Exploring the Possibility that an Action can be Morally Right only if People Voluntarily Consent to it: Taking Euthanasia as an Example

Leyan Li
Shanghai Pinghe School, Shanghai, 201206, China

Abstract: The question that “When, if ever, can acts involving only consenting adults be morally wrong?” is controversial on the society. This essay will based on three variations to discuss on the question which are the definition of morality, situations under informed consent and situations under voluntary consent. This essay take euthanasia as an example to support the claim that acts can be only morally right when person consents to an act voluntarily.

Keywords: Philosophy; Consent; Euthanasia

1. Introduction

In 1973, the American Hospital Association established the "Patient Bill of Rights," which stipulated that patients have the right to refuse treatment and the right to informed consent. In 1975, the Quinlan case was the first euthanasia lawsuit in American history, and the court ultimately made a ruling based on the protection of privacy rights in the Constitution, providing a reference for similar cases in the future. In 1976, California enacted and passed the first law of natural death in American history, the California Health and Safety Code, becoming the world's earliest law related to euthanasia. In 1999, the United States passed the Pain Relief Promotion Act, which authorized doctors to prescribe pain medication but not to perform euthanasia. Texas passed the Advance Directives Act in 1999, allowing hospitals to remove life-sustaining systems from patients without violating the wishes of the patient or guardian.

In 2000, Taiwan passed the Peaceful and Gentle Medical Regulations, and in 2015, the legislature passed the "Patient Autonomy Rights Law" and implemented it in 2019. This law is the first specialized law in Asia to protect patient autonomy rights and the first law to return the decision-making power of the end of life to the patient as the main subject, ensuring the patient's right to know, choose, and decide. Mainland China has not legalized euthanasia, but it has indirectly accepted its existence. For example, when some terminal patients and their families strongly request to stop life-prolonging treatment, hospitals will require the patient and family to sign a waiver of medical treatment or consent, which is actually a form of euthanasia, indicating a change in China's concept of euthanasia. However, how to protect the patient's autonomy of life and protect their basic human rights and self-determination still needs legal workers to work hard to solve.

In general, the moral status of euthanasia is controversial in contemporary society. Both the patients and practitioners give consents for euthanasia to happen, but because of some ethical issues, only a few countries consider it legal. That is to say, an act involving only consenting adults, which sounds moral, could be problematic in some cases and worthy of discussion. This essay will focus on determining whether consent makes an act moral. Consent will be talked through the process of consent and the consequences made by consenting to do acts. This essay argues that acts which involve voluntary consent are moral while acts which only involve informed consent can be immoral in many ways.

2. The Definition of Morality

Morality can be talked through a descriptive sense and a normative sense. More particularly, the term “morality” can be used either descriptively to refer to certain codes of conduct put forward by a society or a group (such as a religion), or accepted by an individual for her own behavior, or normative to refer to a code of conduct that, given specified conditions, would be put forward by all rational people [1]. A normative way is more theorized, therefore, the term “moral” will be discussed in a descriptive way in this essay.

3. Consent

3.1 Informed Consent

Informed consent is reasonable and acceptable under our common sense and is the convention for clinical research. Zulfiqar A. Bhutta stated that informed consent is the cornerstone of the ethical conduct and regulation of research, and it has been a focus of attention in guidelines for conducting research and the ethical oversight of research [2.]Informed consent is also important since the fundamental underpinning of ethical medical research is the requirement to obtain informed consent for voluntary participation [3]. Clinical trials are commonly anticipated by a formalized process in which participants receive explanations of the purpose, methods, risks, benefits, and alternatives to study participation, as well as other matters, before they sign informed consent forms. Fairly similar processes exist in invasive care [4].Therefore, informed consent is moral under most circumstances.

Nevertheless, there are several problems with the process of informed consent, in other words, informed consent can be morally wrong under some circumstances. In this section, I will present the problems in process of informed consent, including information provision and sharing by the research team with the participants and community leaders; discussion and interaction between researchers and potential participants, and true understanding which will lead to acceptance and agreement to the participant, then follow-up, or lead to rejection of participation and end of contact that will render the practice immoral [5].

When the consent is not made by the consenter alone but under great influence from other people, especially some professional personnel, the situation will be problematic. The requirement of informed consent is often attacked on the ground that many patients would rather have physicians make certain decisions for them and that such delegation often seems acceptable. One answer to the attack argues that informed consent is a patient’s right, not her duty, and that, since informed consent serves autonomy, it ought to be autonomously waivable. Indeed, autonomously signed advance directives that bind one’s future self can be perfectly consensual and autonomous [6]. Under this situation, informed consent is not chosen by all the people, instead, it is more likely for one of the people to help others to make a choice. Thus, informed consent under this situation can be morally wrong as the intention of the person who helps others to make choice may be immoral.

Even when there is no intentional interference, language barriers can also be a problem. Informed consent may also be morally wrong if there are misunderstandings caused by incorrect or inadequate word translations. It is assumed that the individual who signs the consent form does so with a full understanding of what is stated on the consent form. However, it is very difficult to evaluate their viewpoint about the trial since there is no established method to measure the level of understanding that a participant has about the information given [7]. People who misunderstand the consent form may experience unknown side effects which accepted by them. Although they consent to the acts, the acts can still be immoral since it brings unknown distress to people who take part in the research. Misunderstanding can also occur due to participants’ false expectations of the experiment outcome. Some patients fear being treated as mere “experimental models” for the studies while others refuse to take part because of historical evidence of clinical trial fraud and misconduct known to them [7]. If there are some patients who rejected to consent with the consent form because of their false expectations, simultaneously, some patients will accept the consent form since they expect that the treatments in the studies can be more effective. Under this circumstance, although people consent with the consent form, their motivations and intentions are not based on a fully understanding of the consent form, and so it can be morally wrong. Obtaining informed consent is critical when working with vulnerable people and groups, specifically with some groups like people with learning disabilities.

There may be potential problems in understanding what the research is about, what their role in the research will be, and how the research will be used [7]. We assume that the researchers explains the consent form specifically and adequately to those vulnerable people and groups, and the vulnerable people accepted the form. Although both the intentions of researchers and patients are moral, however, the research may make the patients feel pain, thus, the consequences led by informed consent make informed consent become immoral under this circumstance.

3.2 Voluntary Consent

Obtaining voluntary consent instead of informed consent can avoid the problem. Voluntary consent makes sure that people voluntarily take part in an activity without coercion, undue inducement, and no-choice situation. By giving voluntary consent, people will not be disrupted by those problems which may happen in the process of informed consent.

Voluntary consent is usually thought incompatible with coercion, which philosophers define, roughly, as a threat to make someone seriously worse off than she is or should be unless she consents [8]. For example, a poor patient must take part in research on new medical treatments in order to get free medicine. If there are implicit threats that happened to the patients, even when the fear is unwarranted and unconscious, the hierarchy and the power inequalities of the physician-patient relationship are still thought to make such consent involuntary. Another category often said to effect voluntariness is undue inducement, This is a term of art that means to be offered something so seductive that it blinds rational judgment, for instance, cash in hand or airline tickets in exchange for kidney donation or risky study participation [9]. For instance, if a practitioner wants topersuade the patient to consent to treatment or research, and make the patient’s attention fixated on the benefit, disallowing proper consideration of risks, the consent made by the patient is also involuntary.

In some areas of practical ethics, the lack of decent options for accepting a bad proposal, the so-called "no choice" situation, is said to force or coerce us into choosing the proposal, otherwise destroying voluntarism[10]. Although some people raised a problem which states its logic suggests that whenever a sick, rich person has no decent alternative to taking a badly unpleasant life-saving drug, there is no voluntary consent, and drug delivery is illegitimate. Nevertheless, there are responses to the query. Consent is insufficiently voluntary when the patient’s options are unfairly curtailed by the offer itself.

4. The Case of Euthanasia

To take euthanasia as an example, if a person only experiences the process of informed consent, there might be a possibility that the act is immoral. He did so on the grounds that the patient was in extreme pain, and since he was going to die anyway, it was wrong to prolong his suffering unnecessarily. However, if one implies withholding treatment, it may take the patient longer to die, and so he may suffer more than he would if more direct action were taken and a lethal injection given. This fact provides a strong reason for thinking that, once the initial decision not to prolong his agony has been made active euthanasia is actually preferable to passive euthanasia, rather than the reverse. To say otherwise is to endorse the option that leads to more suffering rather than less, and is contrary to the humanitarian impulse that prompts the decision not to prolong his life in the first place [11]. Voluntary consent in euthanasia is more acceptable and moral since it doesn’t contain undue inducement or coercion. In the exercise of self-government or self-determination, individuals take responsibility for their own lives; Since death is a part of life, for many people, choosing how and when to die is part of taking responsibility for one's own life. Many people worry about what the final stages of their lives will be like, not just because they fear that their death might leave them in great pain, but because they want to maintain their dignity and control as much of their lives as possible during this stage.The second contention in support of voluntary euthanasia was mentioned at the beginning of this entry, namely the importance of promoting the well-being of persons [12].

5. Conclusions

This paper argues that actions involving voluntary consent are ethical, while actions involving only informed consent may be unethical in many cases. The research explains the definition of ethics and the difference between informed consent and voluntary consent, and uses euthanasia as an example to support the argument that only when a person voluntarily consents to an action, the action can be morally correct. At the same time, informed consent may have problems due to language barriers, misunderstandings, and the influence of others. On the other hand, voluntary consent ensures that people participate in activities without coercion or undue influence. In conclusion, this essay exposes that if a person consents to an act voluntarily, there wouldn’t be any immoral circumstances under voluntary consent. In other words, acts can be only morally right when person consents to an act voluntarily.

Reference

[1] "The Definition of Morality", Stanford Encyclopedia of Philosophy, substantive revision Tue Sep 8, 2020, p124, https://plato.stanford.edu/entries/morality-definition/

[2] Zulfiqar A. Bhutta, "Beyond informed consent", Bulletin of the World Health Organization (October 2004): p771, https://www.scielosp.org/pdf/bwho/2004.v82n10/771-777/en

[3] Zulfiqar A. Bhutta, "Beyond informed consent", Bulletin of the World Health Organization (October 2004): p772, https://www.scielosp.org/pdf/bwho/2004.v82n10/771-777/en

[4] "Informed Consent: Informed Consent", Stanford Encyclopedia of Philosophy, substantive revision Wed Jan 16, 2019, p72, https://plato.stanford.edu/entries/informed-consent/#VolCon

[5] Zulfiqar A. Bhutta, "Beyond informed consent", Bulletin of the World Health Organization (October 2004): p772 (figure.1), https://www.scielosp.org/pdf/bwho/2004.v82n10/771-777/en

[6] "Informed Consent: 2.2 Autonomy", Stanford Encyclopedia of Philosophy, substantive revision Wed Jan 16, 2019, https://plato.stanford.edu/entries/informed-consent/#VolCon

[7] Lokesh P. Nijhawan, Manthan D. Janodia, B. S. Muddukrishna, K. M. Bhat, K. L. Bairy, N. Udupa, and Prashant B. Musmade, "Informed consent: Issues and challenges (language barriers)", J Adv Pharm Technol Res, Jul-Sep (2013) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3777303/

[8] "Informed Consent: 5.1 Coercion", Stanford Encyclopedia of Philosophy, substantive revision Wed Jan 16, 2019, https://plato.stanford.edu/entries/informed-consent/#VolCon

[9] "Informed Consent: 5.2 Undue Inducement", Stanford Encyclopedia of Philosophy, substantive revision Wed Jan 16, 2019, https://plato.stanford.edu/entries/informed-consent/#VolCon

[10] "Informed Consent: 5.3 'No choice situations'", Stanford Encyclopedia of Philosophy, substantive revision Wed Jan 16, 2019, https://plato.stanford.edu/entries/informed-consent/#VolCon

[11] James Rachels, "Active and Passive Euthanasia", The new England Journal of Medicine (Jan, 1975) https://sites.ualberta.ca/~bleier/Rachels_Euthanasia.pdf

[12] "Voluntary Euthanasia: 3. A Moral Case for Voluntary Euthanasia", Stanford Encyclopedia of Philosophy, substantive revision Tue May 24, 2022 https://plato.stanford.edu/entries/euthanasia-voluntary/#MoraCaseForVoluEuth