

Study Guide

HRC IPYLC 2019 : The Issue of Euthanasia



Introduction to the Human Rights Council

The Human Rights Council is a body within the United Nations with 47 member states, and it is primarily responsible for the “promotion and protection of all human rights around the globe”. This includes but is not limited to human rights in states involved in conflict, such as the humanitarian rights of refugees, and thematic human rights, such as the rights of racial and religious groups, women’s rights, etc. It also ensures that the measures taken to protect human rights, as dictated by international law, are effective. Delegates must keep in mind that resolutions drawn in HRC are not legally binding, but are encouraged and entail political commitment.

The HRC exercises its influence in order to address situations where human rights have been infringed upon, whether they be in a specific country or are against a certain demographic, e.g women, and can adopt a stance and recommend certain paths of action. It can also establish the guidelines on human rights, and create legally binding tools, such as the complaints procedure for the Convention on the Rights of the Child, and create a platform for communication and productive dialogue.

The HRC and the Office of the United Nations High Commissioner for Human Rights (OHCHR) collaborate to ensure that firstly, the universal standard for human rights is decided upon through thorough discussion with states and international organizations, as well as resolutions. They then ensure that the implementation of these rights go smoothly, through the use of committees which oversee the states involved and ensure that states are upholding their promises. Committees also make sure that violations of human rights are dealt with by providing support and aid in whatever way is viable.

Delegates should keep in mind that the primary goal of the HRC is to protect the inalienable rights of humans all around the world. Seeing as the issue of euthanasia is a relatively new point of contention, it is vital that delegates fully understand the ramifications of euthanasia, as legalizing or banning it will have ramifications on the rights of humans. The chairs hope that the delegates will be meticulous in their research and promote thought provoking debate on the topic.

Scope

Euthanasia refers to the “the painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma”, as defined by the Oxford dictionary. This council aims to discuss the various ethical and legal issues related to the treatment of euthanasia in different religious and cultural contexts. This issue mainly refers to the legality of euthanasia, the consent of the patient and their family members, and the extent of the severity of the patient’s condition to allow euthanasia.

As reported earlier this year, the United Nations Human Rights Committee has been attempting to redefine an important international human rights treaty by claiming that the

“right to life” means that states should legalize Euthanasia under expansive terms by releasing a document called General Comment No. 36 which seeks to reinterpret the International Covenant on Civil and Political Rights (ICCPR) to say that states “must” provide access to abortion, and permit states to legalize assisted suicide and euthanasia.

This debate will cover:

- Whether euthanasia should have a globally agreed upon standard, or whether each individual country can have their own method of handling the process
- Whether or not euthanasia will be allowed is an important discussion, but the circumstances under which euthanasia should be allowed is also essential
- What system will be created to manage the many ensuing special cases that will request the treatment
- Ensuring accountability, to ensure that sufficient punishment will be meted to doctors who unlawfully murder patients under the excuse of euthanasia

General Comment No.36

Recently, certain members of the HRC have been attempting to pass the draft document, General Comment No.36, which would place pressure on countries to pass laws to legalize euthanasia and abortion in its member countries. However, the pushback to this draft has been severe, and it is unlikely that it would pass, as majority are against abortion and/or euthanasia/assisted suicide.

We hope that the topic of euthanasia will incite an in-depth debate that will lead to a comprehensive, collaborative resolution outlining the legality of euthanasia. We also hope that the delegates will learn how to research and use data to formulate persuasive and effective speeches that stay true to their country’s stance without any interference from their personal opinions/feelings, reaching a united and assured resolution in council. We anticipate stimulating discussion on the complex nature of euthanasia.

Key Areas of Concern

1. Passive and/or Active Euthanasia : While euthanasia is not legal in most countries, the type of euthanasia need not be. The two types are namely Passive Euthanasia and Active Euthanasia. Passive euthanasia refers to death brought about by an oversight basically the withdrawal or withholding of treatment. Such examples would be switching off life support for a patient in a coma or discontinuing the supplication of medicine or clinical drugs to a patient. Active euthanasia is when death is brought about by an act, for example when a death is brought by giving a patient an overdose of painkillers. The HRC needs to be clear on its specific stance of whether they allow or disallow one or both types of euthanasia.
2. Euthanasia vs Assisted Suicide/Dying : The two aforementioned terms are usually used to refer to two separate ideas - the former refers to an action with the intention to take a

life to relieve pain and suffering, e.g a doctor administering a lethal injection, while the latter refers to any act that would help the patient to commit suicide, e.g. providing the means through a lethal dosage of pain relief tablets.

3. Meaningful consent from the patient/family : Consent from patients being considered a reliable indicator of legality. For example, intoxicated people are generally considered incapable of giving meaningful consent. Intense pain may also hinder lucidity of patients and rational decision making.
4. Futile medical care : the provision of care that does not cure or reasonably benefit the patient. As such, a debate exists on the ethicality of such care when resources could be better utilised elsewhere.
5. Ethical issues : One of the main issues is that despite most countries legalising the practice of euthanasia, it may not be considered ethical to other countries. Firstly, the inherent value of life must be considered, and the ethical ramifications onto the patient who chose death and the doctor who administered the treatment should be determined. However, this is a very difficult question to find the answer to, and would vary by both religious and cultural contexts.
6. “Slippery slope” argument : The idea that once a healthcare service, and by extension the government, starts killing its own citizens, a line is crossed that should have never been crossed and a dangerous precedent has been set. This might lead to unforeseen consequences. For instance, very ill people who need constant care or people with severe disabilities who may feel pressured to request euthanasia so they are not a burden to their family, etc.

Principal Affected Countries

- **Legal**

- **Passive and Active**

- Belgium : Euthanasia is usually allowed only when the patient is terminally ill and consent from both the patient and his family must be given before it is conducted. Belgium has put many prisoners out of psychological pain by conducting assisted suicide (Active euthanasia) despite many doctors recommending against it.
 - Canada : Euthanasia and assisted suicide are both legal
 - Colombia : Euthanasia is legal
 - Luxembourg : Euthanasia and assisted suicide are both legal
 - Netherlands : Euthanasia and assisted suicide are both legal
 - Switzerland : Assisted suicide is only deemed as a crime if it is conducted out of selfish reasons
 - South Korea : Both the National Assembly and The Ministry of Health and Welfare voted in favor of Euthanasia. Passive or active euthanasia is allowed for the terminally ill with a nonexistent chance of recovery. Patients must have consent from both the doctors and family members to allow them to die under dignity.

- **Passive only**

- United States : There have been many attempts to legalize euthanasia and assisted suicide resulted in ballot initiatives and legislation bills within the United States in the last 20 years. Euthanasia has been deemed legal for mainly terminally ill patients in some states while legalising assisted suicide or active euthanasia has proven to be unsuccessful.
 - United Kingdom : Patients who give an Advanced Healthcare Directive document will be given the right to refuse life-saving treatment and doctors are allowed to carry out the necessary for someone in the permanent vegetative state without court approval. Moreover, four attempts to pass legislation to legalise active euthanasia failed.

- **Illegal**

- New Zealand : Euthanasia is illegal in New Zealand, and two attempts to pass legislation to legalize euthanasia failed
 - Norway : Euthanasia is illegal
 - Finland : Euthanasia is illegal
 - Turkey : Euthanasia is strictly forbidden in Turkey. The aide who helped a person to suicide or other ways to kill oneself will be punished for assisting and encouraging suicide under the stipulation of article 84 of the Turkish Criminal Law.
 - Philippines : Euthanasia is illegal, however, the senate considered passing a bill to legalize passive euthanasia in 1997, but because of strong backlash from the Catholic Church, it was not passed. Currently, a doctor can be charged with malpractice and imprisoned if they assist in the death of a patient

Past Action by the UN

The UN has stated that euthanasia "....remains at the extent of euthanasia and assisted suicides in the State party. Under the law on the Termination of Life on Request and Assisted Suicide, a physician can terminate a patient's life without any independent review by a judge or magistrate to guarantee that this decision was not the subject of undue influence or misapprehension. Though a second physician must give an opinion, even this can be obtained from a telephone hotline. So, too, there is no prior judicial review of a physician's decision to terminate a patient's life in circumstances where the patient is not able to make the request for termination."

Countries to Include

<u>No.</u>	<u>Country</u>	<u>Stance</u>
1.	Australia	ILLEGAL
2.	Belgium	LEGAL (P&A)
3.	Canada	LEGAL (P&A)
4.	Colombia	LEGAL (P&A)
5.	Finland	ILLEGAL
6.	India	LEGAL (P)
7.	Indonesia	ILLEGAL
8.	Thailand	ILLEGAL
9.	Latvia	ILLEGAL
10.	Lithuania	ILLEGAL
11.	Luxembourg	ILLEGAL
12.	Mexico	LEGAL (P)
13.	Netherlands	LEGAL (P&A)
14.	New Zealand	ILLEGAL
15.	North Korea	ILLEGAL
16.	Norway	ILLEGAL
17.	Philippines	ILLEGAL
18.	Singapore	LEGAL (P)
19.	Switzerland	LEGAL (P&A)

20.	Sweden	LEGAL (P)
21.	South Korea	LEGAL (P&A)
22.	United Kingdom	LEGAL (P)
23.	United States	ILLEGAL
24.	Uruguay	LEGAL (P&A)

Notable Case Studies

The 14 year old Chilean girl who asked the President to let her die

(happened around Feb-March 2015)

A 14-year-old Chilean girl suffering from terminal cystic fibrosis is asking her country's president for permission to end her life. Valentina Maureira, who was diagnosed with cystic fibrosis as a baby, recently published an emotional self-shot video on her Facebook page pleading for a meeting with Chilean President Michelle Bachelet.

"My name is Valentina Maureira, I am fourteen and I suffer from cystic fibrosis," the teenager says in the video, which she filmed with a cellphone in her hospital room. "I need to speak urgently with the president because I am tired of living with this disease, and she can authorize an injection that will allow me to sleep forever." The video, posted on February 2015, has gone viral on YouTube.

A Chilean government spokesman said that the nation's laws, which prevent assisted suicide, also prevent the president from granting Valentina's request. But the teenager's desperate plea has moved the South American nation of 20 million. #ValentinaMaureira became the top trending topic on Chilean Twitter. The girl's video has also sparked a broader conversation about whether euthanasia should be legalized in the largely Catholic nation.

President Bachelet, who is also a pediatrician, eventually made an hour long visit to see Valentina.

Reflecting on it, was President Bachelet's visit the right move? Could this have sparked conflict and confusion in a country where euthanasia is illegal? Does media attention always warrant action that deviates from the norm?

Doctors who gave a lethal injection to a woman in Belgium face jail time (sentenced in November 2018)

She "had falsely claimed to be autistic to two doctors and a psychiatrist.

She had told them her suffering was 'unbearable and incurable' so that she could qualify for euthanasia under Belgian law.

Ms Nys was given a lethal injection in April 2010, just two months after her diagnosis of autism, and died aged 38. Her sisters and her parents were at her bedside."

Looking back, was it legally right to prosecute the doctors taking into account that they were under the pretence that she was autistic? Where should the line be drawn to consider people being part of "assisted suicide"?

Tony Nicklinson, a man with locked-in syndrome who fought for the right to legally end his life, died on 22 August 2012.

The 58 year old was paralysed from the neck down after suffering a stroke in 2005 and described his life as a 'living nightmare'. In the week before his death, Mr Nicklinson lost his High Court case to allow doctors to end his life. From that point he refused food.

Mr Nicklinson had said he was heartbroken by the High Court decision that he could not end his life at a time of his choosing with the help of a new doctor. He had thought that his legal argument would succeed but conceded that he had forgotten about the emotional component to what he was asking.

Mr Nicklinson had made an advanced directive in 2004 refusing any life-sustaining treatment.

Is refusing to administer euthanasia a morally right decision? Should Tony Nicklinson's refusal to eat be considered an illegal act, as it eventually led to his death?

Proposed Solutions

Firstly, a rubric should be created in order to assure utmost objectivity, so that precedents can and will be set in order to provide a framework when judging a variety of cases, ensuring consistency throughout judgement. This would prevent personal bias/standards of what constitutes the need for euthanasia from affecting whether or not the treatment is applied. Several constituents of a rubric may or may not include; meaningful consent, the validity of futile medical care, the mental state of the patient as well as the physical, etc. A rubric is necessary if euthanasia is allowed, especially if standards will be decided on a global scale.

Secondly, providing adequate palliative and hospice care might be able to prevent euthanasia cases from occurring. Often people who lean towards euthanasia are those who experience great pain, poor quality of life, burdening loved ones with their care, etc. By providing quality palliative and hospice care, pain and other unpleasant symptoms can be managed. For example, this can be done by providing in-house support services such as a health aide, keeping the patient in a surrounding that supports their quality of life and allocating interdisciplinary doctors/nurses to care for the patient, as well as providing company so as to aid in the treatment of possible post-treatment depression. With reference to the last example, it is extremely crucial as when the patient is treated by a physician/doctor/nurse who can hear their needs, understand their ambivalence, treat their symptoms, and relieve their suffering, their wish to die almost always disappears. Hence by creating a conducive environment through care, the patient is able to witness for himself/herself that their life is worth living for as there are people who actually care for them, and only in absolutely, undeniably certain cases, which can be quantified by the rubric above, can the process of euthanasia be carried out.

There must also be accountability for doctors/other involved parties who had used the excuse of allowing euthanasia, when either meaningful consent was not given, or the process of death was carried out in an inhumane manner. For example, if the doctor had applied euthanasia when the family had given consent but the patient had not, but the patient was ingesting mind-altering pharmaceuticals, it must be decided who is in the wrong, who will be punished, and how they will be punished. Would the suspension/revoking of a medical license be sufficient, or would fines/jail time be the fitting punishment? On the other hand, if the patient had asked for euthanasia and given meaningful consent, but the family had not consented, who should be the final word? Delegates should thus keep in mind that ethical ramifications of such situations must be investigated as well as challenged, while creatively weaving methods to ensure accountability into solutions.

Key Questions a Resolution Should Answer:

- Should euthanasia be legalized?
- How should euthanasia be regulated and performed?
- How can euthanasia be distinguished from suicide and murder?
- How will the religious and cultural contexts of countries affect the stance of a country?
- At what point in the patient's condition can the proper administration of euthanasia be carried out?
- What forms of consent are legally permissible, and by who (i.e the patient, the patient's family, the doctor, etc.)?

Further readings

https://www.oddee.com/item_99258.aspx

<https://ethicalthoughtsoneuthanasia.weebly.com/case-studies.html>

<https://www.sharecare.com/health/health-care-basics/alternatives-euthanasia-terminally-ill-person>