

# The Right to Life, Voluntary Euthanasia, and Termination of Life on Request

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In this article, the logical implications of a right to life are examined. It is first argued that the prohibition of Termination of life on request confers an inalienable right to life. A right is inalienable if it cannot legitimately be waived or transferred. Since voluntary euthanasia entails waiver of the right to life, the inalienability yields that it cannot be justified. Therefore, any ethical position that is in favor of voluntary euthanasia has to argue that the right to life is an inalienable right and accept the conclusion that killing on request is justified.

*Keywords:* medical ethics, legal theory, right to life, inalienable rights, voluntary euthanasia, killing on request

## 1. Introduction

In applied legal ethics and medical ethics, there is an ongoing discussion about the permissibility of *Voluntary Euthanasia* (VE). Many scientific contributions have been made suggesting that VE should be allowed. However, there is one analogy that is often neglected in the debate. It considers the relationship between the moral treatment of killing on demand and VE which I think should at least be taken into account whether arguing for or against the legitimacy of VE. In this study, I neither defend nor criticize the moral legitimacy of VE. My goal is to show that if VE morally allowed, then *Termination of Life on Request* (TLR) should be allowed too; similarly, if TLR is forbidden, VE should be forbidden.

The argument is simple and can be sketched as follows:

(P1) If TLR is not allowed, the right to life is inalienable.

(P2) If VE is allowed, the right to life is not inalienable.

(K) From (P1) and (P2) follows that if VE is allowed, TLR is allowed.

After introducing the key-concepts used in this examination in Section 2, I turn to an illustration of the formal implications of the “right to life” and restate the argument in this context in Section 3. Then, in Section 4, I introduce a major objection to this argument. In Section 5 and, as a reaction to the objection, I turn to the question if there is a moral reason to distinguish between the two practices, i.e., to treat VE as a separate case with respect to the moral permissibility.

Since I do not aim to defend my opinion on the legitimacy of VE here, I do not investigate in the possible normative consequences of the argument in the aftermath. It is left for the readers to discuss. The truth of the conditional in (K) is not assumed. The only intention of this study is to illustrate the logical implications of different positions in the debate about VE. The study introduces a consistency argument with no substantive

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moral implications. The argument provided in this study is an ethical argument and not a legal one. Even if VE is morally permitted, there might be good legal reasons to ban TLR.

## 2. Conceptual Clarifications

To get a better understanding of the argument, I briefly introduce some key-concepts. Their working-definition is made straightforward. The adequacy of the concept “inalienable right” is briefly discussed in section 4.

### 2.1. Inalienable Right

By inalienable right, I mean a right, which is morally or legally impossible to waive or transfer. A *legal or moral impossibility* (This is a *terminus technicus* introduced by Hohfeld 1917) to alienate a right implies that the expression of a person’s will to alienate his or her right is not normatively binding. The other person’s duties implied by the right are not relinquished or transferred by the consent of the right-holder. In moral terms, this means that consent cannot justify alienation (McConnell 2000, 12). A right-holder cannot discharge other persons from their duties that are implied by the right. In legal terms, this means that a contract or agreement, involving the waiver or transfer of an inalienable right, is not binding and cannot be enforced. Furthermore, some types of inalienable rights as in the case of the right to life, imply legal sanctions for the right-addressees if they infringe the right (even if the right-holder has consented to it). My working definition for inalienable rights is thus as follows (Meyers 1981, 24).

IR: A right is inalienable if and only if it is impossible to discharge the right-addressees from the duties implied by the right.

The normative function of this impossibility is to restrict the freedom of a person. The right-holder cannot make binding agreements involving the alienation of the right. Consent has no normative force to alter rights and their corresponding duties. This restriction of freedom is not to be understood in a *negative* way, for example that the right-holder is hindered directly from giving away the object that is protected by the right. The restriction is a deprivation of *positive freedoms* in the sense that the right-holder is disabled from changing normative relationships. This point is made clearer in the next section.

### 2.2. Voluntary Euthanasia

VE includes death of a patient caused by a physician. There are three necessary components that characterize VE (according to Hoerster 1998, 37-38).

(C1) A physician terminates the life of a patient (kills him or her or lets him or her die).

(C2) The patient has agreed to it and his or her decision is *autonomous*.

(C3) The patient is suffering unbearable pain.

With this abstract conceptualization, my idea is to reduce the applied condition to those that have moral weight. Also, the criteria encompass a broad range of actions. It is possible that the necessary components presented here are together not sufficient to characterize the practice of VE. Therefore, the first element (C1) defines an act and a specific group of people—the physicians—performing that act. For simplicity, I do not differentiate between physicians and other persons in this study. In practice, the point that VE should only be executed by a doctor is important. For a moral assessment of the act of killing or letting die, however, it does not make a difference. Moreover, the physician has a stronger liability than normal citizens towards the patient.

The moral requirements to conserve the life of the patient are higher. In light of the argument, this simplifying assumption should not be a problem.

The second condition (C2) requires the decision of the patient to be *autonomous*. This includes that while making the decision the patient is well-informed about its consequences, he or she is neither mentally ill nor under negative psychological influence, and there is no form of exploitative pressure or coercion that could influence the decision. The last component (C3) captures different aspects. For the purpose of simplicity, it is formulated very broadly. It captures the fact that the patient has to suffer from some severe illness. It involves the morally significant requirement that a person's condition is valued extremely negatively. Thus, it consists of a value judgement about the patient's life.

There are other characterizations of the practice that, I believe, are either purely descriptive or normative but that do not have a moral force; for example, there are epistemic conditions to ensure the voluntariness of the decision-making process of the patient. It may be useful for the ascertainment of the patient's autonomous will (C2) to ensure that her wish *results* from an illness (Young 2012). Another possible condition, according to Young, is that in the near future, there is no possible cure for a disease the patient suffers from. The assumption here is that the patient could change his or her opinion in the presence of more available medical options. This is partly reflected in (C2) which demands that the patient's decision be well-informed.

VE must be differentiated from *assisted suicide*. The former implies an action that leads to the death of a person. The latter only implies help in the preparation of suicide but no active contribution to it. VE can be conducted in three different ways. On the one hand, it can be *passive*—in the sense that a patient dies because the doctor (in a guarantor position) withholds the necessary steps to conserve his or her life. On the other hand, it can be *active* but *indirect*. This is the case if a medical treatment intended to relieve a patient from pain has the side-effect that the person dies sooner than he or she would have without the treatment. In this case, death is not intended but is taken into account. Finally, VE can be *active* and *direct*. In this case, the patient's life is intentionally terminated by the doctor. Legal systems differ not only in the legality of VE but also in the degree, to which it can be allowed.

The divergence of different practices need not be a problem. In this study, all sorts of VE—whether passive or active, direct or indirect—are taken to be morally identical in regard to their permissibility. This assumption is made because, I think that it does not make a difference for the validity argument conducted here. By making this simplifying assumption, I do not mean to say that there is no moral difference between *killing* and *letting die*. What we deal with here, is letting a person die in a *guarantor position*. A guarantor position is held by someone who is in a privileged position to help a person in need and thus constitutes a relation specific moral responsibility. A physician is necessarily in a guarantor position towards his or her patient.

I assume that if killing is not allowed, then letting a person die as a guarantor should not be allowed either. This assumption corresponds to a principle of criminal law applied in many legal systems: For every result of a criminal act, there is a possible wrongful omission of an act that leads to the same result. The degree, to which a person is guilty, if he or she violates the proscription, might differ but this does not change the general interdiction. Therefore, I do not differentiate between passive and active VE.

A similar assumption is made for the distinction between *intention* and *negligence*. If intentionally killing a person is not allowed, then willingly taking the death of a person into account as the result of one's action is not allowed either. Again, the amount to which a person is guilty may vary, but not the overall permissibility.

Therefore, indirect and direct VE are not different in regard to their permissibility.

### 2.3. *Termination of Life on Request*

TLR means the act of consensually killing another person. There is an agreement or contract between one person wanting to die and another person offering to end his or her life, which involves the execution of the will of the person willing to die. A definition can be made in accordance to the definition of VE, with two exceptions. First, an agreement on life termination does not necessarily involve a patient-physician relationship. As explained above, it is assumed that this difference has no moral significance. Second, the last condition (C3) is not fulfilled. A person may ask to be killed independent of a specific valuation of his or her life. Thus, the definition of TLR involves two conditions:

(C'1) A person terminates the life of another person.

(C'2) The person whose life is terminated has agreed to it and his or her decision is autonomous.

This agreement can take the form of a contract or just of the expression of one's own free will. Throughout this study, it is presumed that the consent to be killed is autonomous. This means that the person consenting to his or her own killing is mature and sufficiently informed about the agreement; he or she is—to a certain degree—able to make a rational judgement. In other words, he or she is not severely mentally disabled, does not suffer from any psychological disease, and is not under influence of any substance. Some readers might object that a person agreeing to be killed can never be capable of choosing it rationally. That is to say, that the wish to be killed implies inability to judge. But this assumption is question-begging. It is very easy to imagine a case, where a person is fully rational and nonetheless wishes to be killed. There is no *a priori* reason why the wish to die would exclude rationality or the general ability to judge.

### 3. The Right to Life as an Inalienable Right

Before proceeding to the argument, I briefly introduce the specific right under question in this investigation—the *right to life*. The method applied in this section is *reconstructive*. From facts of *positive morals* and *positive law*, I induce the normative implications which are usually attributed to a concept of the “right to life.” The result of the examination does not answer the question of what normative consequences the right to life should involve, which is a question of *critical morals*. I turn to a moral assessment of the right to life in the next section.

Sometimes, the right to life is referred to as an *absolute right*—i.e., a right that cannot under any circumstances be renounced or relinquished. There are two reasons not to consider it as an absolute right. First, in some countries, where death-penalty is allowed, it is possible to *forfeit* the right to life. This point shows that it is not treated as an absolute right in certain moral and legal systems. One can conclude from this that the concept of the right to life can best account for different ways of enforcement in positive law, if it is not understood as an absolute right. Second, it seems odd to restrict a person's freedom to self-defence. A person who is threatened to be killed by another person should be allowed to respond to the threat, even if this implies the killing of the other person. So, it must be possible to be legitimately deprived of the right to life under some circumstances (overriding reasons). Therefore, the right to life is not well-determined as an absolute right (McConnell 1984, 28-29). An inalienable right can be forfeited or ignored due to overriding reasons. Thus, one can lose his or her inalienable right, but cannot give it up voluntarily.

My aim is to show that in contrast, the right to life can be best accounted for with the concept of an inalienable right. As stated above, the inalienability of the right to life includes the impossibility of the right-holder to waive or transfer that right. He or she is legally incapable of justifying another person's act of infringement of that right, in the sense that he or she cannot relieve the right-addressees from their duties. Additionally, the right to life is a *claim-right*. It implies duties of others towards the right-holder. The full account of which duties are implied by a right to life is beyond the scope of this paper. However, two minimal assertions are made about the implications of the right to life: First, that it involves a negative duty not to kill. Second, that it involves a positive duty not to let a person die in a *guarantor position*.

To provide an understanding of the proposition that the right to life is inalienable, I distinguish *impossibilities* from mere *duties*. To see why the right to life is best understood as implying a moral impossibility, let us contrast the impossibility of alienating a right with a duty not to alienate the right. Therefore, let us consider two different facts about the law that illustrate the normative implications involved in it: (1) The legal treatment of suicide reveals some intuitions on the right to life that we have. When a person kills herself, people do not necessarily have retributive attitudes towards her. A reactive stance towards her does not always consist in the attribution of blame or guilt. A person might feel pity or a certain unease. Close relatives might be inclined to feel guilty for not helping the person who has committed suicide. I think that a vast majority would not consider the person as blameworthy.

In a *reconstructivist* frame for a moral theory, the norms implied by the theory have to correlate with our moral intuitions. Somehow the imperatives have to fit our moral reactions. The correspondence of a presumed obligation with our moral intuitions entails that if the duty is violated, there are negative reactive attitudes. As the case of suicide shows, these negative reactive attitudes do not necessarily occur. Therefore, a duty to live or a duty not to commit suicide is not justified on the basis of moral intuitions.

Corresponding to a private moral reaction is the legal reaction. The law captures this intuition as a result of moral deliberation about the permissibility of suicide. In most legal systems, attempted suicide is not penalized. Also, legal sanctions to the heirs of a person who committed suicide—as a kind of inherited vengeance—are no longer part of the legal sanction apparatus. However, the failure to fulfil a legal duty not to commit suicide would imply a retributive reaction. The legal acknowledgement of the practice reflects the fact, that there is no such thing as a duty not give up life.

Nevertheless, the use of the right to life is still in some way restricted to the right-holder. (2) This can be shown by the example of TLR. In no legal system taking the life of a person is allowed only because this person has consented to it. A contract or a mutual agreement between two parties that includes the killing of a person is not valid and cannot be enforced. The contracting party committing the consensual homicide will be punished for murder. This means that the consent of the holder of the right to life cannot justify the infringement of that right; the right-holder cannot waive it. This restriction of the right-holder's freedom to dispose of his or her right makes it impossible to change normative relationships. The right therefore comes with an impossibility to alienate it.

Given the interpretation of these two cases—(1) that suicide is allowed and (2) that TLR is forbidden—it is possible to draw the conclusion that a right to life is *prima facie* best understood as an inalienable right. Before I turn to the case of VE, let me consider a conceptual objection to the proposition that the right to life is inalienable.

One could argue here that the right to life is not an inalienable right. In this case, a right to life would also be a claim-right that restricts other people's freedom to deprive one of that right. But the right-holder would have the power to waive it anytime she wants; the right to life does not imply an impossibility to alienate it. This claim can be understood in two ways. First, on a substantive account, a right to life *should not* be impossible to waive. This is equivalent to saying that TLR should be allowed. I consider this claim in the upcoming sections. By a second understanding, the right to life *is not* inalienable but the fact that killing is prohibited implies that killing cannot be consented to. I now deal with this second objection.

It is possible to argue, that the impossibility to alienate the right to life is not a consequence of the fact that a person has a right to life, but rather a consequence of criminal law, i.e., the prohibition of killing (and its insensitivity to the circumstance of mutual consent). The impossibility to alienate the right to life then follows from duties imposed by criminal law. This would be a possibility to evade the consequence that a right to life correlates with an impossibility of waiver and thus, that a right includes a normative disadvantage for the right-holder.

A proponent of this view has to admit that it would also stretch our common-sense idea of rights. It is equivalent to saying that the right to life and the legal ban on killing are distinct normative facts. By this, one implicitly admits that duties do not imply rights. The duty not to kill would then not be correlated with the fact that a person has a right to life. This means that the duty not to kill a person does not follow from the right to life.

The question here is: On what grounds of justification criminal law prohibits killing? It seems that our intuitive answer to this question is: because every person has a right to life. So, a first reaction to this approach would be to claim that it is counter-intuitive. But perhaps the more cogent reason, why this position is difficult to defend, lies in the fact that a right to life and the proscription of killing have the exact same *object of legal protection*. Both concepts—the right and the duty—refer to the life of a person. To individuate a right means to relate the formal criteria of the concept of one “right” to a specific object. This is also congruent to our everyday speech, when a specific right is usually named by its object of protection. The same holds for a duty. It would be contradictive to say that there is no relation between a right and a separate duty to not endanger the same object would be contradictive.

For the sake of completeness, another conceivable reaction to this argument may be mentioned. It is possible to claim that there is no right to life. The term right would then be used in a very narrow way. However, in this investigation on the right to life, I consider it as a right and assume that there is a right to life. So, if we hold the two propositions first, that TLR should be banned and cannot be part of a legally binding agreement and second that there is a right to life it follows that the right to life is an inalienable right (P1). If the right to life is inalienable, this means that a person cannot waive or transfer it. In the case of VE, the patient cannot discharge the physician of his or her duties implied by the right. The right to life implies the duty of other persons not to kill the right-holder or the duty of someone in a guarantor position of not letting her die. However, VE requires the physician to do exactly this. From this, it becomes clear that if VE is allowed the right to life cannot be inalienable (P2). It cannot be alienable in the case of VE and simultaneously function as an inalienable right in the case of TLR. This leads to the conclusion that if VE should be allowed, TLR should be allowed as well (K). For opponents of VE, this argument is no threat, because they can maintain the conviction that the right to life inalienable. Defenders of the permissibility of VE, however, have to bite the bullet.

#### 4. Objection

The argument presented so far includes two premises. The first is that if TLR is not allowed, the right to life is inalienable. The second is that if VE is allowed, the right to life cannot be inalienable. Thus, it cannot be the case that the TLR is not allowed while VE is allowed, because the right to life cannot be alienable and inalienable at the same time. As stated above, my intention is not to argue for the permissibility of either VE or of TLR. The point is that it is a matter of consistency to allow the latter if one defends the permissibility of the former.

There is, however, one objection to this consistency argument that I want to discuss in the remainder of this study. It is based on a different understanding of the term “inalienable right,” as put forward by McConnell. According to his view the inalienability, i.e., the impossibility of right-holders to discharge another person from his or her duties, restricts the legitimizing force of consent in a *broad sense*. Consent, he says, is not sufficient to justify the infringement or relinquishment of an inalienable right, but it can be necessary in the context of a specific right (McConnell 1984, 31-32).

If consent is only non-sufficient, but necessary for discharging right-addressees from their duties, it is possible that consent, combined with another condition, can justify the alienation of the right. To illustrate this point, let me apply it to the discrimination of the permissibility of VE and TLR. McConnell’s argument runs as follows. As I have shown, VE is characterized by the condition of unbearable suffering (C3) of a patient. This condition may give a reason why VE is a different case regarding our evaluative judgement. The autonomous choice, according to McConnell, is necessary to justify VE, but it is not sufficient. Only in combination with the condition of suffering VE is justified. Since this condition is not necessarily given in the case of TLR, VE should be allowed whereas TLR should be prohibited (McConnell 2000, 85).

In contrast to this account, the concept of inalienable rights as stipulated follows a *narrow understanding* of the impossibility to alienate a right. Consent is completely irrelevant for the possibility of alienating an inalienable right. A person cannot get rid of an inalienable right through the expression of her free will. This means that neither consent is sufficient nor can it function as a subsidiary condition in combination with other conditions.

It makes sense to apply McConnell’s broad concept of inalienable rights to account for this legal discrimination. At a critical level, however, there are troublesome consequences for such a concept. McConnell’s account has a problem in dealing with an explanation for the fact that consent matters at all in the case of inalienable rights. Inalienability quite literally excludes the freedom to give something away. For instance in the case of the inalienable right to vote, the autonomous decision to sell this right to another person can under no circumstance justify the transfer of it. Even existential economic pressure on the right-holder does not alter the restriction to give the right away. Otherwise, a right to vote would be meaningless. Therefore, in this case, consent is not even a necessary condition for the justification of alienating an inalienable right. It has no force to alter the duties of other people. The question remains: if the right to life is inalienable, why can it be alienated under some circumstances by an expression of one’s own will?

The question of whether a narrow or broad concept of inalienable rights is preferable is not addressed here any further. I do not argue for either position. Instead, another line of argumentation will be pursued in the following section. It is asked, if the supplementation of an autonomous choice (C2) with the condition of unbearable suffering (C3) can do the job of justifying life termination together. Furthermore, I ask if unbearable

suffering can have a normative significance in regard to the moral justification of the possibility to alienate the right to life.

### 5. Voluntary Euthanasia and Unbearable Suffering

As explained above, the concept VE implies three conditions (C1)-(C3). The two last conditions (C2) and (C3) have a moral significance, whereas the first is merely of pragmatic importance and makes a descriptive determination of acts that fall under the category of VE. Thus, a moral assessment of its justification focuses on the last two conditions.

Let us, for the sake of argument, assume that all acts falling under the category of VE are encompassed by the larger quantity of acts of TLR. The former are characterized by all three conditions, whereas for a definition of the latter acts (C3) is not necessary and (C'1) and (C'2) are sufficient. To explain why VE and TLR are treated morally different with respect to their permissibility, one must argue for the moral significance of (C3). Moral theorists, who hold that VE should be allowed while TLR should be forbidden, have to argue that the former is a special kind of TLR and thus deserves individual moral assessment. Therefore, I focus on (C3) and ask, whether the provided reason is capable of capturing the moral difference and hence may justify the legal discrimination.

The disvalue of the life of a person, when he or she is in a situation considering VE is a reason for many people to believe the person should be allowed to end his or her life. From this perspective, it seems intuitive that the unbearable suffering of a person is the decisive reason to permit killing. Only few would claim that (C3) is not a necessary restriction for VE to be legitimate. This is due to mainly political reasons (Young 2012). The political case for euthanasia cannot solely be defended on grounds of autonomy. Only by pointing out the severe suffering of some patients, political support can be gained for legalizing VE. Therefore, the permitted application of life terminating measures is restricted to those cases. But this is a pragmatic argument for policy-makers. My question is whether there is a possible moral argument to discriminate VE from TLR. In other words, does this condition (C3) have justificatory value? I try to show that it is not: (C3) is not a necessary condition for VE (Varelius 2014).

To assess the importance of (C3), one may make the following consideration. Let us assume that condition (C2) is not needed and VE is allowed only because the person is suffering. Then, killing him or her would be allowed without his or her consenting to it. This implies that the society is allowed to kill people just because their life is deemed to be unworthy of living. This conclusion is not supported here. The idea that so called *involuntary euthanasia* should be allowed is very controversial and I would not like to pursue in it any further. Condition (C3), therefore, is not a sufficient moral justification for VE. It has justificatory value not on its own but only in a combination with (C2). These two conditions, therefore, must be conceptualized as a combined moral justification.

Let us now consider condition (C3). The reason, why we think a person should be allowed to die, includes that the life, the person would have if he or she lived on, is not worth living. We apply our own intuitive standards of value-assessment to this estimation without actually asking the person affected. If a society as a whole makes this judgment, it applies a generally accepted standard of a "life not worth living." I call this an objective value standard because it is independent of the individual judgment of the person involved.

It cannot be a *subjective standard*. That would be the same as to say that (C3) should be understood as a subjective valuation of the person desiring to die. But this would call into question the need for (C3). Only a



highly irrational person would deem his or her own life not worth living and not satisfy condition (C2), i.e., not wish to die. The condition of severe suffering therefore has to include some objective value judgment about the life of a person.

Proponents of the permissibility of VE often argue on two different lines. First, they stress the importance of a person's autonomy. The society should have no right to interfere with an autonomous decision (provided no third-parties are negatively affected). Second, they make an assessment of competing goods protected by the law—the value of life on the one hand and the value of autonomy on the other. They come to the conclusion that the latter should be attributed more weight than the former in the particular case of VE. This means that if we compare these two different values, autonomy has priority.

This second line of argument may lead to serious meta-ethical problems. If we consider the two conditions as referring to two different values, a very restrictive assumption is made about the *commensurability* of these two distinct values by weighting them up. One must assume that the value of life can be compared with the presumed value of freedom. But can we really subtract the former from the latter? If we do so, do we all get the same result? Although there is not enough space to argue for the incommensurability of different values, I believe we cannot. Specifically, the point here is that there is a problem of irreducibly pluralistic values. I concentrate on a line of argumentation that can avoid this problem (which is therefore more robust compared to an argumentation that makes the assumption of commensurability) because the involved premises are less restrictive.

The only way how to evade the problem of weighting autonomy with the value of life, is to look at the moral and epistemic grounds for autonomy in the discussion about VE. The autonomous decision of a person is more important because the specific value of life of a person in her individual situation is subjective. We cannot say how valuable the life of one specific person is from a third-person perspective (DeHaan 2002, 157-8). Only the person involved in a situation where she has to make a decision based on an assessment of the value of his or her life can tell with some certainty, whether life is worth living under the given circumstances. He or she is in an *epistemologically privileged* situation to assess the value of his or her own life. Therefore, the competence should be attributed to the individual himself or herself.

As has been argued, autonomy cannot be compared with the value of life. Advocates of VE may argue for autonomy because they understand the value of life as subjective (and thus promoted by the autonomous valuation of the person making a decision). If the value of life is subjective, there is a good reason that the autonomous choice of a person (in the case of VE) should be given priority. To avoid the problem of commensurability, an argument includes its assumption. The subjectivity of the value of life, however, contradicts the normative force of condition (C3). The only way to make sense of (C3) is to assume that it involves an objective standard for the evaluation of life. Therefore, in order to argue for the permissibility of VE, one has to dismiss (C3). Unbearable suffering is not a necessary condition for VE. If this argument is correct, there is no morally significant difference between VE and TLR. The two acts should be treated equally in regard to permissibility.

## 6. Conclusion

I have argued that if we allow for VE, i.e., if we are convinced that it should be morally permissible, then we also have to allow that a person can agree to her own death and make a binding agreement that involves her being killed by another person. If my argument is correct, in order to be consistent in our legal system, we

should at least doubt the legal and moral practice of categorically excluding all types of TLR. If one considers the right to life as an inalienable right, both VE and TLR should be restricted.

This is an argument about the moral implications of our beliefs. Its legal significance needs to be assessed elsewhere. There are (among others) three reasons to uphold the legal ban on TLR. First, a legal ban is justified, for instance, if the circumstances under which a person consents to her own death in most cases do not allow the person to make an autonomous choice. Second, it can be justified if there are good reasons to punish an executor of the expressed will in order to protect society from a potential murder. Third, the differentiation may be of pragmatic value in the process of finding justice. Every murderer could claim that the victim consented to her own death. Retaining the principle of burden of proof on the accuser, the permission of TLR would lead to high costs of truth-finding for courts.

But consider the following case: A mature, fully informed, not mentally ill person decides that he or she wants to end her life. She does so by instructing another person to execute her will and to kill her. The two parties have made a written contract proving the expression of the free will of the person being killed. And there is no doubt that it was her autonomous will. Why should we punish the presumed murderer? Why should the freedom of contract be restricted in such a case? The answer is: because the right to life is inalienable. It is a moral question whether this inalienability is justified. However, if my argument is correct and if it follows from the logic of a moral system that TLR should be allowed, it calls into question the categorical prohibition of TLR. This means that if a physician should not be punished for performing VE, the presumed murderer in the example should not be punished either.

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