

Princeton University Press

Euthanasia

Author(s): Philippa Foot

Source: *Philosophy and Public Affairs*, Vol. 6, No. 2 (Winter, 1977), pp. 85-112

Published by: Formerly published by Princeton University Press

Stable URL: <http://www.jstor.org/stable/2264937>

Accessed: 29/09/2008 14:54

Your use of the JSTOR archive indicates your acceptance of JSTOR's Terms and Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>. JSTOR's Terms and Conditions of Use provides, in part, that unless you have obtained prior permission, you may not download an entire issue of a journal or multiple copies of articles, and you may use content in the JSTOR archive only for your personal, non-commercial use.

Please contact the publisher regarding any further use of this work. Publisher contact information may be obtained at <http://www.jstor.org/action/showPublisher?publisherCode=pup>.

Each copy of any part of a JSTOR transmission must contain the same copyright notice that appears on the screen or printed page of such transmission.

JSTOR is a not-for-profit organization founded in 1995 to build trusted digital archives for scholarship. We work with the scholarly community to preserve their work and the materials they rely upon, and to build a common research platform that promotes the discovery and use of these resources. For more information about JSTOR, please contact support@jstor.org.



Princeton University Press is collaborating with JSTOR to digitize, preserve and extend access to *Philosophy and Public Affairs*.

<http://www.jstor.org>

PHILIPPA FOOT

Euthanasia

The widely used *Shorter Oxford English Dictionary* gives three meanings for the word “euthanasia”: the first, “a quiet and easy death”; the second, “the means of procuring this”; and the third, “the action of inducing a quiet and easy death.” It is a curious fact that no one of the three gives an adequate definition of the word as it is usually understood. For “euthanasia” means much more than a quiet and easy death, or the means of procuring it, or the action of inducing it. The definition specifies only the manner of the death, and if this were all that was implied a murderer, careful to drug his victim, could claim that his act was an act of euthanasia. We find this ridiculous because we take it for granted that in euthanasia it is death itself, not just the manner of death, that must be kind to the one who dies.

To see how important it is that “euthanasia” should not be used as the dictionary definition allows it to be used, merely to signify that a death was quiet and easy, one has only to remember that Hitler’s “euthanasia” program traded on this ambiguity. Under this program, planned before the War but brought into full operation by a decree of 1 September 1939, some 275,000 people were gassed in centers which were to be a model for those in which Jews were later exterminated. Anyone in a state institution could be sent to the gas chambers if it was considered that he could not be “rehabilitated” for useful work. As Dr. Leo Alexander reports, relying on the testimony of a

© 1977 by Philippa Foot

I would like to thank Derek Parfit and the editors of *Philosophy & Public Affairs* for their very helpful comments.

neuropathologist who received 500 brains from one of the killing centers,

In Germany the exterminations included the mentally defective, psychotics (particularly schizophrenics), epileptics and patients suffering from infirmities of old age and from various organic neurological disorders such as infantile paralysis, Parkinsonism, multiple sclerosis and brain tumors. . . . In truth, all those unable to work and considered nonrehabilitable were killed.¹

These people were killed because they were "useless" and "a burden on society"; only the manner of their deaths could be thought of as relatively easy and quiet.

Let us insist, then, that when we talk about euthanasia we are talking about a death understood as a good or happy event for the one who dies. This stipulation follows etymology, but is itself not exactly in line with current usage, which would be captured by the condition that the death should *not* be an evil rather than that it *should* be a good. That this is how people talk is shown by the fact that the case of Karen Ann Quinlan and others in a state of permanent coma is often discussed under the heading of "euthanasia." Perhaps it is not too late to object to the use of the word "euthanasia" in this sense. Apart from the break with the Greek origins of the word there are other unfortunate aspects of this extension of the term. For if we say that the death must be supposed to be a good to the subject we can also specify that it shall be for his sake that an act of euthanasia is performed. If we say merely that death shall not be an evil to him, we cannot stipulate that benefiting him shall be the motive where euthanasia is in question. Given the importance of the question, For whose sake are we acting? it is good to have a definition of euthanasia which brings under this heading only cases of opting for death for the sake of the one who dies. Perhaps what is most important is to say either that euthanasia is to be for the good of the subject or at least that death is to be no evil to him, thus refusing to talk Hitler's language. However, in this paper it is the first condition that will be understood, with the additional proviso that by an act of euthanasia we mean one

1. Leo Alexander, "Medical Science under Dictatorship," *New England Journal of Medicine*, 14 July 1949, p. 40.

of inducing or otherwise opting for death for the sake of the one who is to die.

A few lesser points need to be cleared up. In the first place it must be said that the word "act" is not to be taken to exclude omission: we shall speak of an act of euthanasia when someone is deliberately allowed to die, for his own good, and not only when positive measures are taken to see that he does. The very general idea we want is that of a choice of action or inaction directed at another man's death and causally effective in the sense that, in conjunction with actual circumstances, it is a sufficient condition of death. Of complications such as overdetermination, it will not be necessary to speak.

A second, and definitely minor, point about the definition of an act of euthanasia concerns the question of fact versus belief. It has already been implied that one who performs an act of euthanasia thinks that death will be merciful for the subject since we have said that it is on account of this thought that the act is done. But is it enough that he acts with this thought, or must things actually be as he thinks them to be? If one man kills another, or allows him to die, thinking that he is in the last stages of a terrible disease, though in fact he could have been cured, is this an act of euthanasia or not? Nothing much seems to hang on our decision about this. The same condition has got to enter into the definition whether as an element in reality or only as an element in the agent's belief. And however we define an act of euthanasia culpability or justifiability will be the same: if a man acts through ignorance his ignorance may be culpable or it may not.²

These are relatively easy problems to solve, but one that is dauntingly difficult has been passed over in this discussion of the definition, and must now be faced. It is easy to say, as if this raised no problems, that an act of euthanasia is by definition one aiming at the *good* of the one whose death is in question, and that it is *for his sake* that his death is desired. But how is this to be explained? Presumably we are thinking of some evil already with him or to come on him if he continues to live, and death is thought of as a release from this evil. But this

2. For a discussion of culpable and nonculpable ignorance see Thomas Aquinas, *Summa Theologica*, First Part of the Second Part, Question 6, article 8, and Question 19, articles 5 and 6.

cannot be enough. Most people's lives contain evils such as grief or pain, but we do not therefore think that death would be a blessing to them. On the contrary life is generally supposed to be a good even for someone who is unusually unhappy or frustrated. How is it that one can ever wish for death for the sake of the one who is to die? This difficult question is central to the discussion of euthanasia, and we shall literally not know what we are talking about if we ask whether acts of euthanasia defined as we have defined them are ever morally permissible without first understanding better the reason for saying that life is a good, and the possibility that it is not always so.

If a man should save my life he would be my benefactor. In normal circumstances this is plainly true; but does one always benefit another in saving his life? It seems certain that he does not. Suppose, for instance, that a man were being tortured to death and was given a drug that lengthened his sufferings; this would not be a benefit but the reverse. Or suppose that in a ghetto in Nazi Germany a doctor saved the life of someone threatened by disease, but that the man once cured was transported to an extermination camp; the doctor might wish for the sake of the patient that he had died of the disease. Nor would a longer stretch of life always be a benefit to the person who was given it. Comparing Hitler's camps with those of Stalin, Dmitri Panin observes that in the latter the method of extermination was made worse by agonies that could stretch out over months.

Death from a bullet would have been bliss compared with what many millions had to endure while dying of hunger. The kind of death to which they were condemned has nothing to equal it in treachery and sadism.³

These examples show that to save or prolong a man's life is not always to do him a service: it may be better for him if he dies earlier rather than later. It must therefore be agreed that while life is normally a benefit to the one who has it, this is not always so.

The judgment is often fairly easy to make—that life is or is not a good to someone—but the basis for it is very hard to find. When life is said to be a benefit or a good, on what grounds is the assertion made?

The difficulty is underestimated if it is supposed that the problem

3. Dmitri Panin, *The Notebooks of Sologdin* (London, 1976), pp. 66–67.

arises from the fact that one who is dead has nothing, so that the good someone gets from being alive cannot be compared with the amount he would otherwise have had. For why should this particular comparison be necessary? Surely it would be enough if one could say whether or not someone whose life was prolonged had more good than evil in the extra stretch of time. Such estimates are not always possible, but frequently they are; we say, for example, "He was very happy in those last years," or, "He had little but unhappiness then." If the balance of good and evil determined whether life was a good to someone we would expect to find a correlation in the judgments. In fact, of course, we find nothing of the kind. First, a man who has no doubt that existence is a good to him may have no idea about the balance of happiness and unhappiness in his life, or of any other positive and negative factors that may be suggested. So the supposed criteria are not always operating where the judgment is made. And secondly the application of the criteria gives an answer that is often wrong. Many people have more evil than good in their lives; we do not, however, conclude that we would do these people no service by rescuing them from death.

To get around this last difficulty Thomas Nagel has suggested that experience itself is a good which must be brought in to balance accounts.

. . . life is worth living even when the bad elements of experience are plentiful, and the good ones too meager to outweigh the bad ones on their own. The additional positive weight is supplied by experience itself, rather than by any of its contents.⁴

This seems implausible because if experience itself is a good it must be so even when what we experience is wholly bad, as in being tortured to death. How should one decide how much to count for this experiencing; and why count anything at all?

Others have tried to solve the problem by arguing that it is a man's desire for life that makes us call life a good: if he wants to live then anyone who prolongs his life does him a benefit. Yet someone may cling to life where we would say confidently that it would be better

4. Thomas Nagel, "Death," in James Rachels, ed., *Moral Problems* (New York, 1971), p. 362.

for him if he died, and he may admit it too. Speaking of those same conditions in which, as he said, a bullet would have been merciful, Panin writes,

I should like to pass on my observations concerning the absence of suicides under the extremely severe conditions of our concentration camps. The more that life became desperate, the more a prisoner seemed determined to hold onto it.⁵

One might try to explain this by saying that hope was the ground of this wish to survive for further days and months in the camp. But there is nothing unintelligible in the idea that a man might cling to life though he knew those facts about his future which would make any charitable man wish that he might die.

The problem remains, and it is hard to know where to look for a solution. Is there a conceptual connection between *life* and *good*? Because life is not always a good we are apt to reject this idea, and to think that it must be a contingent fact that life is usually a good, as it is a contingent matter that legacies are usually a benefit, if they are. Yet it seems not to be a contingent matter that to save someone's life is ordinarily to benefit him. The problem is to find where the conceptual connection lies.

It may be good tactics to forget for a time that it is euthanasia we are discussing and to see how *life* and *good* are connected in the case of living beings other than men. Even plants have things done to them that are harmful or beneficial, and what does them good must be related in some way to their living and dying. Let us therefore consider plants and animals, and then come back to human beings. At least we shall get away from the temptation to think that the connection between life and benefit must everywhere be a matter of happiness and unhappiness or of pleasure and pain; the idea being absurd in the case of animals and impossible even to formulate for plants.

In case anyone thinks that the concept of the beneficial applies only in a secondary or analogical way to plants, he should be reminded that we speak quite straightforwardly in saying, for instance, that a certain amount of sunlight is beneficial to most plants. What is in

5. Panin, *Sologdin*, p. 85.

question here is the habitat in which plants of particular species flourish, but we can also talk, in a slightly different way, of what does them good, where there is some suggestion of improvement or remedy. What has the beneficial to do with sustaining life? It is tempting to answer, "everything," thinking that a healthy condition just is the one apt to secure survival. In fact, however, what is beneficial to a plant may have to do with reproduction rather than the survival of the individual member of the species. Nevertheless there is a plain connection between the beneficial and the life-sustaining even for the individual plant; if something makes it better able to survive in conditions normal for that species it is ipso facto good for it. We need go no further, and could go no further, in explaining why a certain environment or treatment is good for a plant than to show how it helps this plant to survive.⁶

This connection between the life-sustaining and the beneficial is reasonably unproblematic, and there is nothing fanciful or zoomorphic in speaking of benefiting or doing good to plants. A connection with its survival can make something beneficial to a plant. But this is not, of course, to say that we count life as a good to a plant. We may save its life by giving it what is beneficial; we do not benefit it by saving its life.

A more ramified concept of benefit is used in speaking of animal life. New things can be said, such as that an animal is better or worse off for something that happened, or that it was a good or bad thing for it that it did happen. And new things count as benefit. In the first place, there is comfort, which often is, but need not be, related to health. When loosening a collar which is too tight for a dog we can say, "That will be better for it." So we see that the words "better for it" have two different meanings which we mark when necessary by a difference of emphasis, saying "better *for* it" when health is involved. And secondly an animal can be benefited by having its life saved. "Could you do anything for it?" can be answered by, "Yes, I managed to save its life." Sometimes we may understand this, just as we would

6. Yet some detail needs to be filled in to explain why we should not say that a scarecrow is beneficial to the plants it protects. Perhaps what is beneficial must either be a feature of the plant itself, such as protective prickles, or else must work on the plant directly, such as a line of trees which give it shade.

for a plant, to mean that we had checked some disease. But we can also do something for an animal by scaring away its predator. If we do this, it is a good thing for the animal that we did, unless of course it immediately meets a more unpleasant end by some other means. Similarly, on the bad side, an animal may be worse off for our intervention, and this not because it pines or suffers but simply because it gets killed.

The problem that vexes us when we think about euthanasia comes on the scene at this point. For if we can do something for an animal—can benefit it—by relieving its suffering but also by saving its life, where does the greater benefit come when only death will end pain? It seemed that life was a good in its own right; yet pain seemed to be an evil with equal status and could therefore make life not a good after all. Is it only life without pain that is a good when animals are concerned? This does not seem a crazy suggestion when we are thinking of animals, since unlike human beings they do not have suffering as part of their normal life. But it is perhaps the idea of ordinary life that matters here. We would not say that we had done anything for an animal if we had merely kept it alive, either in an unconscious state or in a condition where, though conscious, it was unable to operate in an ordinary way; and the fact is that animals in severe and continuous pain simply do not operate normally. So we do not, on the whole, have the option of doing the animal good by saving its life though the life would be a life of pain. No doubt there are borderline cases, but that is no problem. We are not trying to make new judgments possible, but rather to find the principle of the ones we do make.

When we reach human life the problems seem even more troublesome. For now we must take quite new things into account, such as the subject's own view of his life. It is arguable that this places extra constraints on the solution: might it not be counted as a necessary condition of life's being a good to a man that he should see it as such? Is there not some difficulty about the idea that a benefit might be done to him by the saving or prolonging of his life even though he himself wished for death? Of course he might have a quite mistaken view of his own prospects, but let us ignore this and think only of cases where it is life as he knows it that is in question. Can we think that the prolonging of this life would be a benefit to him even though he would

rather have it end than continue? It seems that this cannot be ruled out. That there is no simple incompatibility between life as a good and the wish for death is shown by the possibility that a man should wish himself dead, not for his own sake, but for the sake of someone else. And if we try to amend the thesis to say that life cannot be a good to one who wishes *for his own sake* that he should die, we find the crucial concept slipping through our fingers. As Bishop Butler pointed out long ago not all ends are either benevolent or self-interested. Does a man wish for death for his own sake in the relevant sense if, for instance, he wishes to revenge himself on another by his death. Or what if he is proud and refuses to stomach dependence or incapacity even though there are many good things left in life for him? The truth seems to be that the wish for death is sometimes compatible with life's being a good and sometimes not, which is possible because the description "wishing for death" is one covering diverse states of mind from that of the determined suicide, pathologically depressed, to that of one who is surprised to find that the thought of a fatal accident is viewed with relief. On the one hand, a man may see his life as a burden but go about his business in a more or less ordinary way; on the other hand, the wish for death may take the form of a rejection of everything that is in life, as it does in severe depression. It seems reasonable to say that life is not a good to one permanently in the latter state, and we must return to this topic later on.

When are we to say that life is a good or a benefit to a man? The dilemma that faces us is this. If we say that life as such is a good we find ourselves refuted by the examples given at the beginning of this discussion. We therefore incline to think that it is as bringing good things that life is a good, where it is a good. But if life is a good only because it is the condition of good things why is it not equally an evil when it brings bad things? And how can it be a good even when it brings more evil than good?

It should be noted that the problem has here been formulated in terms of the balance of good and evil, not that of happiness and unhappiness, and that it is not to be solved by the denial (which may be reasonable enough) that unhappiness is the only evil or happiness the only good. In this paper no view has been expressed about the

nature of goods other than life itself. The point is that on any view of the goods and evils that life can contain, it seems that a life with more evil than good could still itself be a good.

It may be useful to review the judgments with which our theory must square. Do we think that life can be a good to one who suffers a lot of pain? Clearly we do. What about severely handicapped people; can life be a good to them? Clearly it can be, for even if someone is almost completely paralyzed, perhaps living in an iron lung, perhaps able to move things only by means of a tube held between his lips, we do not rule him out of order if he says that some benefactor saved his life. Nor is it different with mental handicap. There are many fairly severely handicapped people—such as those with Down's Syndrome (Mongolism)—for whom a simple affectionate life is possible. What about senility? Does this break the normal connection between life and good? Here we must surely distinguish between forms of senility. Some forms leave a life which we count someone as better off having than not having, so that a doctor who prolonged it would benefit the person concerned. With some kinds of senility this is however no longer true. There are some in geriatric wards who are barely conscious, though they can move a little and swallow food put into their mouths. To prolong such a state, whether in the old or in the very severely mentally handicapped is not to do them a service or confer a benefit. But of course it need not be the reverse: only if there is suffering would one wish for the sake of the patient that he should die.

It seems, therefore, that merely being alive even without suffering is not a good, and that we must make a distinction similar to that which we made when animals were our topic. But how is the line to be drawn in the case of men? What is to count as ordinary human life in the relevant sense? If it were only the very senile or very ill who were to be said not to have this life it might seem right to describe it in terms of *operation*. But it will be hard to find the sense in which the men described by Panin were not operating, given that they dragged themselves out to the forest to work. What is it about the life that the prisoners were living that makes us put it on the other side of the dividing line from that of some severely ill or suffering patients, and from most of the physical or mentally handicapped?

It is not that they were in captivity, for life in captivity can certainly be a good. Nor is it merely the unusual nature of their life. In some ways the prisoners were living more as other men do than the patient in an iron lung.

The suggested solution to the problem is, then, that there is a certain conceptual connection between *life* and *good* in the case of human beings as in that of animals and even plants. Here, as there, however, it is not the mere state of being alive that can determine, or itself count as, a good, but rather life coming up to some standard of normality. It was argued that it is as part of ordinary life that the elements of good that a man may have are relevant to the question of whether saving his life counts as benefiting him. Ordinary human lives, even very hard lives, contain a minimum of basic goods, but when these are absent the idea of life is no longer linked to that of good. And since it is in this way that the elements of good contained in a man's life are relevant to the question of whether he is benefited if his life is preserved, there is no reason why it should be the balance of good and evil that counts.

It should be added that evils are relevant in one way when, as in the examples discussed above, they destroy the possibility of ordinary goods, but in a different way when they invade a life from which the goods are already absent for a different reason. So, for instance, the connection between *life* and *good* may be broken because consciousness has sunk to a very low level, as in extreme senility or severe brain damage. In itself this kind of life seems to be neither good nor evil, but if suffering sets in one would hope for a speedy end.

The idea we need seems to be that of life which is ordinary human life in the following respect—that it contains a minimum of basic human goods. What is ordinary in human life—even in very hard lives—is that a man is not driven to work far beyond his capacity; that he has the support of a family or community; that he can more or less satisfy his hunger; that he has hopes for the future; that he can lie down to rest at night. Such things were denied to the men in the Vyatlag camps described by Panin; not even rest at night was allowed them when they were tormented by bed-bugs, by noise and stench, and by routines such as body-searches and bath-parades—arranged for the night time so that work norms would not be reduced. Disease too

can so take over a man's life that the normal human goods disappear. When a patient is so overwhelmed by pain or nausea that he cannot eat with pleasure, if he can eat at all, and is out of the reach of even the most loving voice, he no longer has ordinary human life in the sense in which the words are used here. And we may now pick up a thread from an earlier part of the discussion by remarking that crippling depression can destroy the enjoyment of ordinary goods as effectively as external circumstances can remove them.

This, admittedly inadequate, discussion of the sense in which life is normally a good, and of the reasons why it may not be so in some particular case, completes the account of what euthanasia is here taken to be. An act of euthanasia, whether literally act or rather omission, is attributed to an agent who opts for the death of another because in his case life seems to be an evil rather than a good. The question now to be asked is whether acts of euthanasia are ever justifiable. But there are two topics here rather than one. For it is one thing to say that some acts of euthanasia considered only in themselves and their results are morally unobjectionable, and another to say that it would be all right to legalize them. Perhaps the practice of euthanasia would allow too many abuses, and perhaps there would be too many mistakes. Moreover the practice might have very important and highly undesirable side effects, because it is unlikely that we could change our principles about the treatment of the old and the ill without changing fundamental emotional attitudes and social relations. The topics must, therefore, be treated separately. In the next part of the discussion, nothing will be said about the social consequences and possible abuses of the practice of euthanasia, but only about acts of euthanasia considered in themselves.

What we want to know is whether acts of euthanasia, defined as we have defined them, are ever morally permissible. To be more accurate, we want to know whether it is ever sufficient justification of the choice of death for another that death can be counted a benefit rather than harm, and that this is why the choice is made.

It will be impossible to get a clear view of the area to which this topic belongs without first marking the distinct grounds on which objection may lie when one man opts for the death of another. There are two different virtues whose requirements are, in general, contrary

to such actions. An unjustified act of killing, or allowing to die, is contrary to justice or to charity, or to both virtues, and the moral failings are distinct. Justice has to do with what men *owe* each other in the way of noninterference and positive service. When used in this wide sense, which has its history in the doctrine of the cardinal virtues, justice is not especially connected with, for instance, law courts but with the whole area of rights, and duties corresponding to rights. Thus murder is one form of injustice, dishonesty another, and wrongful failure to keep contracts a third; chicanery in a law court or defrauding someone of his inheritance are simply other cases of injustice. Justice as such is not directly linked to the good of another, and may require that something be rendered to him even where it will do him harm, as Hume pointed out when he remarked that a debt must be paid even to a profligate debauchee who “would rather receive harm than benefit from large possessions.”⁷ Charity, on the other hand, is the virtue which attaches us to the good of others. An act of charity is in question only where something is not demanded by justice, but a lack of charity and of justice can be shown where a man is denied something which he both needs and has a right to; both charity and justice demand that widows and orphans are not defrauded, and the man who cheats them is neither charitable nor just.

It is easy to see that the two grounds of objection to inducing death are distinct. A murder is an act of injustice. A culpable failure to come to the aid of someone whose life is threatened is normally contrary, not to justice, but to charity. But where one man is under contract, explicit or implicit, to come to the aid of another injustice too will be shown. Thus injustice may be involved either in an act or an omission, and the same is true of a lack of charity; charity may demand that someone be aided, but also that an unkind word not be spoken.

The distinction between charity and justice will turn out to be of the first importance when voluntary and nonvoluntary euthanasia are distinguished later on. This is because of the connection between justice and rights, and something should now be said about this. I believe it is true to say that wherever a man acts unjustly he has infringed a right, since justice has to do with whatever a man is owed, and whatever he is owed is his as a matter of right. Something should

7. David Hume, *Treatise*, Book III, Part II, Section 1.

therefore be said about the different kinds of rights. The distinction commonly made is between having a right in the sense of having a liberty, and having a "claim-right" or "right of recipience."⁸ The best way to understand such a distinction seems to be as follows. To say that a man has a right in the sense of a liberty is to say that no one can demand that he do not do the thing which he has a right to do. The fact that he has a right to do it consists in the fact that a certain kind of objection does not lie against his doing it. Thus a man has a right in this sense to walk down a public street or park his car in a public parking space. It does not follow that no one else may prevent him from doing so. If for some reason I want a certain man not to park in a certain place I may lawfully park there myself or get my friends to do so, thus preventing him from doing what he has a right (in the sense of a liberty) to do. It is different, however, with a claim-right. This is the kind of right which I have in addition to a liberty when, for example, I have a private parking space; now others have duties in the way of noninterference, as in this case, or of service, as in the case where my claim-right is to goods or services promised to me. Sometimes one of these rights gives other people the duty of securing to me that to which I have a right, but at other times their duty is merely to refrain from interference. If a fall of snow blocks my private parking space there is normally no obligation for anyone else to clear it away. Claim rights generate duties; sometimes these duties are duties of noninterference; sometimes they are duties of service. If your right gives me the duty not to interfere with you I have "no right" to do it; similarly, if your right gives me the duty to provide something for you I have "no right" to refuse to do it. What I lack is the right which is a liberty; I am not "at liberty" to interfere with you or to refuse the service.

Where in this picture does the right to life belong? No doubt people have the right to live in the sense of a liberty, but what is important is the cluster of claim-rights brought together under the title of the

8. See, for example D.D. Raphael, "Human Rights Old and New," in D.D. Raphael, ed., *Political Theory and the Rights of Man* (London, 1967), and Joel Feinberg, "The Nature and Value of Rights," *The Journal of Value Inquiry* 4, no. 4 (Winter 1970): 243-257. Reprinted in Samuel Gorovitz, ed., *Moral Problems in Medicine* (Englewood Cliffs, New Jersey, 1976).

right to life. The chief of these is, of course, the right to be free from interferences that threaten life. If other people aim their guns at us or try to pour poison into our drink we can, to put it mildly, demand that they desist. And then there are the services we can claim from doctors, health officers, bodyguards, and firemen; the rights that depend on contract or public arrangement. Perhaps there is no particular point in saying that the duties these people owe us belong to the right to life; we might as well say that all the services owed to anyone by tailors, dressmakers, and couturiers belong to a right called the right to be elegant. But contracts such as those understood in the patient-doctor relationship come in an important way when we are discussing the rights and wrongs of euthanasia, and are therefore mentioned here.

Do people have the right to what they need in order to survive, apart from the right conferred by special contracts into which other people have entered for the supplying of these necessities? Do people in the underdeveloped countries in which starvation is rife have the right to the food they so evidently lack? Joel Feinberg, discussing this question, suggests that they should be said to have "a claim," distinguishing this from a "valid claim," which gives a claim-right.

The manifesto writers on the other side who seem to identify needs, or at least basic needs, with what they call "human rights," are more properly described, I think, as urging upon the world community the moral principle that *all* basic human needs ought to be recognized as *claims* (in the customary *prima facie* sense) worthy of sympathy and serious consideration right now, even though, in many cases, they cannot yet plausibly be treated as *valid* claims, that is, as grounds of any other people's duties. This way of talking avoids the anomaly of ascribing to all human beings now, even those in pre-industrial societies, such "economic and social rights" as "periodic holidays with pay."⁹

This seems reasonable, though we notice that there are some actual rights to service which are not based on anything like a contract, as for instance the right that children have to support from their parents and parents to support from their children in old age, though both

9. Feinberg, "Human Rights," *Moral Problems in Medicine*, p. 465.

sets of rights are to some extent dependent on existing social arrangements.

Let us now ask how the right to life affects the morality of acts of euthanasia. Are such acts sometimes or always ruled out by the right to life? This is certainly a possibility; for although an act of euthanasia is, by our definition, a matter of opting for death for the good of the one who is to die, there is, as we noted earlier, no direct connection between that to which a man has a right and that which is for his good. It is true that men have the right only to the kind of thing that is, in general, a good: we do not think that people have the right to garbage or polluted air. Nevertheless, a man may have the right to something which he himself would be better off without; where rights exist it is a man's will that counts not his or anyone else's estimate of benefit or harm. So the duties complementary to the right to life—the general duty of noninterference and the duty of service incurred by certain persons—are not affected by the quality of a man's life or by his prospects. Even if it is true that he would be, as we say, "better off dead," so long as he wants to live this does not justify us in killing him and may not justify us in deliberately allowing him to die. All of us have the duty of noninterference, and some of us may have the duty to sustain his life. Suppose, for example, that a retreating army has to leave behind wounded or exhausted soldiers in the wastes of an arid or snowbound land where the only prospect is death by starvation or at the hands of an enemy notoriously cruel. It has often been the practice to accord a merciful bullet to men in such desperate straits. But suppose that one of them demands that he should be left alive? It seems clear that his comrades have no right to kill him, though it is a quite different question as to whether they should give him a life-prolonging drug. The right to life can sometimes give a duty of positive service, but does not do so here. What it does give is the right to be left alone.

Interestingly enough we have arrived by way of a consideration of the right to life at the distinction normally labeled "active" versus "passive" euthanasia, and often thought to be irrelevant to the moral issue.¹⁰ Once it is seen that the right to life is a distinct ground of

10. See, for example, James Rachels, "Active and Passive Euthanasia," *New England Journal of Medicine* 292, no. 2 (9 Jan. 1975): 78–80.

objection to certain acts of euthanasia, and that this right creates a duty of noninterference more widespread than the duties of care there can be no doubt about the relevance of the distinction between passive and active euthanasia. Where everyone may have the duty to leave someone alone, it may be that no one has the duty to maintain his life, or that only some people do.

Where then do the boundaries of the "active" and "passive" lie? In some ways the words are themselves misleading, because they suggest the difference between act and omission which is not quite what we want. Certainly the act of shooting someone is the kind of thing we were talking about under the heading of "interference," and omitting to give him a drug a case of refusing care. But the act of turning off a respirator should surely be thought of as no different from the decision not to start it; if doctors had decided that a patient should be allowed to die, either course of action might follow, and both should be counted as passive rather than active euthanasia if euthanasia were in question. The point seems to be that interference in a course of treatment is not the same as other interference in a man's life, and particularly if the same body of people are responsible for the treatment and for its discontinuance. In such a case we could speak of the disconnecting of the apparatus as killing the man, or of the hospital as allowing him to die. By and large, it is the act of killing that is ruled out under the heading of noninterference, but not in every case.

Doctors commonly recognize this distinction, and the grounds on which some philosophers have denied it seem untenable. James Rachels, for instance, believes that if the difference between active and passive is relevant anywhere, it should be relevant everywhere, and he has pointed to an example in which it seems to make no difference which is done. If someone saw a child drowning in a bath it would seem just as bad to let it drown as to push its head under water.¹¹ If "it makes no difference" means that one act would be as iniquitous as the other this is true. It is not that killing is *worse* than allowing to die, but that the two are contrary to distinct virtues, which gives the possibility that in some circumstances one is impermissible and the other permissible. In the circumstances invented by Rachels, both are

11. Ibid.

wicked: it is contrary to justice to push the child's head under the water—something one has no right to do. To leave it to drown is not contrary to justice, but it is a particularly glaring example of lack of charity. Here it makes no practical difference because the requirements of justice and charity coincide; but in the case of the retreating army they did not: charity would have required that the wounded soldier be killed had not justice required that he be left alive.¹² In such a case it makes all the difference whether a man opts for the death of another in a positive action, or whether he allows him to die. An analogy with the right to property will make the point clear. If a man owns something he has the right to it even when its possession does him harm, and we have no right to take it from him. But if one day it should blow away, maybe nothing requires us to get it back for him; we could not deprive him of it, but we may allow it to go. This is not to deny that it will often be an unfriendly act or one based on an arrogant judgment when we refuse to do what he wants. Nevertheless, we would be within our rights, and it might be that no moral objection of any kind would lie against our refusal.

It is important to emphasize that a man's rights may stand between us and the action we would dearly like to take for his sake. They may, of course, also prevent action which we would like to take for the sake of others, as when it might be tempting to kill one man to save several. But it is interesting that the limits of allowable interference, however uncertain, seem stricter in the first case than the second. Perhaps there are no cases in which it would be all right to kill a man against his will *for his own sake* unless they could equally well be described as cases of allowing him to die, as in the example of turning off the respirator. However, there are circumstances, even if these are very rare, in which one man's life would justifiably be sacrificed to save others, and "killing" would be the only description of what was being done. For instance, a vehicle which had gone out of control might be steered from a path on which it would kill more than one man to a path on which it would kill one.¹³ But it would not be permissible to

12. It is not, however, that justice and charity conflict. A man does not lack charity because he refrains from an act of injustice which would have been for someone's good.

13. For a discussion of such questions, see my article "The Problem of Abortion and the Doctrine of Double Effect," *Oxford Review*, no. 5 (1967); reprinted in Rachels, *Moral Problems*, and Gorovitz, *Moral Problems in Medicine*.

steer a vehicle towards someone in order to kill him, against his will, for his own good. An analogy with property rights illustrates the point. One may not destroy a man's property against his will on the grounds that he would be better off without it; there are however circumstances in which it could be destroyed for the sake of others. If his house is liable to fall and kill him that is his affair; it might, however, without injustice be destroyed to stop the spread of a fire.

We see then that the distinction between active and passive, important as it is elsewhere, has a special importance in the area of euthanasia. It should also be clear why James Rachels' other argument, that it is often "more humane" to kill than to allow to die, does not show that the distinction between active and passive euthanasia is morally irrelevant. It might be "more humane" in this sense to deprive a man of the property that brings evils on him, or to refuse to pay what is owed to Hume's profligate debauchee; but if we say this we must admit that an act which is "more humane" than its alternative may be morally objectionable because it infringes rights.

So far we have said very little about the right to service as opposed to the right to noninterference, though it was agreed that both might be brought under the heading of "the right to life." What about the duty to preserve life that may belong to special classes of persons such as bodyguards, firemen, or doctors? Unlike the general public they are not within their rights if they merely refrain from interfering and do not try to sustain life. The subject's claim-rights are two-fold as far as they are concerned and passive as well as active euthanasia may be ruled out here if it is against his will. This is not to say that he has the right to any and every service needed to save or prolong his life; the rights of other people set limits to what may be demanded, both because they have the right not to be interfered with and because they may have a competing right to services. Furthermore one must enquire just what the contract or implicit agreement amounts to in each case. Firemen and bodyguards presumably have a duty which is simply to preserve life, within the limits of justice to others and of reasonableness to themselves. With doctors it may however be different, since their duty relates not only to preserving life but also to the relief of suffering. It is not clear what a doctor's duties are to his patient if life can be prolonged only at the cost of suffering or suffering relieved only by measures that shorten life. George Fletcher

has argued that what the doctor is under contract to do depends on what is generally done, because this is what a patient will reasonably expect.¹⁴ This seems right. If procedures are part of normal medical practice then it seems that the patient can demand them however much it may be against his interest to do so. Once again it is not a matter of what is "most humane."

That the patient's right to life may set limits to permissible acts of euthanasia seems undeniable. If he does not want to die no one has the right to practice active euthanasia on him, and passive euthanasia may also be ruled out where he has a right to the services of doctors or others.

Perhaps few will deny what has so far been said about the impermissibility of acts of euthanasia simply because we have so far spoken about the case of one who positively wants to live, and about his rights, whereas those who advocate euthanasia are usually thinking either about those who wish to die or about those whose wishes cannot be ascertained either because they cannot properly be said to have wishes or because, for one reason or another, we are unable to form a reliable estimate of what they are. The question that must now be asked is whether the latter type of case, where euthanasia though not involuntary would again be nonvoluntary, is different from the one discussed so far. Would we have the right to kill someone for his own good so long as we had no idea that he positively wished to live? And what about the life-prolonging duties of doctors in the same circumstances? This is a very difficult problem. On the one hand, it seems ridiculous to suppose that a man's right to life is something which generates duties only where he has signaled that he wants to live; as a borrower does indeed have a duty to return something lent on indefinite loan only if the lender indicates that he wants it back. On the other hand, it might be argued that there is something illogical about the idea that a right has been infringed if someone incapable of saying whether he wants it or not is deprived of something that is doing him harm rather than good. Yet on the analogy of property we would say that a right has been infringed. Only if someone had earlier

14. George Fletcher "Legal Aspects of the Decision not to Prolong Life," *Journal of the American Medical Association* 203, no. 1 (1 Jan. 1968): 119-122. Reprinted in Gorovitz.

told us that in such circumstances he would not want to keep the thing could we think that his right had been waived. Perhaps if we could make confident judgments about what anyone in such circumstances would wish, or what he would have wished beforehand had he considered the matter, we could agree to consider the right to life as "dormant," needing to be asserted if the normal duties were to remain. But as things are we cannot make any such assumption; we simply do not know what most people would want, or would have wanted, us to do unless they tell us. This is certainly the case so far as active measures to end life are concerned. Possibly it is different, or will become different, in the matter of being kept alive, so general is the feeling against using sophisticated procedures on moribund patients, and so much is this dreaded by people who are old or terminally ill. Once again the distinction between active and passive euthanasia has come on the scene, but this time because most people's attitudes to the two are so different. It is just possible that we might presume, in the absence of specific evidence, that someone would not wish, beyond a certain point, to be kept alive; it is certainly not possible to assume that he would wish to be killed.

In the last paragraph we have begun to broach the topic of voluntary euthanasia, and this we must now discuss. What is to be said about the case in which there is no doubt about someone's wish to die: either he has told us beforehand that he would wish it in circumstances such as he is now in, and has shown no sign of a change of mind, or else he tells us now, being in possession of his faculties and of a steady mind. We should surely say that the objections previously urged against acts of euthanasia, which it must be remembered were all on the ground of rights, had disappeared. It does not seem that one would infringe someone's right to life in killing him with his permission and in fact at his request. Why should someone not be able to waive his right to life, or rather, as would be more likely to happen, to cancel some of the duties of noninterference that this right entails? (He is more likely to say that he should be killed by this man at this time in this manner, than to say that anyone may kill him at any time and in any way.) Similarly someone may give permission for the destruction of his property, and request it. The important thing is that he gives a critical permission, and it seems that this is enough

to cancel the duty normally associated with the right. If someone gives you permission to destroy his property it can no longer be said that you have no right to do so, and I do not see why it should not be the case with taking a man's life. An objection might be made on the ground that only God has the right to take life, but in this paper religious as opposed to moral arguments are being left aside. Religion apart, there seems to be no case to be made out for an infringement of rights if a man who wishes to die is allowed to die or even killed. But of course it does not follow that there is no moral objection to it. Even with property, which is after all a relatively small matter, one might be wrong to destroy what one had the right to destroy. For, apart from its value to other people, it might be valuable to the man who wanted it destroyed, and charity might require us to hold our hand where justice did not.

Let us review the conclusion of this part of the argument, which has been about euthanasia and the right to life. It has been argued that from this side come stringent restrictions on the acts of euthanasia that could be morally permissible. Active nonvoluntary euthanasia is ruled out by that part of the right to life which creates the duty of noninterference though passive nonvoluntary euthanasia is not ruled out, except where the right to life-preserving action has been created by some special condition such as a contract between a man and his doctor, and it is not always certain just what such a contract involves. Voluntary euthanasia is another matter: as the preceding paragraph suggested, no right is infringed if a man is allowed to die or even killed at his own request.

Turning now to the other objection that normally holds against inducing the death of another, that it is against charity, or benevolence, we must tell a very different story. Charity is the virtue that gives attachment to the good of others, and because life is normally a good, charity normally demands that it should be saved or prolonged. But as we so defined an act of euthanasia that it seeks a man's death for his own sake—for his good—charity will normally speak in favor of it. This is not, of course, to say that charity can require an act of euthanasia which justice forbids, but if an act of euthanasia is not contrary to justice—that is, it does not infringe rights—charity will rather be in its favor than against.

Once more the distinction between nonvoluntary and voluntary euthanasia must be considered. Could it ever be compatible with charity to seek a man's death although he wanted to live, or at least had not let us know that he wanted to die? It has been argued that in such circumstances active euthanasia would infringe his right to life, but passive euthanasia would not do so, unless he had some special right to life-preserving service from the one who allowed him to die. What would charity dictate? Obviously when a man wants to live there is a presumption that he will be benefited if his life is prolonged, and if it is so the question of euthanasia does not arise. But it is, on the other hand, possible that he wants to live where it would be better for him to die: perhaps he does not realize the desperate situation he is in, or perhaps he is afraid of dying. So, in spite of a very proper resistance to refusing to go along with a man's own wishes in the matter of life and death, someone might justifiably refuse to prolong the life even of someone who asked him to prolong it, as in the case of refusing to give the wounded soldier a drug that would keep him alive to meet a terrible end. And it is even more obvious that charity does not always dictate that life should be prolonged where a man's own wishes, hypothetical or actual, are not known.

So much for the relation of charity to nonvoluntary passive euthanasia, which was not, like nonvoluntary active euthanasia, ruled out by the right to life. Let us now ask what charity has to say about voluntary euthanasia both active and passive. It was suggested in the discussion of justice that if of sound mind and steady desire a man might give others the *right* to allow him to die or even to kill him, where otherwise this would be ruled out. But it was pointed out that this would not settle the question of whether the act was morally permissible, and it is this that we must now consider. Could not charity speak against what justice allowed? Indeed it might do so. For while the fact that a man wants to die suggests that his life is wretched, and while his rejection of life may itself tend to take the good out of the things he might have enjoyed, nevertheless his wish to die might here be opposed for his own sake just as it might be if suicide were in question. Perhaps there is hope that his mental condition will improve. Perhaps he is mistaken in thinking his disease incurable. Perhaps he wants to die for the sake of someone else on

whom he feels he is a burden, and we are not ready to accept this sacrifice whether for ourselves or others. In such cases, and there will surely be many of them, it could not be for his own sake that we kill him or allow him to die, and therefore euthanasia as defined in this paper would not be in question. But this is not to deny that there could be acts of voluntary euthanasia both passive and active against which neither justice nor charity would speak.

We have now considered the morality of euthanasia both voluntary and nonvoluntary, and active and passive. The conclusion has been that nonvoluntary active euthanasia (roughly, killing a man against his will or without his consent) is never justified; that is to say, that a man's being killed for his own good never justifies the act unless he himself has consented to it. A man's rights are infringed by such an action, and it is therefore contrary to justice. However, all the other combinations, nonvoluntary passive euthanasia, voluntary active euthanasia, and voluntary passive euthanasia are sometimes compatible with both justice and charity. But the strong condition carried in the definition of euthanasia adopted in this paper must not be forgotten; an act of euthanasia as here understood is one whose purpose is to benefit the one who dies.

In the light of this discussion let us look at our present practices. Are they good or are they bad? And what changes might be made, thinking now not only of the morality of particular acts of euthanasia but also of the indirect effects of instituting different practices, of the abuses to which they might be subject and of the changes that might come about if euthanasia became a recognized part of the social scene.

The first thing to notice is that it is wrong to ask whether we should introduce the practice of euthanasia as if it were not something we already had. In fact we do have it. For instance it is common, where the medical prognosis is very bad, for doctors to recommend against measures to prolong life, and particularly where a process of degeneration producing one medical emergency after another has already set in. If these doctors are not certainly within their legal rights this is something that is apt to come as a surprise to them as to the general public. It is also obvious that euthanasia is often practiced where old people are concerned. If someone very old and soon to die is attacked

by a disease that makes his life wretched, doctors do not always come in with life-prolonging drugs. Perhaps poor patients are more fortunate in this respect than rich patients, being more often left to die in peace; but it is in any case a well recognized piece of medical practice, which is a form of euthanasia.

No doubt the case of infants with mental or physical defects will be suggested as another example of the practice of euthanasia as we already have it, since such infants are sometimes deliberately allowed to die. That they are deliberately allowed to die is certain; children with severe spina bifida malformations are not always operated on even where it is thought that without the operation they will die; and even in the case of children with Down's Syndrome who have intestinal obstructions the relatively simple operation that would make it possible to feed them is sometimes not performed.¹⁵ Whether this is euthanasia in our sense or only as the Nazis understood it is another matter. We must ask the crucial question, "Is it for the sake of the child himself that the doctors and parents choose his death?" In some cases the answer may really be yes, and what is more important it may really be true that the kind of life which is a good is not possible or likely for this child, and that there is little but suffering and frustration in store for him.¹⁶ But this must presuppose that the medical prognosis is wretchedly bad, as it may be for some spina bifida children. With children who are born with Down's Syndrome it is, however, quite different. Most of these are able to live on for quite a time in a reasonably contented way, remaining like children all their lives but capable of affectionate relationships and able to play games and perform simple tasks. The fact is, of course, that the doctors who recommend against life-saving procedures for handicapped infants are usually thinking not of them but rather of their parents and of other children in the family or of the "burden on society" if the chil-

15. I have been told this by a pediatrician in a well-known medical center in the United States. It is confirmed by Anthony M. Shaw and Iris A. Shaw, "Dilemma of Informed Consent in Children," *The New England Journal of Medicine* 289, no. 17 (25 Oct. 1973): 885-890. Reprinted in Gorovitz.

16. It must be remembered, however, that many of the social miseries of spina bifida children could be avoided. Professor R.B. Zachary is surely right to insist on this. See, for example, "Ethical and Social Aspects of Spina Bifida," *The Lancet*, 3 Aug. 1968, pp. 274-276. Reprinted in Gorovitz.

dren survive. So it is not for their sake but to avoid trouble to others that they are allowed to die. When brought out into the open this seems unacceptable: at least we do not easily accept the principle that adults who need special care should be counted too burdensome to be kept alive. It must in any case be insisted that if children with Down's Syndrome are deliberately allowed to die this is not a matter of euthanasia except in Hitler's sense. And for our children, since we scruple to gas them, not even the manner of their death is "quiet and easy"; when not treated for an intestinal obstruction a baby simply starves to death. Perhaps some will take this as an argument for allowing active euthanasia, in which case they will be in the company of an S.S. man stationed in the Warthgenau who sent Eichmann a memorandum telling him that "Jews in the coming winter could no longer be fed" and submitting for his consideration a proposal as to whether "it would not be the most humane solution to kill those Jews who were incapable of work through some quicker means."¹⁷ If we say we are *unable* to look after children with handicaps we are no more telling the truth than was the S.S. man who said that the Jews could not be fed.

Nevertheless if it is ever right to allow deformed children to die because life will be a misery to them, or not to take measures to prolong for a little the life of a newborn baby whose life cannot extend beyond a few months of intense medical intervention, there is a genuine problem about active as opposed to passive euthanasia. There are well-known cases in which the medical staff has looked on wretchedly while an infant died slowly from starvation and dehydration because they did not feel able to give a lethal injection. According to the principles discussed in the earlier part of this paper they would indeed have had no right to give it, since an infant cannot ask that it should be done. The only possible solution—supposing that voluntary active euthanasia were to be legalized—would be to appoint guardians to act on the infant's behalf. In a different climate of opinion this might not be dangerous, but at present, when people so readily assume that the life of a handicapped baby is of no value, one would be loath to support it.

Finally, on the subject of handicapped children, another word

17. Quoted by Hannah Arendt, *Eichmann in Jerusalem* (London 1963), p. 90.

should be said about those with severe mental defects. For them too it might sometimes be right to say that one would wish for death for their sake. But not even severe mental handicap automatically brings a child within the scope even of a possible act of euthanasia. If the level of consciousness is low enough it could not be said that life is a good to them, any more than in the case of those suffering from extreme senility. Nevertheless if they do not suffer it will not be an act of euthanasia by which someone opts for their death. Perhaps charity does not demand that strenuous measures are taken to keep people in this state alive, but euthanasia does not come into the matter, any more than it does when someone is, like Karen Ann Quinlan, in a state of permanent coma. Much could be said about this last case. It might even be suggested that in the case of unconsciousness this "life" is not the life to which "the right to life" refers. But that is not our topic here.

What we must consider, even if only briefly, is the possibility that euthanasia, genuine euthanasia, and not contrary to the requirements of justice or charity, should be legalized over a wider area. Here we are up against the really serious problem of abuse. Many people want, and want very badly, to be rid of their elderly relatives and even of their ailing husbands or wives. Would any safeguards ever be able to stop them describing as euthanasia what was really for their own benefit? And would it be possible to prevent the occurrence of acts which were genuinely acts of euthanasia but morally impermissible because infringing the rights of a patient who wished to live?

Perhaps the furthest we should go is to encourage patients to make their own contracts with a doctor by making it known whether they wish him to prolong their life in case of painful terminal illness or of incapacity. A document such as the Living Will seems eminently sensible, and should surely be allowed to give a doctor following the previously expressed wishes of the patient immunity from legal proceedings by relatives.¹⁸ Legalizing active euthanasia is, however, another matter. Apart from the special repugnance doctors feel

18. Details of this document are to be found in J.A. Behnke and Sissela Bok, eds., *The Dilemmas of Euthanasia* (New York, 1975), and in A.B. Downing, ed., *Euthanasia and the Right to Life: The Case for Voluntary Euthanasia* (London, 1969).

towards the idea of a lethal injection, it may be of the very greatest importance to keep a psychological barrier up against killing. Moreover it is active euthanasia which is the most liable to abuse. Hitler would not have been able to kill 275,000 people in his "euthanasia" program if he had had to wait for them to need life-saving treatment. But there are other objections to active euthanasia, even voluntary active euthanasia. In the first place it would be hard to devise procedures that would protect people from being persuaded into giving their consent. And secondly the possibility of active voluntary euthanasia might change the social scene in ways that would be very bad. As things are, people do, by and large, expect to be looked after if they are old or ill. This is one of the good things that we have, but we might lose it, and be much worse off without it. It might come to be expected that someone likely to need a lot of looking after should call for the doctor and demand his own death. Something comparable could be good in an extremely poverty-stricken community where the children genuinely suffered from lack of food; but in rich societies such as ours it would surely be a spiritual disaster. Such possibilities should make us very wary of supporting large measures of euthanasia, even where moral principle applied to the individual act does not rule it out.