

A Study of the Legal Control of Euthanasia in China

Zheng Yueqi

Faculty of Law, Universiti Kebangsaan Malaysia, UKM, Bangi, Malaysia

Email: p125081@siswa.ukm.edu.my

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*Corresponding Author:

p125081@siswa.ukm.edu.my

Abstract: At one time, the Hippocratic Oath contained a prohibition of euthanasia, which was dictated by the social and human environment of the time. However, with the progress of society and the development of science and technology, euthanasia is not a new topic nowadays, and some countries in the world have legalized euthanasia. However, the issue of legal control of euthanasia is still relatively new in China, where it has not yet been legalised. One of the reasons why this issue has caused great controversy and discussion among all sectors of Chinese society is that euthanasia involves the advancement and development of multiple fields and disciplines such as medicine, law and ethics. One of the main questions is whether it is appropriate for China to legalise euthanasia, and if so, how it will be carried out. From a medical technical point of view, euthanasia already has mature and stable medical technology as a support, and its application is already operable; from a legal point of view, euthanasia has a corresponding legal theory and rights basis, and its legalisation has basically reached a consensus in the academic community; from an ethical and social cognition point of view, euthanasia does not violate traditional ethics and morality, and therefore is gradually being accepted and recognized by the public. After some research and analysis, this study concludes that euthanasia in China already has a theoretical and practical foundation, as well as the relevant scientific and technological conditions, and that giving euthanasia a legal status is of great significance to the social progress of China. The main reason for this is to solve the problems related to the legal control of euthanasia, that is, to legalize euthanasia, China need to consider how to build the legal control mechanism of euthanasia in the first place.

Keywords: Euthanasia; Chinese Medical Law; Legal Control

1. INTRODUCTION

This paper uses a qualitative research approach to outline and summarise the different concepts and classifications of euthanasia, all from different perspectives. The integration and analysis of the concept and classification of euthanasia leads to the conclusion that passive (passive) euthanasia is not part of the euthanasia discussed in the field of jurisprudence. The controversy over euthanasia can be broadly divided into a legal and moral debate, and it is easy to see from the different perspectives that not only is euthanasia not a violation of traditional concepts such as filial piety, but it is also a proper part of traditional concepts.

The legalisation of euthanasia is inevitable as it has a sound social, ethical and legal basis in China. Under the premise and foundation of legalisation, legal control of euthanasia is justified and has its proper connotation and value. The Netherlands and Belgium are the first countries to legalise euthanasia, and their legal mechanisms and systems, such as pre-examination and post-monitoring, are instructive for China.

In the case of China, the legal control mechanism of euthanasia should specifically include the implementation mechanism of euthanasia, the application control, application control and execution control of euthanasia, through strictly regulating the application, application and execution of euthanasia, to ensure that the whole process of euthanasia implementation runs in an orderly manner in the legal track. In addition, based on the reality of China and the controversial focus of euthanasia, the legal control mechanism of euthanasia in China should not only include the implementation mechanism, but also cover the supervision mechanism. Specifically, the euthanasia monitoring mechanism should firstly supervise the doctors who carry out euthanasia, secondly review and assess the implementation of euthanasia through local review committees, and in cases of reasonable doubt, refer the specific case to the procuratorial authorities for judicial review, ultimately forming a complete euthanasia monitoring system.

2. CURRENT STATUS OF DOMESTIC AND INTERNATIONAL RESEARCH

On the issue of legalisation, there are three main views: The proponent believes that legalisation of euthanasia has its legal justification and necessity; the compromise is that euthanasia, although important, is not yet legal. Scholars in favour of legalising euthanasia argue that euthanasia is a respect for a person's right to choose the way of death and is conducive to safeguarding the patient's own interests; it is distinctly different from intentional homicide, is not criminal and is in line with the spirit of the Constitution.

Zheng Yushuang proposes that euthanasia is a special form of existence for the topic of suicide, which can also be called humane death or death with dignity, which assimilates euthanasia and death with dignity, etc.¹ According to Li Hui, euthanasia and intentional homicide have a number of formal similarities, but there are fundamental differences and the act of euthanasia should not be criminal in nature.²

Opposing scholar Han Dayuan argues that euthanasia cannot gain a constitutional basis in terms of the constitutional value system because euthanasia is inconsistent with the value objective of the fundamental values and basic values of the constitution, which protects the right to life of citizens.³ In relation to the legal control of euthanasia, Li Zhongyuan believes that the legislation on euthanasia in China should be special legislation, that is, separate legislation on euthanasia, which takes into account the stability of criminal law, while special legislation is also more flexible in terms of amendment.⁴

¹ Yushuang Zheng, "Punishment For Self-Injurious Behaviour - Defence And Practice Based On Legal Paternalism" *The rule of law and social development* 3 (2016): 181-192.

² Hui Li, "On the Decriminalisation of Euthanasia" *Journal of Shanghai University (Social Science Edition)* 17, no. 02, (2010): 20-31.

³ Dayuan Han, "On the Constitutional Limits of Euthanasia Legislation" *Tsinghua Law* 5, no. 05 (2011): 24-33.

⁴ Zhongyuan Li, "Study on The Legalisation Of Euthanasia" (Southwest University of Political Science and Law, 2002).

In addition, he proposes that technical legislation on euthanasia should include aspects such as terminal illness, dying, pain intolerability, sincere will, criteria for death, method of causing death and the person performing it. According to Liang Genlin, euthanasia should be strictly controlled in six aspects: the conditions of the subject, the subjective motivation, the timing, the presentation of the request, the confirmation of the request, the method of implementation and the subject of execution.⁵

Ma Xiaoyu has improved on the original description of the applicant for euthanasia, the subject of execution, and the execution procedure, arguing that the applicant for euthanasia must be a person of full capacity and over thirty years of age, and a terminally ill patient who suffers from intolerable physical and psychological pain and is medically considered to have an expected survival time of less than one year; the subject of execution should be a forensic physician with medical qualifications, and the method to be used must be The execution procedure requires a written application made by the patient when he or she is conscious, as well as an appraisal by the medical profession, and then a review and approval by the People's Court.

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Zhang Wei summarised the legislation on euthanasia into two main aspects, namely the substantive and procedural elements The substantive elements include the object of implementation, the subject scope of the applicant, the method of implementation, the subject of implementation, and the premise and purpose of implementation, while the procedural elements include the request procedure, the review procedure, and the operation procedure, while emphasising that the punishment for illegal euthanasia should be treated differently in justice, distinguishing between general illegal euthanasia and special The distinction should be made between illegal euthanasia in general and illegal euthanasia in particular.⁷

Hu Jia argues from the case of euthanasia in Japan that the legal restrictions on euthanasia in China are divided into unified criteria for determining the condition, proper confirmation of the patient's consciousness, exclusion of other motives for euthanasia, regulation of euthanasia-related authority, and strict euthanasia execution procedures.

It discusses in detail the application for euthanasia, the subject, the place, the ceremony and the manner of euthanasia execution, and explains that the procedure of euthanasia execution should be divided into four steps: the patient initiates the application for euthanasia; the hospital approves the application for euthanasia; the hospital signs the

⁵ Genlin Liang, *Euthanasia in a Criminal Policy Perspective*, (China: Beijing University Law School Publications, 2002): 22.

⁶ Xiaoyu Ma, "On the Legalisation of Euthanasia, (University of International Business and Economics, 2004).

⁷ Wei Zhang, "On Euthanasia" (China University of Political Science and Law, 2005).

euthanasia agreement with the patient and the patient's family; and the hospital and the doctor execute euthanasia according to the euthanasia agreement.⁸

Zhang Yi's conception of the legalisation of euthanasia in China starts from the content and procedure of the legislation, the content of the legislation on the basis of the objects of application, the subjects of application, the subjects of implementation, the way of implementation, the supporting system for the implementation of euthanasia and the thinking of supervision and management.⁹

Su Yang believes that the legalisation of euthanasia in China has already had a social foundation, but if China want to bring the positive effects of euthanasia into play, China should first make corresponding legislative activities, so that the law can regulate the implementation of euthanasia and avoid the abuse of euthanasia and its adverse consequences. The basic principles of euthanasia legislation are: the sanctity of the right to life; the principle of truthfulness and freedom of expression; the principle of strict procedure; and the principle of humanity.¹⁰

In 1906, the Ohio Euthanasia Act was introduced in the United States, and 31 years later, the Voluntary Euthanasia Society was formed in the United Kingdom in 1936, and in the same year the Euthanasia Bill was introduced into the British Parliament. From 1939 to 1976, euthanasia bills were introduced in the United States and Britain, but none were passed.

It was not until 30 September 1976 that the Governor of California signed the first Natural Death Act (California Health Security Act), which for the first time gave legal authority to a written document such as a 'living will'. The first country in the world to pass legislation on euthanasia was the Senate, which passed a bill on the right of patients with no hope of a cure to request that their lives be ended. This led to a similar bill being passed in the Northern Territory of Australia in 1996, but it was overturned by the National Assembly in 1997. Following the passage of the Euthanasia Act, the Netherlands took the lead in a series of measures to legally control the application and implementation of euthanasia.

In their article, Adams, Maurice describe the monitoring mechanisms of Dutch euthanasia law as divided into ex post review and control and ex ante review and control. On this basis the problems of euthanasia supervision and control in the Netherlands are analysed and pointed out, and they suggest that the reporting system may encourage doctors not to perform euthanasia when the rules do not allow it, or to perform it in the right way.¹¹

Berghmans, Ron, in his study of the Dutch system of consultation and review of euthanasia, argues that an approach based on ex ante consultation and ex post review can be seen as a responsible way of dealing with the ethical and legal issues surrounding the termination of life on the basis of the patient's request. The focus on trust, quality assurance, transparency, and control in the medical profession promotes prudent practice,

⁸ Jia Hu, "A study on the Legalisation of Euthanasia in China" (China University of Political Science and Law, 2011).

⁹ Yi Zhang, "Views on Euthanasia Legislation" (China University of Political Science and Law, 2012).

¹⁰ Yang Su, "Research on the Legalisation of Euthanasia in China" (Chongqing University, 2016).

¹¹ Maurice Adams, "Supervision and Control in Euthanasia Law: Going Dutch?" *King's Law Journal* 23, no. 02, (2012): 121-139.

while combining the rights of patients with the integrity and professionalism of doctors. In addition, ex post facto review is beneficial to a pre-facto review system.¹²

3. THE SIGNIFICANCE OF LEGALISING EUTHANASIA

Firstly, the legalisation of euthanasia has become a strong humanitarian demand in modern society, as euthanasia is becoming more and more frequent in China. In 1986, Wang Mingcheng, a worker in Shaanxi province, asked a doctor to help his mother end her life because her mother, Xia Suwen, was suffering from sclerosis of the liver and was in extreme pain. The case was finally decided by the Hanzhong District Court: the treating physician and Wang Chengming were both found not guilty.¹³

The case of Wang Mingcheng was followed by dozens of euthanasia-related cases in China, and in 2019, the famous Taiwanese presenter Fu Daren chose to go to Switzerland to be euthanised because he could not bear the pain of pancreatic cancer.¹⁴ The percentage in favour of euthanasia is also growing. 2017 survey data shared by researchers at Wenzhou Medical University showed a 95.4% support for euthanasia among healthcare professionals and 84.27% public approval of euthanasia. In addition, up to 70% of people would choose euthanasia if they were terminally ill with no hope of saving their lives.¹⁵

The above figures show that the legalisation of euthanasia at this stage has a sufficient public base and that the legalisation of euthanasia is in line with the wishes of the majority of the population. In addition, euthanasia is also a manifestation of the right to freedom, and people should be free to choose how to dispose of their right to life, provided that the law does not explicitly prohibit it, that it does not offend or violate the collective consciousness, and that it does not interfere with the normal ethical and moral order of society.

4. CURRENT STATUS OF LEGALISATION OF EUTHANASIA

The first voluntary euthanasia committee was set up in the UK in 1935 and in the USA in 1938. 1976 saw the establishment of voluntary euthanasia associations in France, Denmark, Norway, Sweden, Belgium, Japan and even in Italy, France and Spain, where there is a large Catholic population. The aim of these civil society organisations was to legalise euthanasia in their own countries.

The Dutch Termination of Life on Request and Assisted Suicide (Review Procedures) Act was passed on 10 April 2001 by a vote of 46-28 in the House of Lords after a heated debate. The Dutch Termination of Life on Request and Assisted Suicide (Review Procedures) Act, which sets out the conditions and procedures for euthanasia, was passed by a vote of 46-28. Belgium became the second country in the world to legalise euthanasia, following the adoption of the Dutch Act on Euthanasia, which was passed by the Belgian Chamber of Deputies on 28 May 2002.

¹² Ron Berghmans, "Euthanasia in the Netherlands: Consultation and Review" *King's Law Journal* 23, no. 02 (2012): 109-120.

¹³ An Xi, "Euthanasia in China: Right or Wrong? The first Case of "Euthanasia" in China in which the Person Concerned was not Euthanized" *Human Rights* 05(2003): 42-45.

¹⁴ See news coverage: <https://baike.baidu.com/tashuo/browse/content?id=7aefb4f40aac5b77f2dc7539>

¹⁵ The Center for Health and Bioethics Research at Wenzhou Medical University. <https://kms.wmu.edu.cn/handle/3ETUAOLF/40526?mode=full>, [20 September 2023].

The Netherlands has an extremely well developed health and social security system, a high level of public trust in medical personnel and, according to Dutch euthanasia legislation, the following main conditions must be met when a doctor euthanises a dying patient: 1. the patient is consulted and it is concluded that euthanasia is the only solution; 2. the doctor who has been caring for the patient writes a written opinion on the above four points; 3. another "independent doctor" is consulted to support the euthanasia procedure; 4. the patient is subjected to the prescribed euthanasia procedure.

The legalisation of euthanasia in Switzerland differs from that in the Netherlands and Belgium in that its legislation is specific in that it only allows passive euthanasia and that the subject of assisted euthanasia is not limited to doctors, but this is a necessary condition set out in the Dutch and Belgian euthanasia acts. Under the Swiss Federal Criminal Code, life is subject to absolute protection.

Article 114 of the Swiss Federal Penal Code states that anyone who terminates the life of another person for any motive is liable to legal sanctions. At the same time, however, this provision implicitly authorises medical assistance or other forms of assisted suicide. Article 115 of the Criminal Code states: "In any case, a person who, for selfish motives, incites or assists a person to commit suicide shall be confined to prison for five years, provided that the suicide has been completed or attempted".¹⁶

The key word is "selfish motive", which simply means that anyone who helps someone to commit suicide with a non-selfish motive is not punishable under the Swiss Penal Code. In summary, the above provision of the Swiss Federal Penal Code legalises euthanasia by implication, and in 1995 the Swiss Academy of Medical Sciences established a code of medical ethics for the medical assistance of dying patients as a constraint on the practice of euthanasia. To date, euthanasia has been legalised in five countries, up from two, including the Netherlands, Belgium, Luxembourg, Switzerland and parts of the United States.

5. LEGALIZING EUTHANASIA IN CHINA PROBLEMS

5.1 Chinese Traditional Thinking has to a Certain Extent Confined The Development of Euthanasia

Since China's legislation on euthanasia is still in a blank state, there is no corresponding crime and no corresponding sentencing standard has been formed, so in judicial practice, the court is prone to consider the act of performing euthanasia as intentional homicide, but in terms of sentencing, it is sometimes classified as the lightest grade of intentional homicide, or even sentenced to a suspended sentence at the same time. For example, in 2011, Chen Hong's mother had been bedridden due to severe damage to her lower limbs in a car accident, and was in severe pain all over her body, unable to eat and relying on painkillers to ease her pain.

The court found that Chen Hong's behaviour was an act of helping others to commit suicide, indirectly and deliberately depriving others of their lives, although it was justifiable, but life is irreversible and no one can deprive it at will. He was sentenced to three years' imprisonment.¹⁷ This shows that, although the act of euthanasia is not

¹⁶ Jiusheng Xu, *Swiss Federal Penal Code (Revised 1996)*, 3rd Edn, (Beijing: China Law Press, 1999).

¹⁷ Jianjian Ren, "A Study of the Criminal Law of Active Euthanasia" (Southwest University of Political Science and Law, 2013).

recognised in judicial practice, it is still taken into account the difference between the act of euthanasia and the act of intentional homicide, so that it is classified as a lesser circumstance within the category of intentional homicide.

Of course, there are also very few heavy sentences, such as in 2010, Guiyang man Xu Yonggui father injured in a car accident after spending all his son's working savings, coupled with the painful sequelae, repeatedly asked his son Xu Yonggui to help him commit suicide, the son could not bear his father continue to suffer on May 14 of the same year, his father strangled to death with a piece of twine, the case was heard by the Guiyang City Intermediate People's Court, in 2011 sentenced Xu Yonggui The case was heard by the Guiyang Intermediate People's Court, which in 2011 sentenced Xu Yonggui to 14 years' imprisonment for intentional homicide.

On 26 December 2010, Wang Jingxi, a retired engineer in Taiwan, whose wife was suffering from Parkinson's disease and had fallen and broken bones before the incident, thought that his wife was living a hard life and took six sleeping pills to her and then used a hammer to drive a screw into her forehead to kill her. He was sentenced to nine years in prison for intentional homicide and died after appealing for his death.

The penalties are severe because the practice is relatively very bad and differs from euthanasia. Therefore, due to the lack of legislation related to euthanasia, there is no characterisation of the act of euthanasia, leading to discrepancies in sentencing, which has led to the formation of different views and controversies in the academic community and society at large. It is clear from the above analysis and the presentation of cases that the number of cases of euthanasia is increasing year by year, and its emergence has not only subverted the concept of social ethics and morality, but has also been troubled by the scope of criminal law, and there are many controversies over whether it constitutes a crime, what it constitutes, and how to characterise and sentence it. However, in judicial practice, there have been cases of euthanasia.

The emergence of euthanasia has undoubtedly been a huge shock to traditional Chinese culture and attitudes. It has overturned Chinese views on death and challenged the values that have been passed down to us since ancient times. Firstly, there is the influence of traditional filial piety. There is no doubt that euthanasia is contrary to the Chinese concept of filial piety. Traditional Chinese culture believes that the relationship between a patient and his parents is one of "the body's hair and skin is the parent's, and one does not dare to destroy it, which is the beginning of filial piety", and "filial piety is the first of all virtues". For any terminal illness of parents or relatives, children and family members should be with them until they die, in order to fulfil their filial duty, and should never rush them to an early death, otherwise the charge of unfiliality will never be redeemed. Only by doing so can they be respected by the people. In the Analects of Confucius, it is said, "Fu filial piety is also the essence of virtue."

The gentleman is concerned with the root, and when the root is established, the way is born; filial piety is also the root of his being! The central tenet of this passage is filial piety. Zeng Zi also said, when one is born, one serves with rituals; when one dies, one serves with rituals, one can be considered filial. When parents are alive, children should take care of them wholeheartedly; when they are sick, they should do their best to seek medical advice for them so that they can leave peacefully, when parents pass away, children should take care of them with the traditional rituals of burial, and offer sacrifices to their children and grandchildren in order to be considered truly filial.

Filial piety is not only an important part of the traditional Chinese moral system, but also an important yardstick to measure the moral character of a Chinese person. The phrase "it is better to die than to live" is a good indicator of traditional Chinese thinking, where people have a fearful and panicky attitude towards death. Even if they see their parents suffering from an incurable disease for which there is no cure, most children will not take the initiative to let their parents end their lives prematurely.

In addition, humanitarianism advocates the sanctity of life. However, euthanasia theories suggest that 'terminal illness' has been defined differently at different times in history, and that although many terminal illnesses have been overcome and completely cured with the development of social science and technology, there are still many unsolvable medical problems, and these 'problems' "In addition to the mental suffering of the patient, the physical pain is also unbearable, and not only that, the relatives of the patient also bear the burden.

The moral and criminal aspects of the crime were not simply condemned. In comparison, euthanasia, the unnatural act of ending life prematurely, conflicts strongly with traditional notions of filial piety and is even unbelievable. Secondly, the theory of euthanasia challenges the traditional notion of adherence to the principle of salvation, which formally advocates the principle of abandoning treatment or hastening death. This, coupled with the fact that the culture of filial piety has been established in China for thousands of years, and that the concept of "avoiding death" has become a widespread social psychology among the Chinese people, makes the Chinese people's rejection of euthanasia understandable.

Secondly, it is the influence of family ties. For the Chinese people, family ties are the most important link between social relationships and emotions, and blood is thicker than water, so it is difficult for people to accept euthanasia as a way to end the lives of their family members, especially their parents. If euthanasia is carried out, apart from the possibility of social condemnation, it is also emotionally unacceptable to them, even if they understand and agree with the method of euthanasia. Such ambivalence is created when reason and emotion come into play, creating a dilemma that cannot be decided. From a rational point of view, a loved one who is suffering from a mental and physical illness may seem to be able to prolong his or her vital signs through treatment, but the treatment process is still painful and will ultimately lead to a painful death. From an emotional point of view, euthanasia for one's loved one, ending the life of the loved one prematurely, will undoubtedly create a feeling of extreme remorse, guilt and unbearable feelings among the patient's relatives, which is an even more difficult fact to accept, especially in a country like China where the traditional concept of kinship is paramount, the shock is often very huge and difficult to overcome.

Further, it is likely to lead to a loss of affection and a decrease in trust in loved ones. The Chinese people have a long history of culture, with the patriarchal clan tradition playing an important role in the entire ideological system, and people's initial interests are based on their attachment to the kinship of the group. This is one of the reasons why euthanasia is more accepted in European countries than in China.

In summary, it is clear that people's superficial approval of euthanasia does not mean that they approve of it in their hearts, which is a deep-rooted cultural effect brought about by traditional concepts. Although the emergence of euthanasia has a special meaning and

value for society, it is important to consider the potential impact of social culture and customs while realising individual needs.

5.2 China's social security system is inadequate and the standard of medical services and care is relatively low

Euthanasia is legalised in very few countries abroad, but the process of implementation and actual operation is very strict, and there are many requirements to be met. From the aforementioned euthanasia procedures in the Netherlands, two important factors are responsible for the legalisation of euthanasia in the Netherlands: firstly, the Dutch medical system and health care and social security system are very well developed, which shows that the implementation of euthanasia must be based on a well developed socio-economic environment, and secondly, it can be seen that the Dutch public has a high level of trust in medical personnel, which is a very important aspect. This is a very important aspect, because if there is a lack of trust between doctors and patients, euthanasia is a life-threatening system, and mutual trust can eliminate the fears of the public and the legislature about the negative consequences of euthanasia if it is legalised.

The typical cases of euthanasia in China show that the people who carry out euthanasia in China are often not qualified and medical personnel, but rather relatives of the patients, and that these people carry out euthanasia in a very crude manner, which is somewhat different in appearance from the euthanasia perceived in Western countries, making it difficult for judicial practice to recognise euthanasia. This makes it difficult for judicial practice to recognise euthanasia and thus organise trials around the crime of intentional homicide.

China is still a developing country, and although some of its medical technologies and standards are already at the leading edge of international standards, the level of medical services is still relatively weak on average for the country as a whole.¹⁸ At the same time, the incompleteness of the medical system has, to a certain extent, exacerbated the tension between doctors and patients. In recent years, the increasing tension between doctors and patients and the low level of trust between doctors and patients have made it more difficult for doctors to carry out euthanasia, which is also contrary to the tenets of professional ethics of medical personnel.

Euthanasia is considered to be contrary to the professional ethics of doctors, even if the patient has become unbearably ill, and even if the patient has made a sincere request for euthanasia, and is therefore hardly acceptable to doctors themselves or to society at large. In addition, the social security mechanism in China is not quite complete, and due to regional differences and uneven development, it is difficult to implement the euthanasia system, especially for rural areas where medical conditions are very poor, and it is difficult to meet the conditions for euthanasia, which poses a real dilemma for the legalisation of euthanasia.

5.3 Conflict between euthanasia and current Chinese law

Euthanasia is closely related to the right to life, and it is carried out on people who are too ill to bear the pain of their illness, which undoubtedly conflicts with the legal protection of the right to life under current Chinese law. Although the right to life is not enshrined in law, it is not difficult to read between the lines of the law to see its existence. For example,

¹⁸ Xuan Sun, A Study of Some Issues Relating to the Criminality of Euthanasia, *Thesis*, Guizhou University for Nationalities, 2015.

Article 37 of the Constitution of the People's Republic of China (2018) provides that "The personal freedom of citizens of the People's Republic of China shall be inviolable." Article 38 states:- "The human dignity of citizens of the People's Republic of China shall be inviolable."¹⁹ This is a respect for the right to life of citizens. Article 104 of the Civil Code of the People's Republic of China provides that "Natural persons have the right to health. The physical and mental health of natural persons is protected by law. No organisation or individual may infringe upon the right to health of others."²⁰

This, in turn, is a protection of the right to life. Article 13 of the Criminal Law of the People's Republic of China (2020) stipulates: "All acts that endanger the sovereignty, territorial integrity and security of the state, split the state, subvert the people's democratic dictatorship and overthrow the socialist system, disrupt the social and economic order, infringe on state-owned property or property collectively owned by the working masses infringe on the property privately owned by citizens, infringe on citizens' personal, democratic and other rights, and other acts that endanger society and are punishable by penalties in accordance with the law are crimes." Although not explicitly stated, it is clear that the right to life is a real right enjoyed by citizens.

Chapter IV of the Criminal Law is devoted to crimes against the personal and democratic rights of citizens, and crimes such as intentional homicide and intentional injury are clearly defined therein, which also shows that the right to life is a legal interest protected by Chinese law, and no one can be arbitrarily deprived or harmed.²¹ Euthanasia, on the contrary, deprives others of their right to life precisely by other means, and on the face of it is clearly contrary to existing Chinese law, especially criminal law, which ultimately aims at protecting the personal rights of citizens, in addition to fighting crime and preventing crime, which is a top priority.

Qu Qiubai once said: "Life is precious to all but once. The crime of intentional homicide under Chinese criminal law includes the crime of murder by commission, also known as "murder by promise", which is the direct killing of a person by commission with the intention of committing suicide at a later date. This is essentially the same as euthanasia in this case, but because it is dependent on the victim, the penalty is reduced, which is one of the reasons why euthanasia has always been considered a crime of intentional homicide in China. The right to life is protected by law, and euthanasia conflicts with many of China's existing laws, which means that China has always been in the negative on the issue of euthanasia. It is also a question to ponder whether this is too harsh.

6. COMMENTS AND RECOMMENDATIONS

The public awareness of euthanasia has been raised through the promotion of cultural traditions and customs, which are an important part of a country's spiritual wealth. The

¹⁹ See the Constitution of the People's Republic of China, <https://flk.npc.gov.cn/detail2.html?MmM5MDImZGQ2NzhiZjE3OTAxNjc4YmY1YTQ4MzAwNGI%3D> [20 September 2023].

²⁰ See the Civil Code of the People's Republic of China, <https://flk.npc.gov.cn/detail2.html?ZmY4MDgwODE3MjlkMWVmZTAxNzI5ZDUwYjVjNTAwYmY%3D>. [20 September 2023].

²¹ See the Criminal Law of the People's Republic of China, <https://flk.npc.gov.cn/detail2.html?ZmY4MDgxODE3OTZhNjM2YTAxNzk4MjJhMTk2NDJjOTI>, [20 September 2023].

reason why euthanasia has attracted a stronger response in China than in Europe is due to the thousands of years of Chinese cultural traditions. However, the emergence of something new often feels difficult to accept at first, especially when it challenges traditional ideas and is more likely to meet resistance. Euthanasia is not accepted by most people, but over time more and more people will come around to it. In the same way that nursing homes have evolved in China, they were initially seen as a challenge to the traditional notion of filial piety, but are now accepted by many. Although nursing home care is not comparable to the denial of a person's right to life, it is believed that public acceptance of euthanasia will gradually improve.

This paper argues that euthanasia can be made more acceptable to the general public through a strong propaganda campaign, which can gradually increase the public's awareness of euthanasia, reduce the fear of new things, and use scientific methods to dispel people's misconceptions about euthanasia, from misconceptions to understanding, from understanding to comprehension, and finally accept euthanasia as a new thing. Although euthanasia differs to a large extent from natural death in the traditional sense, it is still a very cautious approach to life.

In addition, publicity should be used to draw the attention of all sectors of society to the issue of euthanasia, to guide people to cultivate the concept of cognitive death, facing death squarely and accepting death, to increase people's acceptance of the modern scientific concept of death, to free people's minds that are imprisoned by the traditional concept of life and death, to pay more attention to the end-of-life care of sick patients, and to gradually understand and support the implementation of euthanasia. Through publicity, people should be made aware of how euthanasia is treated in Western countries and how it works in practice, so that they can gain a deeper understanding of euthanasia and eliminate misconceptions.

Along with increased publicity, efforts should be made to address the negative impact of traditional filial values on Chinese people, and to guide people to consider the needs and choices of the sick patient from the perspective of the sick patient, and to alleviate the negative emotions arising from the euthanasia of relatives. Although at present, this is very difficult to achieve in China, and it is difficult to develop a broad consensus. However, as society develops, the economy leaps forward, people's living standards improve, and the medical standards and social security systems become more and more sophisticated, there is a need for a more rational acceptance of death along with respect for life. The realistic value of euthanasia not only preserves the real needs and dignity of the sick patient and improves the quality of life, but also alleviates the double burden of society and the relatives of the sick patient, and puts more resources into more effective use.

6.1 Define Euthanasia Clearly Through Legislation

At present, the issue of euthanasia in China is still at the stage of theoretical discussion, and the domestic legal system has not yet made a clear and authoritative definition of the concept of euthanasia, which has led to many cases in China being similar to but different from euthanasia, and similar to but different from intentional homicide, further making a series of contradictions in judicial practice, such as misdemeanour, misdemeanour and

heavy sentence, and different sentence for the same crime. If euthanasia is not defined through legislation, it will be difficult to eliminate the embarrassing situation in practice.²²

In addition, due to the improper application of the concept of euthanasia by the media, many people have misunderstood the phenomenon of euthanasia, and a considerable number of scholars have interpreted the acts of not giving life support measures and abandoning treatment as euthanasia, which has further intensified the confusion of the academic community and the public's perception of euthanasia.

Therefore, this paper believes that a clear and authoritative legal positioning of the concept of euthanasia through legislation, clearly specifying what euthanasia is and under what circumstances it really falls into the category of euthanasia, will certainly play a strong role in promoting the study of euthanasia and the improvement of the relevant legal system.

6.2 Avoiding Criminalisation in Cases That Have Entered the Judicial Process

As China's legal system is not yet perfect, it is difficult to decriminalise euthanasia under the existing legal system at present. In judicial practice, when it comes to euthanasia cases, judges can, through their long experience in adjudicating cases, exercise discretion in such cases by using relevant jurisprudence and interpreting them in accordance with the existing legal provisions, so as to achieve the purpose of evaluating such acts as non-criminal. This is, of course, a choice of necessity and a desperate choice.

The judge can only resolve the conflict between the general rules of the law and the general rules of euthanasia by finding a situation that excludes the general rules of the law and meets the actual conditions of the case, in order to achieve fairness and justice, and to find a place between law and morality for euthanasia. Only by avoiding convictions and penalties in cases that have already entered the judicial process can we avoid the recurrence of similar tragedies.

The joy of life and the peace of death is the ideal pursuit of human life, and now that we have entered the 21st century, the quality of life is receiving more and more attention. Therefore, when facing the issue of euthanasia, we should not ignore the preciousness of life because of the pursuit of the form of ending life, and we should not only explore and study it at the level of legal theory, but also be cautious at the level of operation. We should remain highly vigilant to those practices that are "avant-garde" in their actions, screen them for authenticity, distinguish between right and wrong, and intensify our efforts to combat and punish the illegal acts of intentional killing in the name of euthanasia.

7. CONCLUSIONS

People's attitude towards death has become more and more open and calm, and the issue of euthanasia has a long history, with changes in the times and the evolution of mankind, euthanasia has been given a deeper meaning, i.e. to allow people suffering from illness to choose the way of death and to die peacefully. While the right to life and the right to personality are being given more and more importance, euthanasia is gradually attracting attention and controversy under the pressure of social opinion, ethics and morality, as

²² Deyong Shen, & Yanyang Xu, "Theoretical Considerations on The Legislativeization of "Euthanasia" *Political Law Forum* 39, no. 01 (2021): 188.

well as cultural traditions, etc. Of course, this has also aroused the attention of scholars from the academia.

The perspective of criminal law, this paper combines the current situation of domestic and foreign research on euthanasia, cites the typical domestic cases on euthanasia in the past five years, conducts research on whether euthanasia constitutes a crime, analyzes the theory of decriminalization of euthanasia, and puts forward some small suggestions of the paper. It is hoped that through the humble analysis and research, I can contribute to the further improvement of the justification of euthanasia, as well as the practical significance of correctly identifying the issue in practice.

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