the freedom to decide is restricted, but there is also the possibility of interfering with the individual responsibility of other individuals and its liberty, as in this case.

Despite his previous stance, Dworkin (1994) discusses on death, as the last stage of life that affects its whole. What he understands is that the unconscious or insane end can lead to it being worse in its totality and that perhaps it could be avoided if death had arrived earlier.

Heading to the autonomy of the patient and the role of the doctors, about these professionals Harris (2001) claims that their role is important in order to spread accurate and objective information to help the society to reason morally about this issue. Following this, he declares that the conflict for the medical ethics is to distin-

³ In English: Executive Comission of the Spanish Episcopal Conference.

⁴ According to Harris (1995), Dworkin analyzes the sanctity of live as a combination of natural and personal investment in life and respect for an individual's critical interest (p. 16).

guish, whether the autonomy of the patient is a priority or a benevolence. Through this exposition, it is now possible to develop those arguments against "good death," which can be summarized in the devaluation of life and the problems related to the Hippocratic oath.

Thus, Harris (2001) exposes that the legalization of euthanasia could trigger a decrease in the autonomy of the patient, if he considers that his illness can be a burden for his family or for the whole society. Continuing, he believes that patients with qualitatively good palliative care do not request euthanasia that often. That is why investment in better palliative care can be sought. Finally, the society itself is, in general, totally opposed to the idea of deliberate death. This is because the law aims to guarantee the right to life and penalizes those who end it. However, as previously written, the right is not withdrawn for those who do not want to abandon it, since it is understood that these practices follow very strict procedures and are not taken lightly.

In connection to the Hippocratic oath, Aliouche (2021) writes: "Health and well-being of my patient will be my first consideration and I will respect the autonomy and dignity of my patient." From this statement, we can underline that the respect for the patient's autonomy is existing, and it is not completely opposed to the realization of these practices. Furthermore, some of these practices (assisted suicide as in the case) do not necessarily imply a doctor, so this argument can be invalidated on some occasions.

About the devaluation of life, as it has been developed during the exposition, the point is to understand what is the value of life, which, of course, is different for each individual. As it has been shown, there is no consensus to define the value of life. It can be used in a position for as well as against euthanasia

Although the arguments against euthanasia are strong, we can move to those that are in favor of it, like the right to self-determination, the possibility of a law regulation and the dignity of death.

According to Harris (2001), thanks to active euthanasia and the principle of beneficence, individual and social autonomy would increase. In addition, patient's suffering would be reduced so that it could be considered as a principle of good medical practice. Here, it is practical to refer again to Aliouche (2021) and the Hippocratic oath, in which it is said that doctors should respect patient's autonomy and dignity. Due to this oath, the right to self-determination is not only a human right, but also, it's a duty to the medical profession. In the upper paragraphs, it was affirmed that improving the quality of palliative care would help end this procedure. In contrast, there would still exist a group of people who ask for this. In conclusion, if it is not regulated, these individuals are left alone in their suffering and denied the right to self-determination we have talked about. Therefore, the State must guarantee the fundamental rights to

life, physical and moral integrity, and constitutional rights such as dignity, freedom, and free will.

Moreover, when an explicit report is required, the process to request active euthanasia has more steps in which the patient can think about his decision and thus the value his life. Countries like Belgium, the Netherlands, or Spain count with this law in their legislation system and, in the case of Spain, not all requests have been accepted. Until the 24 June 2022, one year before the approval of the euthanasia law, 180 people made use of the good death (RTVE, 2022). However, not all the proposals headed to death, as some of them were rejected (Garcia, 2022). With this data, it has been proved that each patient is deliberately examined before taking the decision.

In addition, as proposed by Berges (2020), euthanasia is a necessary good due to the change of life expectancy. In contrast to a few centuries ago, it has increased considerably, leading to a delay in the moment of death, which in many circumstances can be related to conditions of physical and mental deterioration.

While following Harris (2001), the morality is related to the fact that the actions contribute to the maximum welfare. Due to that, it is also worth mentioning the utilitarian philosophical current as a way of legitimate death with dignity. As Jorquera (2018) writes, Bentham and Stuart Mill try to find a criterion to guide our behavior. That is, a criterion to determine when something is right or wrong, when it should, or should not, be done. Bentham proposes the "principle of utility." It establishes what is good and what is right is what is useful. Now, what do we understand by "useful"? Bentham defines "useful" as a way of helping us to achieve our ends. Utilitarians agree with Epicurus that the ultimate end we pursue is pleasure and happiness. Therefore, what is useful is which allows us to achieve these goals. Then, the criterion for determining whether a conduct is correct is whether this action is focused to increase the general amount of pleasure and happiness. That is why it is also called a principle of maximum happiness, which means, the greater amount of happiness for the greatest number of people. According to this criterion, any behavior or decision tending to increase the general amount of happiness is to be considered right, while any behavior or decision tending to increase the general amount of suffering (and, therefore, to decrease the general amount of happiness) is to be considered wrong. After this explanation, we can talk about the principle of maximum utility. If the main objective is for the greatest number of people to be happy, how can the right to die with dignity be denied?

Reaching this point, an explanation is needed in reference to the disease of María José. Multiple sclerosis is a disease that leads to demyelination of the central nervous system (Cristel, 2021). The most frequent symptom is motor and sensitivity alteration, such as loss of strength in the limbs, in the hands, heaviness in the losses, clumsiness when walking or fatigue with small efforts, numbness, loss of visual acuity, language

disorders, depression, memory disorders, among many others. Multiple sclerosis manifests in the form of outbreaks and the patient adds gradually more neurological deficit after each outbreak. While there is no cure for the disease, the treatment just tries to improve life's quality of those who suffer it with drugs for pain, emotional help, and assistance. Multiple sclerosis is just one of many diseases which leave the person waiting for death. The legal access to these pain-reducing methods is useful for the person who is suffering and for the families as well.

In the pandemical context, Peter Singer hints that the decisions taken were aimed to end of saving lives that could survive longer. This affirmation is translated to skip the values of the sanctity of life and taking up, instead, the utilitarianism that he defends, as can be seen in his interview with Gutiérrez (2020). Thus, Singer argues that it has been shown that not all lives are worth the same and that this context has changed the way we understand life and death. Thus, it is a demonstration of the way that societies develop and change through the decades and denotes the need of legislation.

Democratic societies also aim to achieve the greatest general happiness. Therefore, democratic states have a duty to ensure that, if suffering can be stopped, there is a way to stop it. As stated by the United Nations (s.f.), democracies, among others, have human rights and fundamental freedoms as an essential element. The right to die with dignity is a natural extension of the fundamental right to live with dignity. That is why a dignified death is considered a human right. On 24 March 2021, the Organic Law regulating euthanasia was approved in Spain, this made this country the fourth in Europe to legalize euthanasia and the sixth in the world. In the legal text, it can be seen that very specific cases are established for which this process can be used, such as serious, chronic, and incapacitating suffering, serious and incurable illness. It also establishes the figure of the responsible doctor and the provision of assistance in dying. However, María's occurred almost two years earlier, making Ángel's act illegal. Article 143 of the Penal Code punished the necessary cooperation with suicide. After the new law, its content was modified. Actually, it establishes that whoever causes or actively cooperates in the death of another person shall not incur criminal liability if the law on euthanasia is complied with. Following this change, some cases were decriminalized, as happened retroactively to Angel, who was cleared of all his charges.

Regarding the freedom to decide, we can take Isaiah Berlin's concept of positive freedom into consideration. With positive liberty it is understood that everyone is able to have the ability to be the master of his will and to determine his own actions and destiny. In this case, María José was limited in her positive freedom as she did not have the possibility of self-determination. In all ways, she expressed that her will was to die with dignity.

Conclusions

The start is a good ending: euthanasia etymologically means "Good Death." It is both a moral and legal obligation of the State, which is in line with the changes in society at any given moment. This is the reason why new laws and regulations aim to adapt the changes that occur in present-day societies. As Mosterín declares in Marin-Oralla (2018), "to confuse euthanasia with homicide is like confusing love with rape, or gift with theft, or voluntary with forced." Following this author, we must agree that the decision to die is an extremely personal choice, and no one would ask for euthanasia if they had any chance or hope of their suffering to be finished. On the one hand, those individuals who die without wanting to due to the absence of medical care or because they are left to die are ignored. On the other hand, those who want to die or who have irrevocably lost their personhood and have the tools to avoid it are also denied decisional power (Harris, 1995).

It is absolutely important to note the difference between having a right and being obliged to exercise that right. For example, having the right to have an abortion does not mean that you have the duty to have an abortion. In the case of the right to a dignified death it is the same. Thus, there is no reason to ban this practice. As stated by Tasset (2011), democratic societies based on tolerance and liberalism hang in the balance on whether voluntary euthanasia should be decriminalized and debates on this practice continue as there are affected who request these implementations.

A sick and degenerative person may or may not choose euthanasia when recovery is no longer possible, but that does not mean that he or she is forced to choose to die. What is important is that the person has the right to choose, the right to choose to die with dignity. The right to a dignified death means the right to make the process of dying as good and as pleasant as possible. As García (2014) declared "human dignity refers to the highest respect we should have for all human beings. It requires treating human as an end and not as a means, as Kant put it." Then, the medical help to die should be legalized in order to completely support the individual right and the freedom about one's own life.

Bibliography

Aliouche, H. (2021, October 7). *What is the Hippocratic Oath?*. News Medical. https://www.news-medical.net/health/What-is-the-Hippocratic-Oath.aspx.

Álvarez del Río, A. (2013). *El derecho a decidir: eutanasia y el suicidio asistido*. Cirujano General, Vol. 35, Supl. 2. https://www.researchgate.net/profile/Asuncion-Alvarez-Del-Rio/publication/303960973_El_derecho_a_decidir_eutanasia_y_suicidio_asistido_The_right_to_cho-

- ose_euthanasia_and_assisted_suicide/links/576035f808aeeada5bc2fe43/El-derecho-a-decidir-eutanasia-y-suicidio-asistido-The-right-to-choose-euthanasia-and-assisted-suicide.pdf.
- Asociación Federal Derecho Para Morir Dignamente (2020, June 4). ¿Qué diferencia hay entre eutanasia y suicidio asistido?. https://derechoamorir.org/2020/06/04/que-diferencia-hay-entre-eutanasia-y-suicidio-asistido/.
- Associació Catalana d'Estudis Bioètics (2006). *Razones del «si» a la vida y del «no» a la eutanasia*. Cuadernos de Bioética, XVII(2), 247–257. https://www.redalyc.org/pdf/875/87506008.pdf.
- Berges, M. (2020, December 12). *Eutanasia vivir bien, morir bien*. El Periódico de Aragón. https://www.elperiodicodearagon.com/opinion/2020/12/12/eutanasia-vivir-morir-46477919.html.
- Boletín Oficial del Estado (2021). *Ley Orgánica 3/2021, de 24 de marzo, de regulación de la eutanasia*. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-4628.
- Comisión Ejecutiva de la Conferencia Episcopal Española (2020, December 11). *La Iglesia frente a la eutanasia*. Conferencia Episcopal. https://www.conferenciaepiscopal.es/interesa/eutanasia/iglesia-frente-eutanasia/.
- Cristel Ferrer, L. (2021, January 2). *Esclerosis múltiple*. Canal Salud Mafre. https://www.salud.mapfre.es/enfermedades/neurologicas/esclerosis-multiple/.
- De Benito, E. (2019, April 6). *María José Carrasco estuvo ocho años esperando una residencia*. El País. https://elpais.com/sociedad/2019/04/05/actualidad/1554466291_282843.html#?rel =listaapoyo.
- De Benito, E. (2021, March 18). Spain approves euthanasia law, becoming the fifth country in the world to regulate the practice. El País. https://english.elpais.com/society/2021-03-18/spain-approves-euthanasia-law-becoming-the-fifth-country-in-the-world-to-regulate-the-practice. html#:~:text=Spain%20has%20today%20joined%20the,the%20world%20to%20regulate%20 euthanasia.
- De Benito, E. & Pinedo, M. (2021, June 30). *La Fiscalía, tras la entrada en vigor de la ley de eutanasia, retira la acusación contra el hombre que ayudó a morir a su mujer*. El País. https://elpais.com/sociedad/2021-06-30/la-fiscalia-retira-la-acusacion-contra-el-hombre-que-ayudo-a-morir-a-su-mujer-tras-la-entrada-en-vigor-de-la-ley-de-eutanasia.html.
- Dworkin, R. (1994). *The Edge of Life*. [In:] *Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom*, ed. R. Dworkin, pp. 3–29. Vintage Books.
- García Zárate, O. A. (2014). *Euthanasia: A Moral Argument in Its Favour*. Escritura y Pensamiento, N° 34, pp. 251–265. https://revistasinvestigacion.unmsm.edu.pe/index.php/letras/article/download/13654/12100/47208.
- García, B. (2022, June 17). *Más de 170 personas han recibido ayuda para morir en el primer año de la ley de eutanasia*. NIUS. https://www.niusdiario.es/sociedad/sanidad/20220616/mas-cien-personas-recibido-ayuda-para-morir-eutanasia-primer-ano-ley-aprobacion_18_06770013.html.
- Gutiérrez, M. (2020, June 15). *Peter Singer: "La pandemia ha demostrado que no todas las vidas valen lo mismo.*" La Razón. https://www.larazon.es/coronavirus/20200616/md57e2uhpjbxbfq5f-npturmuri.html.
- Harris, J. (1995). *Euthanasia and the Value of Life*. [In:] *Euthanasia Examined: Ethical, Clinical and Legal Perspectives*, ed. J. Keown, pp. 6–22. Cambridge University Press.
- Harris N. M. (2001). *The Euthanasia Debate*. "BMJ Military Health," 147, 367–370. http://dx.doi.org/10.1136/jramc-147-03-22.

- Jorquera Soriano, V. (2018, July 23). *Hedonismo y utilitarismo*. https://elbosquedelasdudas.word press.com/2018/07/23/hedonismo-y-utilitarismo/.
- LaSexta.com (2019, April 5). El emotivo relato de Ángel Hernández que llenó de silencios el plató de ARV tras ayudar a morir a su mujer. La Sexta. https://www.lasexta.com/programas/al-rojo-vivo/entrevistas/el-emotivo-relato-de-angel-hernandez-que-lleno-de-silencios-el-plato-de-arv-tras-ayudar-a-morir-a-su-mujer-video_201904055ca72a270cf243c3ff4dc466.html.
- Malishev, M. (1996). *El existencialismo ateo de Jean-Paul Sartre. Libertad, responsabilidad y angustia*. La Colmena, Revista de la Universidad Autónoma del Estado de México, Nº 12, 23–31. https://dialnet.unirioja.es/servlet/articulo?codigo=6148265.
- Marín-Olalla, F. (2018). *La eutanasia: un derecho del siglo XXI*. Gaceta Sanitaria, 32(4). https://www.scielosp.org/article/gs/2018.v32n4/381-382/.
- Naciones Unidas (s.f.). Democracia. https://www.un.org/es/global-issues/democracy.
- Pascual, A. M (2020, December 21). El hombre que ayudó a morir a su mujer enferma: "Estoy sopesando presentarme al juicio." Público. https://www.publico.es/sociedad/hombre-ayudo-morir-mujer-ela-sopesando-presentarme-juicio.html.
- RTVE (2022, June 24). *En España se han practicado 180 eutanasias en el primer año de aplicación de la ley*. RTVE.es. https://www.rtve.es/noticias/20220624/eutanasia-primer-ano-aplicacion-ley-espana/2385328.shtml.
- Steinbock, B. (2009). *The Intentional Termination of Life*. [In:] *Philosophy and Deaths: Introductory Readings*, eds. R. J. Stainton & S. Brennan, pp. 303–310. Broadview Press.
- Tasset, J. L. (2013). Razones para una buena muerte. La justificación de la eutanasia en la tradición utilitarista: De David Hume a Peter Singer. Télos, 18(1–2), 153–195. https://revistas.usc.gal/index.php/telos/article/view/469.
- Torices, A. (2021, July 6). Absuelven a Ángel Hernández acusado de ayudar a morir a su mujer con ELA. El Correo. https://www.elcorreo.com/sociedad/fiscalia-de-madrid-retira-la-acusacion-contra-angel-hernandez-por-ayudar-a-morir-a-su-mujer-con-ela-20210706110658-nt. html?ref=https%3A%2F%2Fwww.google.com%2F.