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Practice of Euthanasia & Mercy Killing in Russia and Japan

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ABSTRACT

As previously noted, the majority of people who have opted to undergo physician assisted suicide in the state of Oregon have been of Caucasian decent. Following the Caucasian population, the next most common racial group to undergo this procedure are those of Asian descent, who have accounted for 1.3% of all patients who have chosen to end their lives with the help of a medical professional (Oregon Health Authority, 2011). Statistically, individuals of Asian descent make up a mere 3.7% of the population of the state of Oregon, indicating a discrepancy of only 2.4% when compared to the entire population pool where physician assisted suicide is concerned (U.S. Census Bureau, 2012). This is not a very large difference, and one might theorize that whatever religious or cultural factors that limited the use of physician assisted suicide in Hispanic ethnic groups, offer no such constraints for those of Asian descent. In a previous blog the issue of all suicide, from a Roman Catholic perspective, was examined. The conclusion was reached that within the American Hispanic community physician assisted suicide was rejected on moral grounds. Perhaps the higher rate of Asian Americans opting for this procedure indicates a different religious or moral perspective. To understand whether or not this is the case it becomes necessary to look at how this procedure is viewed in Asian countries, and whether these views might be carried over into Asian American culture.

INTRODUCTION

As previously noted, the majority of people who have opted to undergo physician assisted suicide in the state of Oregon have been of Caucasian decent. Following the Caucasian population, the next most common racial group to undergo this procedure are those of Asian decent, who have accounted for 1.3% of all patients who have chosen to end their lives with the help of a medical professional (Oregon Health Authority, 2011). Statistically, individuals of Asian decent make up a mere 3.7% of the population of the state of Oregon, indicating a discrepancy of only 2.4% when compared to the entire population pool where physician assisted suicide is concerned (U.S. Census Bureau, 2012). This is not a very large difference, and one might theorize that whatever religious or cultural factors that limited the use of physician assisted suicide in Hispanic ethnic groups, offer no such constraints for those of Asian descent. In a previous blog the issue of all suicide, from a Roman Catholic perspective, was examined. The conclusion was reached that within the American Hispanic community physician assisted suicide was rejected on moral grounds. Perhaps the higher rate of Asian Americans opting for this procedure indicates a different religious or moral perspective. To understand whether or not this is the case it becomes necessary to look at how this procedure is viewed in Asian countries, and whether these views might be carried over into Asian American culture.

In China, while physician assisted suicide and euthanasia are not common practices, there are recorded instances of both taking place. There are more than a thousand recorded cases of either euthanasia or physician assisted suicide --being performed between the years of 1989 and 1995. These practices have only become more common in recent years (Qui, 161). The commonality and acceptance of these procedures would likely have an influence on Chinese-Americans, who are in direct contact with family members, or friends, who remain in China. As these practices have become more accepted and utilized in China, more Chinese-Americans could potentially begin to feel more culturally comfortable with the procedures. The presence of these practices in Chinese culture may be due, in part, to the widely held opinion that the Confucian religion, which is one of the predominant religions in China, does not directly, opposes these practices (Ping-cheung, 55). In Japan, another country that feeds directly into the Asian American population, statistics show that fully 70% of the population supports the use of either passive or active euthanasia in terminally ill or elderly patients (Tanida, 339). The support of these practices in Japan could also carry over into Asian American culture making physician assisted suicide and euthanasia for the elderly seemingly more acceptable to this ethnic group[1].

ASIAN REPUBLICS

Russia

We will give brief description of euthanasia of this part of earth. **Russia**, too, has no tolerance of any form of assisted suicide, nor did it during the 60-year Soviet rule. The Russian legal system does not recognize the notion of 'mercy-killing'. Moreover, the 1993 law 'On Health Care of Russian Citizens' strictly prohibits the practice of euthanasia. A ray of commonsense can be seen in **Estonia** (after getting its freedom from the Soviet bloc) where lawmakers say that as suicide is not punishable the assistance in suicide is also not punishable. The[2,3] issue of euthanasia has attracted public attention in

[1] diverstyandeuthanasia.blogspot.com
[2] www.martinfrost.ws
[3] assistedsuicide.org

London yet again. UK Health Minister Norman Lamb stated that the practice of euthanasia should be legalized in the country. Earlier, Anna Soubry, a member of the Conservative Party, suggested that the Parliament should review the law on euthanasia and give terminally-sick people the right to choose their own destiny. According to the laws of the United Kingdom, helping a patient leave this life is considered an act of criminal offense and entails a punishment of 14 years in prison. The patients, who wish to stop their sufferings, are not eligible for help from medical personnel to end their life voluntarily. The Ministry of Health of the United Kingdom has decided to revise the legislation on the issue, although it is not going to be an easy goal to pursue in such a conservative country like the UK. The British Parliament does not plan to discuss the issue yet, but the Ministry of Health hopes that the discussion will take place next year4. One of the most resonant cases, which gave occasion to speak about the legalization of euthanasia in the UK and other countries around the world, occurred this year to Tony Nicholson. Having suffered a stroke, Nicholson could neither move nor speak. He had lived in this condition for ten years, seeking permission for death through lawyers. The fact is that the UK legislation permits, in exceptional cases, the implementation of suicide with doctor's help. However, as BBC commentator on legal issues Clive Coleman pointed out, in the case of Tony Nicholson, the lawyers did not give permission for that, because the patient was paralyzed and could not commit suicide. Therefore, one had to find someone who would have to kill the patient with the authorization of the law. In his request to relieve him of his own sufferings, Nicholson appealed to Article 2 of the European Human Rights Act, which guaranteed people the right to live. Consequently, the paralyzed patient believed, the person should have the right to die voluntarily, for humane reasons. However, the court dismissed Tony Nicholson's suit. Ten days after the court decision, the patient died in agony due to his refusal to take food. In 2009, Harris Interactive conducted a survey in Britain to find out people's attitude to euthanasia. According to the survey, about 80 percent of respondents agreed that a sick person should have the right for euthanasia. Eighteen percent said that they would refuse to help such a person commit suicide, and eight percent said that the people, who help terminally sick patients die, should be brought to justice. In 2010, English author Terry Pratchett spoke of the need to create some sort of tribunals that would have to decide in each particular case whether euthanasia should be allowed or not. According to him, such instances should consist of a doctor and a lawyer, who would make decision5. In Russia, the ban on any form of euthanasia is regulated by the law from November 21, 2011, under which medics are prohibited to commit any action or inaction aimed at depriving patients of their life. In Russia, like in any other part of the world, there are many of those who support and oppose euthanasia. Stanislav Minin, an observer with the NezavisimayaGazeta newspaper, believes that it is up for a person, but never for the government to decide whether to live or to die. Archpriest Vsevolod Chaplin said that maybe it is not necessary to maintain life with the help of medical equipment if a person was suffering for many years, showing no signs of meaningful life. In this case, Chaplin said, it is not clear whether there is a soul in the body or not. However, chief sanitary doctor of Russia, Gennady Onishchenko, speaks strongly against euthanasia. He says that doctors should not be executioners. According to him, such actions and thoughts humiliate medical specialists. Should Russia allow euthanasia on the legislative level, even in a passive form? Probably not for a variety of reasons. If euthanasia is approved in Russia, where corruption is still quite strong, it will most likely lead to the appearance of a great deal of violations at this point. It is quite possible that people will be put to death through forged documents and bribed doctors in order to obtain material benefits[6].

[4] english.pravda.ru
[5] english.pravda.ru

Japan

In Japan, there are no acts and, specific provisions or official guide- lines on euthanasia, but recently, as I will mention below, an official guide- line on "death with dignity" has been made. Nevertheless in fact, this guideline provides only a few rules of process on terminal care. Therefore the problems of euthanasia and "death with dignity" are mainly left to the legal interpretation by literatures and judicial precedents of homicide Article 199 of the Criminal Code; where there is no distinction between murder and manslaughter and of homicide with consent Article 202 of the Criminal Code. Furthermore, there are several cases on euthanasia or "death with dignity" as well as borderline cases in Japan. I have already published an article on Euthanasia in Japanese Law in English, which was written as a Japanese Report for the XVIIth International Congress of Comparative Law Utrecht, 16 22 July 2006. Following it, in this paper I will present the situation of the latest discussions on euthanasia and "death with dignity" in Japan from the viewpoint of medical law. Especially, "death with dignity" is seriously discussed in Japan, therefore I focus on it[7].

ORDERING OF EUTHANASIA IN JAPAN

In Japan, there is no official definition of euthanasia, due to the absence of statutes, regulations and official guidelines on euthanasia. However, in literatures there are several definitions of euthanasia. I define euthanasia as "an act to relieve or remove an acute physical pain of the patient, whose time of death is imminent, on his/her sincere request and to make the patient meet his/her own peaceful death". This definition, which gains supporters to some extent, includes three fundamental requirements. First an imminence of the time of death. Second, the existence of [8]an acute physical pain, and third is the patient's sincere request. In a judicial precedent, however, the definition is slightly different. Euthanasia is normally classified into five categories in Japan. And Mercy killing, which is actively made without the patient's wish, is excluded from euthanasia. This conduct is considered as a homicide in Japan. Furthermore also "death with dignity" is distinguished from euthanasia[9].

Five categories of euthanasia are the following:

1. **Pure euthanasia**; this is a type that the act of doctor doesn't make the time of death of the patient sooner by removing suitably the pain from the patient. This act is a sort of medical treatment or palliative care and therefore lawful in Japan.
2. **Indirect euthanasia**; this is a type that giving an analgesic drug hastens incidentally the time of death of the patient. Also this act is lawful in Japan, but the reasons of justification are various.

[6] english.pravda.ru
[7] www.waseda.jp
[8] www.iales.org
[9] www.iales.org

3. **Active euthanasia**; this is a type that doctor or close relatives removes the physical pain by means of active killing with lethal drugs and so on by complying with a request of the patient. This has been discussed as a typical euthanasia for a long time in Japan. And it is now disputable whether the act is lawful or unlawful, and if unlawful, whether it is excusable or not.
4. **Passive euthanasia**; this is a type that doctor does not perform active life-prolonging measures e.g. an intravenous drip injection or an injection of Ringer's solution by com- plying with a request of the patient. This omission is generally lawful in Japan, because no one can compel the[10] patient to receive life-prolonging measures against his/her wish will.
5. **Physician assisted suicide**; this is a new type that the physician assists the suicide of the patient by providing so called suicide machine or lethal drug. This type derives from USA, especially the States of Oregon and M`ichigan. However this act especial- ly, active assisted suicide is generally unlawful in Japan, because aiding suicide is punishable in Japanese Criminal Code Article 202 and the situation at hand doesn't provide enough justification[11].

Now in Japan, "death with dignity" in other word, natural death is sincerely and broadly discussed. However, the definition of "death with dignity" doesn't clearly exist in Japan. I define it as patient's refusing artificially life-prolonging medical treatments and withholding or withdrawing them. The difficult points lie in that the patients often lose their consciousness and therefore can't directly express their physical pain and wishes of their own life or death by themselves. And also the measures of artificially life-prolonging medical treatments are diverse; e.g. artificial ventilator, artificial nutrition, artificial dialysis and so on. Furthermore, the patient's conditions are various like as permanent vegetative state, the last stage of cancer, Alzheimer' disease, ALS and so on. Considering such varieties, we must make a rule for resolution of problems of "death with dignity". Before considering on making a rule of them, I present judicial cases on "death with dignity" in Japan. Recently we have two cases on "death with dignity" in Japan[12].

1. Tokyo District Court case 1950

The first Japanese "euthanasia" trial was held in 1950. In a case before the Tokyo District Court, a son had poisoned his mother with potassium cyanide. The mother had been hemiplegic due to cerebral hemorrhage and had expressed a wish to "go back to my own country, Korea." The Tokyo District Court ruled that the mother had not suffered from physical pain but had only wanted to escape from her psychological suffering. Because, as the court articulated it, physical pain is required to justify euthanasia, the accused was sentenced to 1-year imprisonment with probation of 2 years. However, it is of note that the court held, obiter dictum, that it might be permissible to shorten the life of a patient suffering the severe pain of an incurable or fatal disease.[13]

[10] www.iales.org
[11] www.waseda.jp
[12] www.iales.org
[13] www.institute-of-mental-health.jp

2. Kagoshima District Court case 1975

A man strangled his wife to death with a towel and a rope while she was sleeping. She had been suffering from tuberculosis in addition to "jiritsu-shinkei-shiccho-sho" (imbalance of the autonomic nervous system) and had repeatedly requested her husband to let her die. "Jiritsu-shinkei-shiccho-sho" is a popular but extremely vague medical term used by Japanese medical (usually nonpsychiatric) practitioners. It is applied to a constellation of vegetative symptoms such as palpitation, sweating, headache, and nausea as well as psychological symptoms such as depression, anxiety, and hypochondriasis in the absence of any laboratory findings to support a medical diagnosis. The diagnostic labels most appropriate to the condition, according to the Diagnostic Manual of Mental Disorders 4th edition (DSM-IV)(American Psychiatric Association, 1994), are probably Major Depres- sion, Generalised Anxiety Disorder, or Somatoform Disorder. From the description in the court report, it may well be speculated that the wife had been suffering from some type of psychiatric morbidity. However, there appeared to be no record that she had been treated by or had consulted a mental health professional. The court ruled that her death had not been imminent and the means had not been ethically acceptable. The accused was sentenced to 1-year imprisonment with probation of 3 years[14].

3. Yokohama District Court 28 March 1995.

This case is called "Tokai-University-Hospital-Euthanasia-Case". The fact was the following. The patient, who was 58 years old man, was in hospital because of myeloma. He was in the sixth grade of consciousness no reaction to a pain stimulus and in critical condition with difficulty in breathing, with loud snore. A young doctor in charge of the patient was requested to remove an intravenous drip injection etc. in order to release the patient from the pain. The doctor worried about how to deal with the situation and then made a nurse remove the intravenous drip injection and the airway. Subsequently the eldest son of the patient said to the doctor, "It is unbearable for me to hear my father's snore. Please make him comfortable". The doctor then injected twice the usual amount of sedative drug with a side effect to restrain breathing into the patient, but the situation of the patient did not change after an hour. The son requested the doctor to do again the same thing. So the doctor injected psychotropic drug twice as usual with a side effect to restrain breathing into the patient. As the situation did not change after an hour, the son said hotly to the doctor, "What are you doing? My father is still breathing! I want to take him home soon."Consequently the doctor decided to comply with the son from the mental state of pressure. And he firstly injected drug for an irregular pulse twice as usual with a side effect of transient cardiac arrest into the patient, but the situation did not change. Thus finally he injected 20 ml of potassium chloride KCL without dilution into the patient and consequently the patient died. The court found the doctor guilty of homicide, and sentenced him to 2 years imprisonment with hard labor with a suspension of the sentence of 2 years Article 199 of the Criminal Code. In that judgment, the[15] court pointed out 4 requirements to make active euthanasia by doctor lawful. 1 The patient is suffering from an unbearable physical pain. 2 The patient' death is unavoidable and the time of death is imminent. 3 The doctor tries everything to remove or relieve the patient's physical pain and there is not any other alternative

[14] www.institute-of-mental-health.jp
[15] www.waseda.jp

measure. 4 There is an explicit expression of the patient's will to consent to shorten his life. It is controversial if these requirements are appropriate and enough or not to justify active euthanasia, and I think it not enough in the third requirement. Here, however, I mention rather 3 requirements concerning withholding and withdrawal of artificial life-prolonging medical treatments, which were stated as obiter dictum. The court said the following. Stopping medical treatment is permissible under[16] certain conditions based on the right to self-determination of patients and the limit of physician's duty to perform the medical treatment.

CONCLUSION

In Russia, the ban on any form of euthanasia is regulated by the law from November 21, 2011, under which medics are prohibited to commit any action or inaction aimed at depriving patients of their life.In Russia, like in any other part of the world, there are many of those who support and oppose euthanasia. Stanislav Minin, an observer with the *NezavisimayaGazeta* newspaper, believes that it is up for a person, but never for the government to decide whether to live or to die[17].Euthanasia is an emotionally charged issue for people on both sides of the debate. Proponents of euthanasia argue that a person suffering from terminal illness should be given the freedom to choose how and when they die. Such discourse is given weight by the Japanese term for the practice — *anrakushi*, which literally means "peaceful death[18]."

[16] www.iales.org
[17] http://www.pravdareport.com/society/stories/13-09-2012/122162-euthanasia-0/
[18] un Hongo 'Euthanasia: the dilemma of choice' https://www.japantimes.co.jp/life/2014/02/15/general/euthanasia-the-dilemma-of-choice/