

**ЗА ЦЕННОСТТА И ПРОДЪЛЖИТЕЛНОСТТА  
НА ЖИВОТА  
И ЗА „ПОРОЧНИЯ КРЪГ“ ЗА  
РАЗПОРЕЖДАНЕТО С НЕГО  
НА ПРИТЕЖАТЕЛЯ МУ ИЛИ НА ДЪРЖАВАТА  
(НА АНГЛИЙСКИ ЕЗИК)**

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**Резюме:** Във всяка форма на живот времето играе основна роля. То е „допирната точка“ между миналото и бъдещето, епицентърът на непоносимото противоречие между живота и смъртта. За всички нас времето е основен фактор, тъй като бъдещето предлага възможности за осъществяване на нашите очаквания и за постигане на лична свобода. Дискусиите по тази тема са възникнали в Древността, докато обсъждането на евтаназията е от по-ново време. Мненията по този въпрос могат да бъдат временни и неадекватни, колебливи и категорични, непрекъснато да се надграждат с нова информация, както и да се тълкува и критикуват старите. Историята е пълна със спекулации, контрол, недоказани и оспорвани твърдения. Това е още по-вярно за евтаназията, тъй като този акт е сложен, изключително многообразен по своята форма, с много доводи за правото на милостиво приключване на живота на неизлечимо болен, който изпитва непоносими мъки, но и със също толкова доводи за възможни злоупотреби с това право. В тази статия авторката се опитва да изясни различните позиции и да направи изводи въз основа на достъпната информация. Това е още по-важно в този момент от развитието на цивилизацията, възхваляваща индивидуалните свободи, но същевременно характерна с моралното отчуждение на отделните личности. Разкриването на всички аспекти на тази човешка драма се превръща в предпоставка за разбиране и съпричастие към упражняване на правото на пациента да контролира собствения си живот, но и за предотвратяване на възможни закононарушения и простъпки при упражняването на това право.

**Ключови думи:** живот; държавен интерес; евтаназия; права на пациента.

**ABOUT THE VALUE AND DURATION  
OF LIFE IN THE “VICIOUS CIRCLE” DISPOSITION  
OF THE OWNER OR THE STATE (ENGLISH  
LANGUAGE)**

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**Abstract:** In no other form of life, but human life, time plays major role. Human life is not just present time, it is the “touching point” between the past and the future, the epicenter of the unbearable contradiction between life and death. For all of us time is primary factor since future offers the possibilities of living a quality life, opens new horizons for the realization of our motivations, expectations and achieving of human freedom. Discussions on this topic are older than life itself, which is a passing phenomenon, while the deliberation on euthanasia is a constant. Therefore, the opinions on this issue can be temporary and inadequate, satisfactory and definite – constantly being upgraded with new stands and changes and critics of the old ones. The history of this issue is full of speculations, scrutiny, unproven and disputable statements. This is so much true about euthanasia since this phenomenon is complex, extremely plural in its form, with “many faces” of merciful ending of life of a dying patient and with many possibilities for the abuse. In this paper the author under lines that to attempt to explain this phenomenon actually means to shed light on both moments, that is its both sides and make conclusions on the basis of these findings. This is even more important in this moment of the civilization’s growth glorifying individual freedoms, but at the same time facing moral alienation as its recognizable trait. Thus, unveiling all the aspects of this human drama becomes a prerequisite by itself.

**Keywords:** life; state interest; euthanasia; the patient's right to self-determination.

## 1. INTRODUCTORY CONSIDERATIONS

It is without doubt that modern life, here and now, hangs out in the wind while colliding with different systems of values – ideological, religious, morals and other norms. Something happens, constantly, something exciting, new, but often unpleasant, tragic, or depressing. Truly, “the flows of the future”, brought inevitably by our epoch sometimes provide a terrifying picture: destruction, terrorism, global violence [...] they press the contemporary civilization, looming over her, disrupting her normal development and endangering her further survival.

It is as if death became the fate of the modern society. It is omnipresent, it surrounds us, terrifies us, scares us.

But that is the reality. And that is where to start with the explication of the relevant problem.

By staying true to the Hippocrates’s oath, that is, by applying one part of it consistently which says “Neither will I administer a poison to anybody when asked to do so, nor will I suggest such a course”, most doctors keep the ill people alive, even in impossible cases, persisting between life and death, in hopeless situations, even against their own will.

At the same time, people end their lives unable to be responsible for themselves or their actions and their existence slowly but securely turns into long dying through the unimaginable pain and suffering. But if we are to simplify, people still die from the destruction of the vital organs or from any deadly flaw or injury, crushed by hard and incurable illnesses, in terrible sufferings at their death beds, without the minimum chance to get cured, to be free from their illness. The only exit they see lies in suicide or in “killing themselves” in some other, similar manner.<sup>1</sup> Uncurable patients who, due to their physical helplessness are not able to cut their lives short ask doctors or other family members to do it for them. Situation is almost identical in the case when the patient or helpless person does not want to commit suicide or cannot, for any other reason. In the other words, the right to die of persons unable to manifest their opinion regarding life or death has been placed in the same plane. Thus has the medicine found itself before the whole string of new moral and law-related dilemmas, and espe-

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<sup>1</sup> PETROVIĆ, D. Eutanazija, nove dimenzije. Beograd, 2010, p. 14, 15.

cially before those which are in direct conflict with its fundamental professional principle and traditional duty: should and could the life of one patient be ended, when that life, for him, presents unremovable suffering, or in other words, should the suffering of the dying be prolonged at any cost? Which line should be crossed by persisting in this duty, that is, should such life be ended by doctors, when its end is inevitable, and it's supported by the explicit demand from the patient on the death bed? At which moment is it allowed to stop keeping someone alive, artificially?<sup>2</sup>

At the trail of these questions, that is, in the highlighted diversity and complexity of the problems which arise regarding this topic, the central one is recognized – problem of euthanasia or “mercy kill”. In this context, with a high risk to oversee the nuances, it is obvious that theoretical and practical analysis of euthanasia opens the doors to many complex problems. And that is the source of this many dilemmas tied to this phenomenon! So many conflicted questions and answers which make this problem impalpable, almost unsolvable! And yet, when it is insisted on previous indices, it is, in practice, insisted only upon one, crucial problem (one with the binding, integrating character) – should euthanasia be legally allowed or not?<sup>3</sup>

It is this path which actually opened the biggest problem – in the fact that this central, fundamental question produces and coexists with another, according to its scary effects much harder problem – the problem of its ABUSE.<sup>4</sup>

To answer this delicate question, for a moment, let's return to the beginning of this topic, where right to live is the most significant human right and where right to death is the most controversial, most debatable and clearly the most disputable human right.

In order to understand the problem of euthanasia, we should start from the right to live as the most basic right of a person, that is, from the most significant one among all human rights. By paying the extraordinary attention to this

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<sup>2</sup> Ibid.

<sup>3</sup> GOVAART, Caspar en ROLIES, Jan. Solidariteit met stervenden. Gooi en Sticht, Uitg. 1993, p. 15–20. See also FLEURKE, Harry. *Ars moriendi: de vergeten kunst van het sterven: vragen bij een geregelde kwestie* – <http://www.nopapers.nl/km/az/boek/1/boek0138.html> , visited on the: 12.12.2019.

<sup>4</sup> TATIĆ, Klajn V. *Dopustivost i zabrana eutanazije zavisno od načina izvršenja in Aktuelni pravni problemi u medicini*. Beograd, 1996, p. 149–150.

highlighted question, once more, with the deduction that the right to live is one of the most essential human rights, it is warned that a life is the highest social value and that it is, as such, protected in all declarations of human rights, in all contemporary legal systems, constitutions and legislatures. And in that context alone, each man holds sway over his own life, to live as he sees fit, and therefore to die when he wants to, that is, in a manner or time of his choosing.

It is all about the fact that right to live consumes the right to die, just as well as the right to live is, by its purpose, solely integrated into the very person, and cannot be separated from it, so is the right of a man to die where and how he wants a right which cannot be split from a person. Simply put, each man is in a position to decide on the fate of his most fundamental right – the right to live. That approves that a man can live his life by his own choosing, as long as that does not affect rights of others. In this manner, simultaneously, life appears as a global good of the society which thus results in the claim that destruction of the individual lives results in the destruction of a part of the society.<sup>5</sup>

The border of the individual freedom must be placed if we are not to deny the freedom of others.

There is no need to elaborate the previous reasoning, but instead we'll emphasize the realization which favors the interest of the individual, should one decides to die, over the interest of the state to maintain that life despite obvious opposition, and we should instantly assume the approach: euthanasia should be legalized.

From that perspective, from the pile of ethical and all reasons based on human nature, we will separate only two: 1. A life which holds no value to a man has no value to society. Such life should, of course, be protected, but not self-harm or a call to do so and 2. Objectively, we are not discussing a quality life.

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<sup>5</sup> At national level, the protection of the right to life is determined primarily by the constitutions of the states. In the constitutions of a number of states, this was done explicitly, such as in the Basic Law (Constitution) of the Federal Republic of Germany of 1949, with subsequent amendments until 2002 (Article 2, paragraph 2), the Constitution of the Russian Federation of 1997. the Constitution of Romania (Article 22, paragraph 1), the Constitution of the Republic of Poland from 1997 (Article 38), the Constitution of Slovakia (Article 15, paragraph 1), the Constitution of France (Article 6, paragraph 1). 1), etc., while some other countries do not state in their constitutions the right to life, but its recognition and protection derive from general provisions on the freedoms and rights of citizens, i.e. from the adoption of international conventions on human rights and the corresponding provisions of their legislation, as in the 1958 Constitution of the Republic of France (including the Declaration of Human and Citizen Rights of 1789) and the 1947 Constitution of the Republic of Italy.

Quite opposite, this is about incurable patients going through unmeasurable suffering, which cannot be helped adequately, where, sadly, the interest of the state to prolongs their truly unbearable and pitiful state – stops.

Coming from the above-mentioned approaches, our further theoretical discussion of the euthanasia phenomenon will crystalize answers to the following questions: can we discuss the right to a death with dignity, for a dying patient, that is, on the right to govern his own life? Should a man who opted for a mercy kill be stopped? Wouldn't life for this man represent nothing but a sad vegetation? Isn't the defense from his own self, from his decision to perish in such a manner merely a hypocrisy of the civilization and of science which wants to, at any cost, maintain him in a life without life, in a condition between life and death? Is the second nothing but a simulation of altruism? Or, are we discussing a sadistic motive here? Does he have right to a humane death, at all? How and why should we ignore the lack of perspective of his life and the intensity of suffering he can no longer bear? Besides, isn't everyone allowed to act based on his own consciousness or morale?

By sifting these questions through a prism of our own thinking, our attitude on this problem will drastically vary, so we will, in one part of the presentation regarding the abuse following the legalization of the euthanasia, cross the line which allows the liberalization, that is, we will opt for an entirely different solution – be against the legalization of the euthanasia, for it's a crime (and for a punishment for person doing this type of a murder a sentence equal for a normal murder.)

## 2. ARGUMENTS PRO SIGNIFICANCE AND CONTESTING

### **The right of a person to choose life or death**

Legalization of euthanasia allows a person to have a complete control over his own life. He may or may not choose to resort to euthanasia. As long as euthanasia remains illegal, a person does not have a total control over his life, that as, he cannot legally opt for this form of dying. Should individuals be deprived of such a choice?<sup>6</sup>

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<sup>6</sup> PETROVIĆ, Dragana. Instructions for assessing pros and cons "death with dignity". – In: *Strani pravni život*, 2016, no. 4. See on the <https://www.ceeol.com/search/article-detail?id=549067>, visited on the: 12.12.2019.

### **The right of a person to choose the quality of life over the length of life**

This problem is also connected with the right to choice, that is to choose according to your beliefs whether the quality of your life is more important than its length.<sup>7</sup> As long as euthanasia remains illegal, those who believe in the quality over quantity of life are deprived of the freedom of expressing their beliefs.

### **Suffering is painful**

Does a person suffering from incurable painful condition and wishes to die have the right to end his life or is forced to live on by law.<sup>8</sup> Should we force a suffering individual to live in pain against his will?

### **Relying on the latest and expensive medical equipment and medications and/or knowledge**

Since the price of medical treatments is in a constant growth, is it justifiable to use the latest expensive medical equipment, procedures medications in cases where the only expected positive result is the prolongation of life, without hope for recovery or for the improved quality of life?

### **Decreasing the risk of legal implications of those who are helping these patients**

Since euthanasia is today covertly happening, its legalization would prevent criminal investigation of those allegedly involved. Although euthanasia is still illegal, courts are often reluctant to prosecute these cases or judges are lenient towards the offenders. Moreover, given the fact that these cases are difficult to prove, legalization of euthanasia would prevent long and expensive court processes.<sup>9</sup>

## **2.1. Fearing euthanasia**

### **The problem of God – fearing people?**

Euthanasia represents a very complex religious problem.

### **Five religious views on life:**

1) *“It is forbidden to end life”*

Biblical laws forbid any form of killing. Ending a human life includes killing out of mental instability, hatred and animosity (killing), as well as mercy killing

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<sup>7</sup> <http://euthanasia.com/britain> , visited on the: 28.01.2017.

<sup>8</sup> <https://www.nhs.uk/conditions/euthanasia-and-assisted-suicide/> , visited on the: 12.12.2019.

<sup>9</sup> <http://rochford.org/suicide/infor/esseys/9802> visited on the: 12.02.2008.

(euthanasia). Regardless the mental state or motives, the bible forbids any form of ending life.

2) *“Life makes sense”*

Atheism rejects the belief that life full of suffering makes sense. From the atheistic perception of life, it makes sense only if it is fun and enjoyable. If fun and joy disappear and life is not optimally enjoyed due to old age or disease, the life loses its sense and may be ended through euthanasia.

Almost all religions, namely monotheistic, believe that life (existence) on this world has its purpose – there are many things that need to be fulfilled in one’s lifetime, and not all of them are pleasant and enjoyable. This means that even if something in our lives is not functioning well and in optimal way, there is still a reason to carry on with life.

3) *“Life has a mission”*

The view that life makes sense is in line with the belief that life is something more than daily existence, that is, that every human being has a mission, assignment or a role to be fulfilled in his lifetime. This view is in accord with the opinion that line “life makes sense” cannot be applied to coma patients and those suffering from severe dementia. One’s life makes sense only when there is an assignment to be fulfilled. Also, it is possible to imagine that someone lives on, even in deep coma, just to test his family members.

Fulfillment of this assignment varies depending on one’s religious beliefs and way of life. The main argument is that what you do in your life has strong impact on your afterlife and reincarnation.

In their declaration issued after the Bishops Conference of the Netherlands, this body stated that it was a good thing that euthanasia remained a punishable offence as a reminder of God’s gift of human life, meaning that, no one, but God, has a right to govern anyone’s life. Even the right to govern your own life is not absolute. A person cannot be the owner of his life and decide when he will be born and when he will die, and how his life will be governed.

4) *“Responsibility”*

5) *“Law enforcement and abiding”*

The Bishops believe that by punishing those who end life, life preserves its effectiveness. They demand from the authorities and the Parliament to monitor whether effective punishable measures are being applied to those who



violate the laws, and not only in cases of the patients with diminished capacities.<sup>10</sup>

According to the conducted researches, the main goal of the Law on euthanasia (to determine the scope if this practice) has not been achieved, since only 40 % of such cases have been reported. The fact that almost 60% of cases of the intentional ending of life remained unreported, that is concealed, speaks about the possibility of serious offences being committed in these cases. The research was conducted for the year of 1995 when 3 200 requests for euthanasia were reported. In 1990 the number of requests for assisted dying was 2 200. It has been estimated that the number of “unrequested” assistances, that is the number of unreported cases of euthanasia is about 900 per year. The Bishops therefore concluded that officials’ control over physician-assisted dying had not been applied according to law.<sup>11</sup>

## **2.2. Who is a “candidate” for assisted suicide or active voluntary euthanasia?**

The most conservative responders to this question would allow assisted suicide or active voluntary euthanasia only in cases when the patient who is suffering from a permanent physical disease causing serious uncontrollable problems places such a request. But these requirements considerably narrow the scope of candidates for assisted suicide and, very often, the situation goes to quite opposite direction – towards the liberation of these conditions on which grounds several laws on euthanasia are based. For example, the condition of permanent illness is missing in Hawaiian legislation in N.V. 342 (1975): the only condition is that the patient is suffering from an incurable disease causing severe problems. In this way, for example, quadriplegic patients would be allowed to request an assisted suicide. In this context, the draft of this law excludes another condition – incurability of disease, so that a patient with small chances of being cured, or even with a possibility of being cured, but only if he undertakes painful and excruciating treatments (for example, in case of severe burns) could resort to this unorthodox measure. On the other side, this way of determining the condi-

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<sup>10</sup> <http://euthanasia.com/colum2.html> , visited on the 12.12.2019.

<sup>11</sup> Choice between life and death, Joint body of Dutch Reformed Church Pastorate, Dutch Reformed Church and Evangelical Lutheran Church in the Netherlands, established in the General meeting of July 5<sup>th</sup>, 1997.

tions can be interpreted extensively, so that the nature of disease can be extended to include mental illnesses. This is what N.V. 137 (1973) and N.V. 256 (1975) Montana laws and N.V. 143 Idaho law (1969) exactly do, only restricting the scope of mental diseases to those caused by “brain injury”. However, the proposed law could be interpreted in a more liberal way to include mental diseases that cause severe problems, such as some forms of depression or anxiety, but which are not caused by organic brain disorders with no chances of recovery (cure).

Finally, we can raise the question of the patient’s competence, which is the case of N.V. 1207 Wisconsin law that allows a seven-year old patient to request assisted dying. This can go further and, in order not to discriminate mentally handicapped persons, laws can be further liberalized and allow these category of patients a possibility to resort to euthanasia.<sup>12</sup>

If the question: Who is a “candidate” for assisted suicide was asked in a simple context of determining who has reasons to die, liberalization would, undoubtedly reach its maximum. Life cannot be considered as something unconditionally good, but rather as something which is worth only in cases when a person has a “possibility to get desired experience”. Thus, if a person cannot have desired experiences, or any other experience but unwanted ones, then, such a person has a reason to die. This means that, according to this rational, the group of patients who would like to die would include those with permanent, incurable conditions, as well as those with mental problems.<sup>13</sup>

However, we cannot raise the questions about the candidates for euthanasia by asking who has a reason to die. We also have to take into consideration possible dramatic abuses and wrong interpretations where such legalization may lead us? Allowing children and mentally handicapped persons to choose assisted suicide opens an opportunity for various abuses. Once we abandon the notion that the patient’s disease must be physical and his death unavoidable, we have to face the possibility of an increasing number of wrong medical diagnosis and prognosis whether a patient will accept his situation and adapt to it and what is going to be considered as worth to continue living for. A mistake can be made

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<sup>12</sup> <http://www.rights.org/deathnet/understanding.html>, visited on the: 16.12.2018.

<sup>13</sup> Ibid.

if the patients suffering from mental conditions, such as severe incurable depression, or from permanent diseases, such as quadriplegia or severe injuries, are allowed to request assisted suicide.<sup>14</sup>

This reasoning has led us to face a liberal answer to the question related to the selection of candidates for euthanasia and a conservative answer that there are numerous possibilities for mistakes and abuse. It is clear that it is not easy to choose the right path. Legalization is an experimental process which cannot solve once and for all the question – what will be the impact of this law? Therefore, we have to risk and try one solution in order to see what results it will yield. Unfortunately, our discussions on this matter, which is always a heated topic to argue about, without the attempts to be implemented in practice turn into pure theoretical debates about all its deficiencies.<sup>15</sup>

Incompetent persons should not be the actors included in the Law on voluntary euthanasia due to the fact that they are not capable of taking voluntary actions. They may be capable of making a request for assisted suicide, but cannot do it with understanding which characterizes voluntary request. This means that they should be denied voluntary euthanasia, something we should no longer discuss here, since it should be the subject of involuntary euthanasia whose justification goes in other direction – what is discussed here is not autonomy, but relieving of suffering – and diverts us from our topic.<sup>16</sup>

However, should we restrict the law on voluntary euthanasia only to competent patients, it needs to be liberalized in some other way – there is a doubt whether we will get the best law if we allow that the question: Who has the right to die, exhausts all other relevant questions. There is a need to make a difference between those who are denied to request euthanasia and those who want it with good reason, even if this increases the possibility of abuse. It is considered that the importance to preserve a person's autonomy is so great that only a great danger of possible abuse can restrict it, but it seems that here there is no danger of that. The possibility of abuse can be brought to minimum by ensuring a careful implementation of all procedures and by avoiding misdiagnosis seeking a second opinion. Still, medical errors and misdiagnosis will remain, abuses too.

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

But it would be rather paranoid to predict a scenario with so frequent cases of abuse to reject the entire law.<sup>17</sup>

If we seriously consider to allow competent persons take care about their own lives, logically, they have to be given freedom to make their own decisions related to the medical advice they receive and make best judgment accordingly, although there is always a risk of making a mistake. If we allow people freedom to make major decisions, we allow them a possibility to make major mistakes, as well.<sup>18</sup>

### **2.3. *Why criminal sentence is often avoided?***

The jury members are more often lenient to those facing court trials for assisted suicide than to other offenders. They are often doctors, or family members, or friends of the assisted suicide victims.<sup>19</sup> Even when the prosecutors and judges are convinced that these people committed a criminal offence, although they subjectively believed they were doing the right thing, it is difficult to try and punish them as ordinary criminals. Indeed this is the area in which all law enforcement officers are reluctant to enter and would rather resort to preventive than punitive measures.

Thus, in one article related to some legal reviews the local prosecutor wrote: "District attorney's office does not investigate such cases and initiates a criminal investigation only in cases when one of the actors files a complaint". One other prosecutor stated: The criminal investigators should avoid these cases as much as possible". Here should be mentioned that our system foresees an absolute "prosecution discretion" and there is no legal obligation for a prosecutor to investigate and prosecute a person, even if he openly admitted a wrongdoing.

If a law suit leads to a trial and the prosecution is, even against odds, secured, then a dilemma is opened. If a judge sentences an offender to prison, he may very well be viewed as a martyr, but if the sentence is lenient, then the law loses its preventive role of deterring future offenders. In any case, the adhering to the law is decreasing and the pressure for the its abolishment is rising since it is viewed to be either draconic or inefficient.

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<sup>17</sup> Ibid.

<sup>18</sup> <http://iaetf.org/whatnow.htm> , visited on the: 20.01.2019.

<sup>19</sup> <http://istor.org/stable/1141990> , visited on the: 26.03.2019.

What can be done to make laws that sanction assisted suicide more effective? The ultimate goal should be to protect possible suicide victims from those who "would like to help" them in this act, rather than to make law a means of symbolic punishment. It seems reasonable to believe that if a person assisting a suicide knew he would be sued and found liable for compensation payments to the victim's family, they might be able to experience the deterring effects of civil law, which could not be said for criminal law which will not be able to secure a sentence for the same act. Even if a person assisting a suicide obtains a consent from the victim's family (as was the case with Jack Kevorkian), he can never be sure that a family member will not eventually sue him, either because he changed the mind or because of financial incentive. If the law could find a simple way to prosecute serial "assistants" such as Jack Kevorkian, then the court would be able to enforce its deterring role in a greater number of cases, except in those involving the most determined euthanasia activists.<sup>20</sup>

#### ***2.4. How and why civil law measures may be effective?***

The concept of civil law allows individuals (such as the family members of suicide victims) to give testimony in court and thus accuse those involved in assisted suicide. This means that discretion policy of public officials can no longer stop the undertaking of concrete measures against the assisted suicide offenders. Also, it has been underlined that assisted suicide is not a crime if there is no victim and in this case there are also many "secondary victims, that is the victim's family members which is powerful element for exercising pressure on the judge and jury.

There are two types of civil measures: civil orders and civil damages. Court order has many advantages. It foresees the measures for preventing death before its occurrence. It also allows a case to be quickly brought before judge who can immediately respond and prevent a possible offender to commit offence. That person knows that if he violates the court order the judge can seek harsh punishment for civil contempt. To a great number of physicians this may be more frightening and deterring than when he knows that there is no chance to receive a prison sentence.

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<sup>20</sup> Ibid.

As much as doctors fear punishment for their malpractice, financial “punishment” is also extremely efficient since the court may order the confiscation of property or taking money from their wages.

Civil damages assume that the defendant must pay monetary compensation to the family of the assisted suicide victim, similar as to paying damages for malpractice. It can be expected that insurance companies will put a big pressure on doctors making them avoid the practices that may lead them to such lawsuits.

Kevorkian,<sup>21</sup> who obviously enjoys his role of controversial martyr, would possibly wave off the word bankruptcy. But there are few men like him. Although there are some eminent doctors who would like to come out and legally practice euthanasia without fear of criminal investigation, civil liability still remain powerful deterring weapon.

If a law foresees that the family of the assisted suicide victim may file a law suit against the physician although they gave him a consent, doctors will be reluctant to perform this practice without family on their side, who can resort to lawsuit in any time driven by financial incentive.

Civil measures have one more advantage – criminal prosecutors are paid out of public funds and the prisons are also financed by tax payers, including the offenders who pay reasonable fees to their attorneys if the case was won.<sup>22</sup>

What happens if the civil law measures lead to proliferation of groundless law suits?

If a law suit is filed without evidence or with bad intention, the plaintiff may also be punished by paying all legal fees to the defendant, including the fees of his attorney. This practice not only compensates the wrongly accused defendant, but also serves as an efficient deterring measure for those who would like to file a lawsuit without sufficient evidence.

### ***2.5. Is there any precedent for using civil law measures?***

A large number of adopted civil laws “were not derived from criminal laws” but rather through the use of orders which were issued either during the civil cases led by government officials or those initiated by ordinary citizens represented by the counselors who defend public interest.

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<sup>21</sup> <http://www.ohiolife.org/issues> , visited on the: 12.12.2019.

<sup>22</sup> Ibid.

Law suits filed to get orders against discrimination in schools, public institutions, etc. have often resulted in the decisions empowering the plaintiffs to follow and monitor future actions of defendants checking whether they would be violating the order. These measures are often used today as principal means for preventing racial discrimination. Now it is time that civil law measures are added to the existing preventive and protective measures against assisted suicide. We have to be active in our fight to protect vulnerable patients from those who are ready to help them die instead of offering them comfort and medical help.<sup>23</sup>

### **2.6. Why assisted suicide should not be legalized?**

Many think that a decision to commit a suicide is a one's private choice that should not be the subject of public discussion. This view assumes that suicide is the result of an independent rational decision of competent people to end life. Society cannot interfere with the individual decisions to live or to die which do not affect anyone else, but those who commit suicide. But, according to the opinion of the professionals who conducted research on suicide, these assumptions are wrong. A British study from 1974 which included detailed research of medical reports and numerous interviews established that 93% of the research patients who committed suicide were mentally ill. The similar St. Luis study, published in 1984, revealed that 93% of the patients who committed suicide had mental disorders. There are also numerous psychological studies suggesting that those who attempt suicide are ambivalent, that is that they want to kill themselves for different reasons and do not want to die. In most of the cases these people are suffering from various mental diseases.<sup>24</sup>

### **2.7. Shouldn't the choice, after all, reside with the individual?**

Almost all the people who attempt suicide, in this way subconsciously seek help rather than believe that they would be better off dead.

Suicide attempt<sup>25</sup> is a powerful means to draw attention to someone's state of mind. We should respond to this cry for help in a human way by mobilizing all psychological and social services in order to attempt to resolve problems

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> <http://iaetf.org/sus.htm> → <http://www.patientsrightscouncil.org/site/sus.htm> , visited on the: 12.12.2019.

that could lead to this extreme behavior. These counselling and psychological services seem to be efficient in preventing death. One study that included 886 suicide survivors shows that only 3.84% of them died in the following 5 days after the suicide attempt. Another Swedish study (that is being conducted in continuation for 36 years) reveals that only 10.9% repeated the suicide and eventually killed themselves. Surprisingly, it seems that those who once attempted suicide and were saved, had a better chance for a happy life than those who never attempted a suicide but suffered from the same disorders. According to dr Ervin Stangel, the psychiatrist “a suicide attempt is an efficient, but dangerous way of alerting others and its consequences are often permanently damaging.”

In short, suicidal persons should be offered help to solve their problems instead of assisting them to die.<sup>26</sup>

### 3. CONCLUSION

Cruel reality often puts us in a position to make certain choices and reach decisions. On the border between life and death, making choices is inevitable responsibility. Such decisions, that is choices between two evils, are often subject to legal evaluation and contesting. Which decisions are competent and which are disputable depends on various views and starting points. However, this does not mean that individual choices and decisions should not be respected. Everyone is responsible for his own choices and his own deeds.

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<sup>26</sup> Ibid.