Study of indirect euthanasia in view of religions, ethics and Iran’s Criminal Law

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ABSTRACT

Background: One of the important issues in the field of medical ethics is euthanasia issue. In this field, right of death or how to die has become so important. One of the most important types of euthanasia is suicide with the help of doctor or indirect euthanasia, which would be requested for purpose of reducing unbearable pain and suffer. This issue is challenging in view of ethics, so that the dispute of ideas has been appeared in thought of philosophical, moral and legal thinkers clearly and has become even basis for legislation in some countries. Method: the present study has investigated different theories in regard with indirect euthanasia, which is existed among religions, ethics and legal domains. Conclusion: with the study of different theories, it could be found that although one of the main 4 principles of physician ethics is respecting decision of patient by the doctor and the doctor should respect desires of the patient based on the principle, all religions and ethics and legal theories have considered indirect euthanasia or suicide with the help of physician prohibited, illegal and immoral and it can be a kind of crime. Iran's legislator has also approved that the action is a kind of crime and has finished disputes among jurists in this regard.

INTRODUCTION

Today, euthanasia is one of the most important issues in field of ethics, which has caused many questions in field of religion and especially in field of law and medical ethics. Euthanasia has been for the first time entered to the culture and literature of medication by "Francis Bacon", who propagated painless death [1]. Relevant issues of euthanasia before anything are ethical issues, since the argument is about values and especially value of life. Hence, its relationship with philosophy of ethics and religion is significantly stable and inseparable. As physician profession is related to body and life of human, one of the basic elements of the holly profession is commitment to ethics. Presentation of subjects such as abortion, necessity of protecting life of incurable patients, physician-assisted suicide and artificial fertility has caused great challenges in medical ethics [2]. In physician-assisted suicide or indirect euthanasia, physician provides medicines or other actions for the patient with knowing that the patient wants to suicide by them. Studies indicate that since early centuries of human life, the beliefs has been existed that the physicians have a kind of ethical duty against their patients and relevant issues of ethical nature euthanasia have antiquity as long as formation of civilized societies [3]. Hence, ethics in this job has special sensitive position and medical society is involved with important ethical responsibilities. One of the principles out of 4 principles of modern medical ethics is respecting principle of participation of the patients in relevant decision making of controlling and treating their disease. Accordingly, final decision making in regard with treatment process is in charge of patients. Hence, physician should respect decision of the patient according to the principle. However, different arguments are existed among religions, ethics and law in regard with indirect euthanasia. It should be mentioned that Statutes of every system are basically rooted in philosophy of ethics believed by their followers. Investigating ethical schools and adapting them with the desired issue [euthanasia] can deepen one's view to ethical affairs and can also provide an instrument for purpose of conducting legal texts ethically. In addition, investigating provisions of courses in different religions can indicate presence of common concepts. Investigating these fields along with each other can provide meaningful
Euthanasia in different religions:

As the body is an integrity granted by God to human and the Almighty God is actual owner of life, in different religions causing any kind of damage and harm to the body such as suicide and euthanasia has been prohibited and different punishments have been considered in this field. This issue has been investigated in view of different religions as follows.

Hinduism:

In Hinduism School, suicide is allowed only in form of self-sacrificing; although other kinds of suicide can be considered as opposition to God. Euthanasia in this school can be investigated from two points of view as follows: from a perspective, one person helps another one for suicide, so that person can end his/her life. The person has done a good action in view of God. In the other perspective, as Hindus believe in another life, state that the action can destroy second life of the person and can cause anger of God [4].

Christianity:

Christian Religion of catholic disagrees strongly with any kind of suicide and believes that such action is against Divine Will. Euthanasia in view of Catholic Religion can violate the most important value that is life value. No value is equal to the value of life and such action can violate the life value. Previously, the action has not been discussed directly, since its subject was not presented; although it used to be considered in family of suicide and same order of euthanasia was true for it. Also, Christian thinkers used to answer criticisms of opponents through having an undesirable analysis on suicide. For example, Thomas Aquinas has considered suicide improper and prohibited and has criticized reasons of people agreed with the suicide. Thomas has presented several reasons for suicide and indicates their shortcomings. One of the most important actions is destroying natural wishes and desires of people for survival. Such action can harm other people and life is gift of God and only the Almighty God can take it back. According to bible and natural rights, one can conclude that suicide is unnatural and unethical and can violate also genetic and religious rules [7]. Opposition of church with same order of euthanasia was true for it. Also, Christian thinkers used to answer criticisms of opponents through having an undesirable analysis on suicide. For example, Thomas Aquinas has considered suicide improper and prohibited and has criticized reasons of people agreed with the suicide. Thomas has presented several reasons for suicide and indicates their shortcomings. One of the most important actions is destroying natural wishes and desires of people for survival. Such action can harm other people and life is gift of God and only the Almighty God can take it back. 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suicide and active euthanasia are strongly undesirable actions, since he believes that life is belonged to the Almighty God and aggression against it can be considered as devilment action [11].

**Islam:**

Islam Religion has similar idea to Christianity in this field. Attachment of the two religions to Ibrahimi Religions has made them to be similar to each other in some orders and sentences. In Islam, similar to Christianity, any kind of action for killing someone or murder is prohibited, except for right of nemesis and fighting corruption. Human life is valuable and no one can take another one's life. As a result, Islam has also prohibited suicide and states that even will of person, who has done suicide, is invalid [12]. Islam emphasizes this issue that as people have not created themselves, they have no authority for their death. Almighty God is the only owner of human's life, who can take it back. Karim Quran believes that survival a person's life is equal to surviving life of all people [Maeda Surah, verse32]. On the other hand, in this divine school, life of people is not belonged to them and is a divine tradition, which its preservation is undeniable [Nisa Surah/58]. Moreover, life of people is respectful and no one can kill another one based on economic intentions or other similar wills. The Almighty God has prevented killing infants by those people, who kill their children because of fear of poverty, and believes that killing infants is a great sin [Asra Surah/32 and An'am/152]. Therefore, none has right to kill another one; unless for purpose of nemesis or legal defending. However, suicide and euthanasia can be considered in no one of these categories. Endless suffer or incurable disease can't be also permission for killing another one, since Islam believes that pain and suffer is a part of life conditions [Balad/5]. The pain is not meaningless and useless, but it is required for growth and perfection of human [Ensheqayq/7]. The Almighty God has announced previously to Muslims that they would be examined by God and a part of this examination includes physical pains. He has enunciated Muslims that they should consider such difficulties meaningful and should believe that they are belonged to the Almighty God, to whom they will be returned [Baqarah, 151-157]. The principle has been described in details and various narratives [Hadiths] have described it. According to some Hadiths, as gold is examined by fire and its impurities are removed, faithful people would be also examined by pain and suffer. From this perspective, the Almighty God examines people by different types of difficulties and forces them to be slave of God and examines them to remove pride and self-praise from their soul and replace modesty instead it [13]. In view of Islam, not only any kind of action for purpose of suicide and euthanasia is prohibited, but also Muslims are not allowed to desire for death as a result of pain and suffer. Life cycle in religious perspective is an opportunity for realization and prosperity of spirits. As a result, if someone chooses the good way, he/she should ovate his/her life and if has selected the bad way, he/she should attempt to take benefit of remained days of life for compensating previous mistakes.

When Prophet Mohammad "peace upon him" went to his uncle Abbas and saw that he is desiring for death painfully, inhibited him from this action and stated that "if you have been faithful and if your life has been increased, your good actions would be increased and if you have been bad person, you will gain a chance to compensate the bad days; so, don't wish for death" [14]. Hence, although Muslims believe that pain and treatment are belonged to the Almighty God, they would not lose any opportunity for treatment and would not leave their attempt as a result of disease and pain [15].

**Euthanasia from perspective of ethics:**

Discussion on Euthanasia is discussing on values. Some people believe that life is highest level of goodness and other good things would become meaningful with the presence of life. People, who agree with euthanasia, would not consider such value for life and believe that personal rights is the prior value. Some others believe that quality of life is important. They state that although life is itself important, under some conditions life may have no vital value [16]. The importance is mostly in this regard that human nature has fundamental tendency for positive and desirable values [17]. Here, ethical investigation of opponents and proponents of euthanasia would be presented.

**Reasons of proponents of euthanasia:**

Those people, who support euthanasia and suicide as a treatment and acceptable solution for surviving patients from pain and suffer of disease, present their reasons for explaining their claim in several parts referred as follows.

**Principle of independence and autonomy:**

Those people, who support euthanasia, refer to their duty against treatment of pain and believe that the agreement is resulted from their high perception of their duty for respecting independence and autonomy and state that are people free for choosing their way of life or not? How the relationship of euthanasia and freedom of human would be explained? [18]

Hence, if someone concludes that continuing life is impossible and unbearable or meaningless and decides to end the life, this is his/her absolute right to make the desire practical. The only limitation that can restrict
principle of freedom of people for determining their destiny is observance of freedom of others. Another fundamental principle can prevent people to do actions that can harm others. As a result, principle of No Harm can limit freedom range of people. Separating public and private scope and individualism of people while implementing their desires, which is basis for liberalism, has sourced from ideas of some individuals like John Stewart. Mill in his work "About Freedom" has emphasized absolute autonomy of people in personal affairs: "individuals are just responsible for certain part of their behaviors against the society, which is not related to other people. When an affair is only related to one person, he/she has irrevocably absolute independence; the person has domination on his/her body and mind" [19]. According to the criterion, euthanasia and suicide can be considered allowed, since euthanasia is a personal action in private scope and can't harm others and any kind of action that harms no one is permitted [20]. Everyone has right of living and can live in any manner he/she wants, provided that living manner causes no harm for others and desirable lifestyle is selected and hence, the person has right to choose manner of death and die based on his/her desired manner. By 1990, Dr. Timuti Coil asked by his patient, 45-year old Ryan, who had blood cancer and it was possible to be improved after long-term treatment and transplanting bone marrow to 25%, to prescribe a dozen of Barbiturate and explain how to use it for purpose of death. Coil published reports of the adventure in Medical Journal of New England and as a result of publishing the report; the attorney general presents claims against him and accused him for murder. However, jury board assoiled him through presenting some reasons. One of the reasons was that Ryan has asked himself for death and has had also right of death [21]. Another interpretation of principle of autonomy is same self-dominance or human-ultimate that Kant is one of its fans. In view of Kant, if people look at murder by pathos, the subject can be handled in two manners. Kant has emphasized in his ethical philosophy that: "never consider people as an instrument in any case, since human is ultimate" [22]. Ultimate human in Kant Philosophy has been presented following pre-modernism views. In God-Ultimate and Nature-Ultimate approaches, philosophers of divine law and natural law have considered human as an instrument for realization of goals of religion and divine missions. In regard with evaluation of ethical behaviors in view of pre-modernism schools, desires of human are valuable just if they are in regard with divine courses and expedience of innate rights. However, in human right and post-modernism schools, no relationship is existed out of human. One of the necessities for human-ultimate of Kant in regard with murder as a result of pathos is its permission in regard with desires of the patient.

Preserving dignity and value of individual:
A requirement for preserving dignity and value of people is respecting their own desires and wishes. Patients are not always displeased by their situation and tolerating pain and suffer of disease, but they would become sad and suffered as a result of knowing that their life is being ended and believe that they are bothering others. Those physicians, who do euthanasia, believe that their action is respecting desires of their patients, not murder or acceleration of death. They state that since the patients can't continue their life with honor and respectfully, so they present honorable death to them as a gift [23]. In their view, human respect is rooted in will of people. Hence, satisfactory behaviors with freedom of choice of patients can't be against dignity and respect of human. Whether murder as a result of pathos is true in view of violator of dignity and respect? If will is omitted from human's rights, the remained thing is not human and hence, the requirement for human dignity and respect makes physicians to respect desire of patients and kill them as a result of pain and suffer.

Necessity of compassion to others:
People have naturally desire for survival and take action for euthanasia just when they have unbearable pain and incurable disease and have no way for escaping from it. Under such conditions, one can't treat patients, who ask for euthanasia. Sense of pathos and compassion to patients makes physicians to kill patients at least for purpose of ending their pain and suffer and provide easy and painless death for them, if they can't provide comfortable and easy life for the patients. For example, in a study on patients with HIV positive, it was found that they suffer always and their weight would be decreased to 40-50kg, they say lies all people and no one makes relationship with them and they desire for death and ending their life every day [24]. Therefore, avoiding killing these patients means helping continuing their pain and suffers. Hence, ethics make sentence that through euthanasia and suicide one can make patients free from meaningless and endless pain. Other reasons have also been presented by proponents of euthanasia such as necessity for allocating rare and expensive sources for the patients and disability and being scoria on the society.

Reasons of opponents of euthanasia:
Here, reasons of opponents of euthanasia would be analyzed.

Criticism of principle of autonomy:
Autonomy and freedom of choice are requirements for ethical life; although the range would not include principle of survival and the people has not right to violate this right for themselves. In fact, people living in the
society should avoid doing a series of actions and their right of choice is limited and they can't do whatever they want and believe that their action is true. The principle of autonomy doesn't mean that all desires of people are accepted, but also there are also some rational and social necessities that can limit the principle. Therefore, people can't take benefit of the principle in way of denying their life. Kant believes in ethical absolute rule and describes it as follows: “for purpose of ethical evaluation of an ethical actor, one should explore a rule, so that the behavior can be an example of the rule. Ethical rule should be comprehensive and absolute and just through this one can consider a behavior ethical or unethical” [25]. In regard with killing as a result of compassion and pathos, one can assume two rules and analyze them ethically: 1] ending life of incurable patient following his/her desire is ethical 2] ending life of incurable patient following his/her desire is unethical. For purpose of analyzing the first rule, one should consider publicity and comprehensiveness on wisdom scale. Whether one can kill patient as a result of his/her desire in any case? It seems that the answer is negative. It has been abundantly heard that at the same time that physician confirm that a patient is incurable and he/she would be died after a while, their prediction has been wrong and the patient has continued his/her life. In another example, patients suffer from hard disease; have no family and their friends and spouses have left them. In this case, it is natural that patients desire for death and have no hope for continuing their life. Is it good to meet desire of the patients under such mental conditions or not. In philosophical view, whether consent of patients under the mentioned conditions is real and as a result of consciousness or as a result of nervous pressures and depression? It seems that one can't confirm comprehensiveness and generalization of the mentioned ethical rule in view of Kant ethics, since it can't include some cases such as medical mistakes and ambiguity of consent of the patients. However the second rule, which is permission for murder as a result of compassion and pathos, is not confirmed in view of Kant Philosophy. Whether is the prohibition confirmable? Prohibition of a rule is not adjusted with its permission. Legislator may not announce marriage of homosexuals; although it may not consider them officially at the same time for any reason. Murder as a result of pathos can be also considered in this category. In view of the author, prohibition of the second rule has not also comprehensiveness and generality. This is because; one can explore some cases, in which prohibition of murder as a result of pathos is not permitted e.g. if people give consent in good mental status or the disease is incurable medically.

**Breach of respect of life in the society:**

Ethical beliefs believe that acceptance of euthanasia can be a factor for breaching respect of life in the society. In other words, acceptance of euthanasia means accepting the deviation that some examples of patients' life have less value that life of other people in the society. In addition, acceptance of euthanasia voluntarily can be a beginning for its non-volunteer type. Spread of euthanasia in medical operations can decrease sensitivity of society to death. The situation can destroy humanity and can also cause creation of various types of social diseases. In a society that value of life is ignored; people have no fear of killing others and committing crimes. Quality of life would be declined and the society would be damaged as a whole [26]. In other words, acceptance of this issue socially can easily provide conditions for abuse and some side effects of this issue are uncontrollable and prescribing it can also pave the way for murder in medical and healthcare centers.

Criticism of principle of compassion to others

Compassion and altruism make sentence that people should not be negligent while facing pain and suffer of others and should take action to end their pain and do anything possible. If one is not able to remove pain and suffer of others, he/she should at least decrease their pains through compassion and sympathy, not to kill the patient people through excusing sympathy and instead of decreasing their pains to show altruism and sympathy. Helping patients is possible through different ways as follows: explaining existential philosophy of pain and suffer and presenting different hadiths and verses about this issue that pain and suffer can finally result in purity; sympathy and being near them; providing painkillers and comforting medicines for them. No one of the mentioned actions needs killing patient or prescribing death for them.

Moreover, if compassion to patients is permission of their murder, compassion of the patients to their families should be considered as his permission for suicide. This is because; in some cases cost for caring after the patients are heavy for families and the patients can take action for euthanasia or suicide as a result of shame; although the pain is not onerous and unburnable [27]. Appropriateness of human duty in view of altruism ethics is not this issue that through killing patient one should end his/her pains, but also analyzing cases of requesting for euthanasia indicates that the patients take action for euthanasia just as a result of depression and inevitability. In fact, fans of the theory attempt to have compassion and altruism have compassion to the patients through killing them, not helping treatment of the patients. In this case, significant difference is existed between killing patients and helping their treatment, even from perspective of compassion and altruism.

**Slippery slope:**

Another point expressed by opponents for rejection of euthanasia and suicide is probable abuses of euthanasia. This issue is known as slippery slope; meaning that legalization of euthanasia may lead to a
situation, in which in addition to incurable patients, many disabled people and old people and generally poor classes of the society are under such a pressure that accede euthanasia or suicide. According to theory of Slippery slope, euthanasia is like thin edge of a slice that would be spread in the society when it becomes common [28]. In fact, physician-assisted suicide can finally result in murder. Actually, some people may seek personal profiting through suicide with the guidance of a person. If euthanasia or suicide is with the assistance of physician, legal and in scope of medical operation, physicians may lose their sensitivity for such operation and do euthanasia in cases that one can ignore it.

**Euthanasia in legal perspective:**

Legally considering this issue, firstly one should answer the question that whether euthanasia and suicide should become legal or not? The question is related to the more general question that what should be the aim of legislation? Jeremy Bentham, founder of modern utilitarianism, has introduced "principle of benefit" [most welfare of most people] for guiding legislators and ordinary people in specific ethical decision making processes. The aim by making the law is same aim of creating ethical principles and the law should improve public welfare of all citizens. Bentham believed that if law is in service of this objective, it should not limit freedom of citizens abundantly. Particularly, no kind of activity should be prohibited; unless people harm others through taking such action. Hence, in his view, rules that prohibit killing as a result of compassion are not only against public welfare, but also they are also unexplainable limitations for controlling their own life [29]. However, they theory has also some imperfections, so that an action in the society can increase good things and can be useful; although it can be injustice in view of distribution in a manner that having justice can have lower benefit [30]. On the other hand, concept of benefit and social welfare may result in despotism; as such experience has been occurred over the history. Concept of welfare is dangerous and hence, the concept of "most welfare for most people" can be used for defending every society, in which paid cost for welfare can abuse freedom of people in the society for their choices.

In addition, in legal terms, there is no cause for permitting the action and it is at least doubted. Hence, generalities of prohibition of manslaughter include this case and its prohibition would be proved [31]. To confirm the mentioned claim, jurists have presented an issue that if someone threatens another one and says that "if you don't kill yourself, I will kill you", whether suicide is permitted or not? Majority of jurists have given sentence for lack of permitting murder, since reluctance can't be permission for murder; although some jurists such as Shahid Sani have interpreted this issue and have stated as follows in this regard: if a murder that is promised by the doer of reluctance is harder than the murder that the entity under reluctance wants to do suicide with it, like murder with persecution, the entity under reluctance can choose easiest way for suicide, so that to become free from painful murder. This is because; in this case the reluctance is true; although if both murders are same, reluctance is not true. Therefore, taking action for suicide is not allowed [32]. However, Saheb Javaher has criticized the statement and has mentioned that if such action is allowed, the person, who is informed that he is being died as a result of thirstiness, the person can kill him/her through easier method [33]. It could be found from statements of Saheb Javaher that prohibition of suicide in example of thirstiness is certain sentence.

Some jurists have stated in regard with legal analysis of this kind of euthanasia that as suicide is not crime in Iran's Criminal Law and has no punishment, encouraging for suicide is not also a crime and has no punishment, which is its accessory, based on accepting theory of metaphor of accessory crime in Iran Law. Hence, if a physician encourages an incurable patient for using fatal medicine and the patient dies as a result of using the medicine, the physician would not be responsible for the murder [34, 35]. However, it seems that such action can be regarded as a kind of crime after approval of Cyber Crime Law in 2009. According to article 15 of this act, those who incite others to access pornographic content are punishable and paragraph [b] of this part, those who provoke and encourage chastity or sexual misconduct should also be punished by imprisonment from 91 days to 1 year or fine from 5-20 million or both of the said punishments.

The legislator has accepted the crime as independent crime in form of assistance. It means that due to lack of accepting metaphorical nature of assistant crime, sometimes legislator criminalizes assistance as independent crime like article 548, which has considered imprisonment punishment from 3months to 1 year or fine of 1.5 million to6 million for providing a place for a person, who has kidnapped another one. It should be mentioned that the action is a kind of crime if it has been committed using computer system such as sending Email or through communicative devices such as telephone or SMS or using pager or data carriers such as radio and recording device or sending a letter. Therefore, if the person has encouraged for suicide by means of other things other than the mentioned [like talking], the action of physician would not be included in this article and the doctor would be charged for no criminal responsibility.

In addition, crime of the mentioned article is also absolute crime; meaning that only motivating for suicide by means of computer systems and communicative systems is sufficient and the action of physician as a result of the mentioned factors can be regarded in this article and the physician would be regarded as criminal.
In comparative terms, although today nearly in no country no kind of suicide is regarded as crime, in some countries assistance in suicide is itself an independent crime. Even starting suicide is also sometimes crime [like article 44 of Jordan’s Criminal Law]. Articles 223-13 and 223-14 of France Criminal Law have considered simulating another one to commit suicide and propagating methods for suicide in any manner as crime. In addition, article 553 of Lebanon Criminal Law has also considered assisting another one to commit suicide as a crime. However, article 552 of same act has considered less severe punishment for murder as a result of compassion, if the murderer is committed following request of the victim [10 years imprisonment instead of death penalty]. Article 579 of Italian criminal law [1931]; article 114 of Syria Criminal Law and article 538 of Swiss Criminal Law have also considered less severe punishment for murder as a result of compassion [36]. In the U.S according to article 294 of Criminal Law, 1] a person, who encourages another one for suicide intentionally, would be punished at least for 3 years imprisonment or fourth degree fine, provided that the suicide is committed; 2] the entity, who assists in suicide of another person intentionally or provides the condition for suicide of others, would be punished to 3 years imprisonment or fourth degree fine, provided that the suicide has been committed. Article 114 of Swiss Criminal Law also stated in this regard as follows: “Any person who for commendable motives, and in particular out of compassion for the victim, causes the death of a person at that person’s own genuine and consistent request is liable to a custodial sentence not exceeding three years or to a monetary penalty85”. The mentioned act has been applied by Swiss Society for Human Dying for purpose of helping 120 incurable patients. They believe that they would become free from punishment because of helping the patients and because of lack of high-handedly intention. Conditions of the society for helping the patients are as follow: being a member of Swiss Society; being an incurable patient with too pain and diagnosis and confirmation of physicians [37]. In addition, European Council has avoided approving a bill with 138 vetos against 26 votes in favor on Apr 27th of 2005, in order to emphasize prohibition of euthanasia. By that time, European Council rejected draft of the bill “assisting patients for ending their life”. The decision was appreciated by Vatican and some people named also it as “victory of life forces” [37, 38].

Conclusion:
One of the most important issues in regard with medical ethics that has created great challenges is euthanasia; in a manner that any kind of science related to this field have entered the scope and presented different ideas. In general, religions and philosophical schools disagree with euthanasia, since it is against orders of the Almighty God, who is actual owner of life and body of human. However, some fans of ethics have accepted this issue through referring principle of autonomy or principle of compassion and pathos. It seems that scope of autonomy of human is specified and death is not included in it on one hand and on the other hand, one should help people for survival as much as possible and should not assist them for ending their life. Finally, physician-assisted suicide legally can be included in article 15 of Computer Crimes approved in 2009 and the action of the mentioned physician is regarded crime and would be punished to imprisonment or fine.

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