

Exploring euthanasia in Malta: an intersectional analysis of medical, legal, and ethical perspectives

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RB supervisor, wrote plan and skeleton of the paper and correcting text and format, MC wrote medical part, KB wrote legal part, SV wrote ethical part.

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Abstract

This paper provides a comprehensive examination of euthanasia from various perspectives, including medical, legal, religious, philosophical, and moral. The study also explores the public perceptions and trends in Malta. The medical perspective analyses the benefits and risks of euthanasia and its impact on the healthcare system. The legal perspective discusses the legality of euthanasia in Malta and the potential legal implications of legalizing the practice. The religious perspective explores the beliefs of various religious groups in Malta, particularly Catholicism, on euthanasia. The philosophical perspective discusses the ethical and moral considerations of euthanasia. The paper also analyses the results of surveys conducted in Malta, examining the public's attitudes towards euthanasia. Overall, the study provides a thorough analysis of euthanasia from various angles, shedding light on the complex and controversial nature of the topic.

Keywords: euthanasia; medical; legal; religious; philosophical; moral and Malta

Introduction

The word euthanasia originated in Greece, meaning a good death, and is defined as the act of intentionally ending a person's life with the aim of relieving them from pain [1]. This act remains quite controversial and a heavily debated topic in many countries all over the world, including Malta. To date, euthanasia is illegal in Malta, and physicians who assist someone with suicide are prosecuted and risk being imprisoned [2].

That being said, patients facing severe and debilitating medical conditions, such as being chronically in pain or terminally ill, continuously express their desire to have the right to euthanasia, thus, pushing for its legalization [3].

Advocates of euthanasia argue that it can relieve suffering and improve the quality of life of these patients with incurable diseases, based on the argument that patients should have the right to choose how they die and that euthanasia can provide a more peaceful and dignified end to life than a natural and inevitably painful death [4].

However, opponents of euthanasia argue that such a feat goes strongly against the Hippocratic oath every doctor is sworn in with, "*primum non nocere*", translating to "first do no harm" and violates the ethical principles of medical practice [5]. They argue that euthanasia is a slippery slope that can lead to abuse, coercion, and devaluation of human life [6]. Euthanasia is a controversial issue that has been debated for decades on end. In the paper "Euthanasia in Malta" by [7], the author explores the ethical and legal implications of euthanasia in Malta. Whilst there are arguments both for and against euthanasia, [7] argue that a nuanced approach is needed that considers the unique cultural and religious context of Malta.

One of the main arguments in favor of euthanasia is the principle of individual autonomy coined by Beauchamp and Childress [8]. In their writing *Principles of Biomedical Ethics* (5th edition), they described autonomy as being, at a minimum, the right to self-rule oneself, free from limitations, like lack of information, and controlling interference by others, which consequently prevents the patients from taking a meaningful choice [8]. Thus, supporters of euthanasia argue that individuals have the right to make decisions regarding their own lives, including the decision to end their own suffering by means of euthanasia. This argument is grounded in the principles of freedom and personal choice and emphasizes the importance of respecting the wishes of terminally ill patients [3].

On the contrary, the opponents of euthanasia argue that it is morally wrong to take a human life, regardless of the circumstances present. They continue to argue that euthanasia violates the sanctity of life and undermines the value of human dignity [1]. Additionally, opponents of euthanasia argue that palliative care and pain management can effectively alleviate the suffering of terminally ill patients, rendering euthanasia unnecessary. In the context of Malta, the debate on euthanasia is influenced by the country's Catholic heritage, which emphasizes the sanctity of life and the importance of preserving human dignity [9]. This religious perspective has led to general opposition to euthanasia in Malta.

Blundell R, et al. suggest that the issue of euthanasia in Malta should be approached from a perspective that balances the principles of individual autonomy and the sanctity of life. This could involve the development of guidelines for end-of-life care that prioritize the comfort and well-being of patients while also respecting the religious and cultural values of the country. Furthermore, Blundell R, et al. [7] argue that the issue of euthanasia in Malta should be subject to ongoing debate and discussion as the country's cultural and religious landscape continues to evolve. He suggests that a diverse range of perspectives should be considered, including those of religious leaders, medical professionals, and philosophers [7].

This paper will discuss the controversial topic of euthanasia from a variety of perspectives. These include medical, legal, religious, philosophical, and moral perspectives. Additionally, the paper will provide an overview of public perceptions and trends related to euthanasia. By looking at the issue from multiple angles, this paper

will attempt to provide a comprehensive examination of the topic.

From the medical point of view

When discussing euthanasia, the opinion of those who ultimately have to administer it should be highly considered. The principle of beneficence, which is referred to as the duty to do good, is the mostly cited justification for euthanasia [8]. This is as, in some cases, a kind death is better than the awful prognosis the patient has, full of prolonged suffering. However, if one considers the principle of non-maleficence, which is the duty to avoid harm, this may be used to argue against the act of euthanasia. This is as the risk of causing harm to the patient through euthanasia is quite significant and, thus, it is of utmost importance that the patient is making an informed decision and is mentally capable of doing so.

The term active euthanasia refers to the intentional ending of a patient's life through the administration of a lethal substance [10]. The debate around this would be that life would be ended intentionally. The primary concern is whether this form of euthanasia is consistent with the principle discussed of non-maleficence, whilst other concerns include the potential of abusing active euthanasia [6].

Conversely, passive euthanasia is the practice of withdrawing or completely withholding life-sustaining treatment from a patient [2]. This includes the removal or withholding of a ventilator or giving intravenous products like blood transfusions [11]. The concern here would be the conflict with the principle of beneficence [8]. This is from a medical point of view, the patient's life would be lengthened was the patient to take the treatment, yet others counter this with the physician merely prolonging the patient's suffering in providing this treatment [7].

The third type of euthanasia discussed would be voluntary euthanasia. This is when the patient, that is the one requesting the ordeal. This ethically centers around the patient's autonomy and their right to self-determine their outcome [8]. From the medical point of view, one would be concerned as to whether the patient is making an informed decision, and whether there are other options available for this patient, which could ultimately relieve their suffering or render the need for euthanasia useless.

Finally, one is to discuss involuntary euthanasia. This is the euthanasia which is carried out without the patient's concern [12]. This is ethically the most significant and is generally considered to be quite unacceptable. From a medical point of view, one would be primarily concerned with the fact that the patient's rights are being respected and that the patient is not being exposed and subjected to unnecessary harm.

Medical professionals play a crucial role in the debate around euthanasia in Malta. Thus, the attitudes and experiences of Maltese physicians and nurses towards euthanasia have been the subject of several studies to date. It is important to note that Malta has a free healthcare system. At this point, the ethical dilemma remains, how justified is it to include euthanasia as a service in a free national health care system?

The moral asymmetry looms again also in this context. The arguments of whether euthanasia should be included as a service in a free national health care system pivot around the following arguments:

Arguments in favor of euthanasia within a free national health service: (1) Patient autonomy: Supporters may argue that in a system where healthcare is provided free of charge, individuals should have the right to make decisions about their own lives, including the option to end their suffering through euthanasia. (2) Resource allocation: Some proponents may argue that euthanasia could help alleviate the burden on a publicly funded healthcare system by allowing resources to be reallocated to patients who could benefit from life-saving treatments. (3) Cost-effectiveness: From a utilitarian perspective, proponents may argue that euthanasia can be a cost-effective option, preventing the expenditure of limited resources on prolonging the life of a terminally ill patient who desires to end their suffering [13].

Arguments against euthanasia within a free national health service:

(1) Sanctity of life: Opponents may assert that a national health service, which is based on the principle of providing healthcare to all, should prioritize the preservation of life and the inherent value of every individual's existence. (2) Slippery slope: Some critics may argue that legalizing euthanasia in a system where healthcare is freely provided could potentially lead to abuses, with vulnerable individuals being coerced or pressured into choosing euthanasia due to limited resources or societal pressures [14]. (3) Suicide contagion, that is, the more gratuitous acceptance of suicide as a legitimate means to exit from life burdened with different forms of difficulties, social, medical, psycho-social, economic, and so on [15]. (4) Medical ethics: Opponents may assert that euthanasia fundamentally contradicts the ethical principles and professional obligations of healthcare providers, which include the commitment to preserve life and provide palliative care to alleviate suffering. In fact, in certain jurisdictions, doctors tend to consider that euthanasia is not a treatment in the first place and that it must be administered by persons, not doctors. Their argument is that euthanasia when administered by doctors, will gain social acceptance when it must not be morally acceptable [16].

A study conducted by Abela and Mallia [2] carried out a national cross-sectional study of all Maltese doctors registered with the Medical Council of Malta who had a local address. 396 doctors responded totaling a 39.7% response rate. It was noted that past training in palliative care given to the doctors significantly influenced their views on euthanasia, with most being in favor of it when having palliative care training. From the 39.7%, 31.1% of the doctors did not have palliative training. Furthermore, 62.6% of the doctors agreed that their training in palliative care should be extended. Furthermore, in this study, female doctors and younger doctors found a greater need to learn palliative care, thus if they had a higher interest in training, it leaned statistically that they agreed with the legislation of euthanasia [2].

In another study by Trevino [17], six doctors and ten nurses who work in hospitals and care homes in Malta were asked a set of questions pertaining to the acceptance or denial of euthanasia. These were further questioned whether they had patients requesting to die, what their feelings were when seeing a patient suffering, and what was their stance on the acceptance of legalization of euthanasia in the Maltese islands. It was found that there were different attitudes towards passive euthanasia in patients who were in a state of constant pain, vegetative state, in a coma, having metastatic cancer, or in quadriplegics [17].

From a legal point of view

Suicide or attempted suicide is not seen to be a crime under Maltese law; however, physician-assisted suicide and euthanasia are classified under crimes of wilful homicide with a 12 year imprisonment term [18]. While euthanasia is a non-specific offence and there is sacrilege on the case law regarding the subject, "it is unclear whether the consent of the victim would mitigate the punishment imposed on the accused" [19].

The Maltese constitution does feature the right to life under Article 33, however, it is not absolute. This has been commented on by Dr. Tonio Borg, who notes that under sub-paragraph 1, the article was drafted in such a way as to permit the death penalty. This was later changed in order to comply with European protocols.

Other exemptions to the right to life are present under Article 223 and Article 224 in the Criminal Code in order to allow for homicide in certain circumstances. Justifiable homicide is allowed if the danger is 'real, imminent, immediate, and proportionate' to one's actions. Justifiable homicide is also applicable to officers who are conducting a lawful arrest.

The right to life can also be renounced under certain ancillary laws. In fact, under Article 27 (1) (f) of the Health Act, one is allowed to refuse treatment. This also extends to persons of 16 years of age when the person is deemed to have a certain degree of maturity and understanding. However, there are still no present laws that allow for euthanasia.

Furthermore, the Patient's Charter stipulates under the 6th principle that there is a right for a patient to receive treatment in order to reduce suffering and pain in each stage of illness. Additionally, the patient is to expect an end-of-life case, which is to be "dignified, comforting, and supporting relief from any unnecessary suffering". This is further exemplified by Article 10 of the ethics of medical practitioners which, "stipulates that a doctor must always keep in mind the importance of preserving human life from the time of conception until death". It can be argued that "the ambiguity of such language allows for the possibility for euthanasia or palliative sedation to be introduced within Maltese law within infringing on the physician's medical oath, as there is not a strict requirement to protect the right-to-life at all costs".

However, due to ethical considerations, there may result in a situation where despite euthanasia being legal, physicians would not want to conduct such a procedure. This can be deduced from the fact that the study published in the 2016 Malta Medical Journal showed that 90.2% of Maltese doctors were against euthanasia being legalized in Malta. Furthermore, the Malta Medical Council in 2017 stated that they were "against the introduction of euthanasia even if such is limited to the most severe cases" [19].

In Malta, patients do have the right to refuse lifesaving treatment and procedures, yet Malta does not have any regulations on living wills. Currently the group "Humanists Malta" have compiled a discussion paper on the introduction of the legally-enforceable Living Wills [20]. Living wills are statements written by a person who would be healthy mentally and physically, which would describe the patient's wants regarding the type of treatment they would receive if they were ever to be in a position where they could not communicate their desires, of where they would be deemed physically or mentally incapable of doing so.

From an ethical point of view

To date, Malta seems to be divided on euthanasia, even from an ethical point of view. This raging controversy in Malta reflects the moral asymmetry phenomenon looming over the literature dealing with the ethical issues revolving around euthanasia. Essentially, arguments in favor or against euthanasia, oscillate between two irreconcilable or (apparently so) concerns, these being, on the one hand, (a) dying with dignity, and on the other hand, (b) the sacrality of life which cannot be terminated, (c) exercise of one's autonomy on the one hand including the right to terminate one's life if necessary, and on the other hand (d) intervening through the prohibition of the exercise of autonomy of action because of anticipated abuse resulting in coercion and psychological duress, or rather (e) permitting actions of self-harm on the one hand, because suicide is not illegal in almost every jurisdiction, and yet (f) prohibiting consensual harm to others (the self-other-regarding acts asymmetry) [21].

The ethical debate in Malta is constructed from the contributions of four main schools of thought these being subsumed within the overarching dichotomy of pain versus happiness. These schools of thought are listed hereunder: (a) The sanctity of life school of thought; (b) The quality of life school of thought; (c) The slippery slope school of thought; and finally; (d) The palliative care school of thought.

The sanctity of life school of thought emphasizes the inherent value and dignity of every human life and sees euthanasia as a violation of this principle. This school is intrinsically bound to the natural law doctrine. Notably one finds exponents such as Keown and Gormally stating that irrespective of the mental state a given patient is found in, the latter has an indisputable and uncontested right to live. For Keown and Gormally a patient can be brain dead without his/her life losing any of its basic worth and dignity. This implies that there is no room for considering the possibility of accepting euthanasia as a legitimate means of terminating the life of a person in a vegetative state for example, because when doing so one would be exercising arbitrary discretion which can result in abject discrimination between human beings, wherein one will be playing God in deciding who should remain alive or die [22] Inherently, combined with this school of

thought are the proponents of the ‘Double effect Doctrine’. In this case, this doctrine states that it is permissible, to administer heavy doses of drugs to a dying person who is experiencing excruciating pain, even though, as a direct and foreseen consequence, it will also cause the patient’s death.

In Malta, those advocating the stand against the legalization of euthanasia closely follow the sanctity of life school of thought. They consider euthanasia as intrinsically wrong regardless of the circumstances governing the act of execution [23], also raising concerns as to how easily euthanasia can be abused if legalized, as people could feel pressured to succumb to euthanasia since they consider themselves a burden to their care givers, family or society as a whole [11].

In Malta, the undisputed top influencer of this contention is, undoubtedly, the Catholic church. The church’s position on euthanasia is quite clear; it is firmly against the practice of euthanasia and considers the act as a violation of the sanctity of human life. This is because the Catholic church believes that life is a gift from God, thus, should not be intentionally taken away, even if the patient is in unbearable suffering [24]. They also believe that it is God who grants us life, thus, only He has the power to take it back. Furthermore, the Catholic church teaches that suffering is a mystery that has the effect of purifying us to become stronger and that the temptation to ease the process should be met with spiritual guidance and should be joined with appropriate palliative care to alleviate the pain of the patient as to ensure the most peaceful death of the patient. The church encourages the patients to cultivate the virtues of dying including the virtues of faith, hope, love, courage, compassion patience and letting go. Furthermore, the Archdiocese of Malta enforces the Christian patient to seek the sacraments, prayers support and companionship of their Christian community [9].

To this effect, one cannot dismiss the link between the predominance of Catholic doctrine on the issue of euthanasia which influences the stand of the Maltese physicians and other medical professions against euthanasia.

In addition to the Catholic church, other religions in Malta influence this perspective as even the Anglican Church, Greek Orthodox church, Jewish Community and the Muslim Community do not favour euthanasia. These all share the same beliefs that the life of the patient is in God’s hands and that euthanasia violates the fundamental principle of the sanctity of life [25].

Moreover, in Malta, those that are not in favor of the introduction of euthanasia uphold the slippery slope doctrine. These proponents emphasize the potential risks and unintended consequences of legalizing euthanasia, such as the possibility of abuse, coercion, and discrimination against vulnerable individuals. From this perspective, legalizing euthanasia could have negative consequences for society as a whole.

The quality of life school of thought, on the other hand glorifies the autonomy of the patient to the level that its proponents state that it is the patient who is to decide how much suffering he/she is prepared to tolerate and therefore under the principle of beneficence, when it is determined that a patient is terminally ill and suffering, then quality of life is extremely poor, and euthanasia can be justified. According to the proponents of this school of thought is that the ultimate harm is allowing a patient who is terminally ill to continue suffering. In this regard, Peter Singer states that the right to life is not an absolute right which has to be protected in all circumstances. More so, criteria based on the value, utility, and quality of life must be factored into the equation along with, and sometimes at the expense of, concerns about the sanctity of life [26]. To this effect, the pro-euthanasia moralists in Malta argue in favor of the right to autonomy and to die with dignity. These contend that the patient has the right to make their own decisions and ultimately should have the right to die and to end their suffering through the use of euthanasia [6].

John Stuart Mill believed that euthanasia would be permissible if used as a tool to relieve suffering and to better the quality of life. He further argued that the person has the right to autonomy, and this extends to when the person should decide on their own life, even if

one deems the need to end it. Similarly, Friedrich Nietzsche believed in the idea of “will to power”. This means that one should strive of their own goals and desires rather than being subject to the will of others. Thus, in this way, Nietzsche supported euthanasia as it was a way for the individual to assert their own goal and will and consequently end their suffering [27].

Finally, the Palliative care school of thought proposes the importance of providing high-quality palliative care and pain management to individuals who are living with terminal illnesses or other conditions that cause significant pain and suffering. From this perspective, euthanasia is unnecessary if individuals have access to effective palliative care that can alleviate their suffering [28].

When summing up the arguments pro and against euthanasia in the Maltese socio-economic context, given that the present health care system is free of charge the palliative care school of thought is more apt to gain ground. However, one has to further illustrate how, in the Maltese context this balance between patient autonomy on the one hand, and the ‘sacrality of life’ on the other hand can be reached.

A constructive alternative to euthanasia, particularly, within the Maltese context, is the introduction of the living will, wherein, in writing, the individual may instruct that once degenerating to a very ‘poor state like in the case of many ALS sufferers’, he shall not be given treatment which prolongs his life unnecessarily [29].

The other constructive alternative to euthanasia is employing one’s energy and resources to construct a ‘more robust Palliative Care system’. Pierre Mallia, a professional who works on patients’ rights in Malta, states ‘We don’t really need euthanasia for 95-98% of cases in hospital. Introducing euthanasia without having proper palliative care before would simply be considered either a failure of our medical system or it would mean that there is a lack of in-depth analysis into the reality of the situation by political entities’ [30].

Public perceptions and trends

Several surveys have been conducted in Malta to explore public attitudes toward euthanasia. These surveys provide important insights into the beliefs and opinions of the Maltese population on this complex and controversial issue. To date, one will find mixed responses when asking the Maltese population whether euthanasia should be legal. This is because the older generations and the religious population tend to base their decision solely on the standpoint of their religion.

This is because the Maltese population seems to understand that their morals should solely be based on their religion, thus, as their religion does not permit it, this portion of the population does not go into the other factors when contemplating their standpoint on the subject [3]. The Maltese population has been described as an inverted triangle, where the elderly dominated a high percentage of the population comprising a whopping 20% back in 2008 [31].

Studies have found a link between the age of the person and their likely view of euthanasia. Finding that the older population has been more opposing the topic than the younger, which has also been linked to the fact that the elderly still practice the religion more than the younger generations [7]. The younger generations do have religions percentages, yet one may also see an atheist and agnostic trend in the population [23]. These have also been linked to a more humanist and moralist view and have been noted to favor the legalization of euthanasia more.

Conclusion

The issue of euthanasia in Malta and the medical, legal, religious, philosophical and moral aspects are complex and controversial. These involve considerations of the individual’s autonomy, respect for human dignity, and the ethical principles of beneficence and non-maleficence. While there are arguments both for and against euthanasia, a nuanced approach is needed that considers the unique cultural and religious context of the country. Ultimately, the issue of euthanasia in Malta should be subject to ongoing debate and

discussion, as the country's cultural and religious landscape continues to evolve.

Overall, the surveys at hand suggest that there is significant support among the Maltese population for the right of terminally ill patients to refuse treatment and the right to end their own lives. However, support for the legalization of euthanasia is more divided, with younger respondents generally being more supportive of its legalization than older respondents. Religion, particularly Catholicism, is also a significant factor in shaping attitudes towards euthanasia in Malta [32].

In this regard, one may say that the public opinion on euthanasia follows the trend in Western Europe [7, 33]. The same can be said for the general reluctance of Maltese doctors to accept euthanasia as a viable alternative in end-of-life treatment [34]. The general sway of the Maltese public in favor of euthanasia can be explained by the fact of increase in influx of foreign immigrants in recent years, bringing about the erosion of the influence of the Catholic church in Malta [35]. Notwithstanding, one must be wary that the introduction of euthanasia should be considered only after considering first the introduction of the 'living will' and the strengthening of palliative care.

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