

Do children have the right to die?

MASTER THESIS
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1. Introduction

This dissertation will look at whether children have the right to die. It has been inspired after the recent implementation of a new law in Belgium allowing children to request to be euthanized. Belgium is the first country in which the age restriction has been lifted on requesting to be euthanized; however, there still remains strict conditions that must be met in order for euthanasia to be considered legal for children.¹ These conditions are the same as those that were previously used for adult euthanasia. The first condition that must be met is that the child must be “conscious of their decision” and must have repeatedly asked to be euthanized.² This request to be euthanized must then be approved not only by the parents but also by medical staff.³ Most importantly, the child can only request to be euthanized if they are terminally-ill and suffering unbearable pain as a consequence of their sickness in which no medical treatment can “alleviate their distress”.⁴ Belgium is the first country to extend the request to be euthanized to children younger than twelve years of age. The extension of the right to die to terminally-ill children has caused two opposing views on the matter. On the one hand, Belgium is seen as an immoral society permitting doctors to kill children and on the other hand Belgium is perceived as a very “compassionate society” that wants to end suffering not only amongst adults but also amongst children.⁵

Although Belgium is the first country to completely remove the age restriction on requesting to be euthanized, the Netherlands was the first in lowering the age restriction from eighteen years to twelve years.⁶ According to many paediatricians in the Netherlands, they consider children above the ages of ten and twelve to be competent enough to partake in medical decisions pertaining to their lives.⁷ In Belgium and the Netherlands parents must be involved in the decision-making process until they reach the age of maturity, after which no parental consent is necessary.⁸ The Netherlands and Belgium are the only two countries that

¹ BBC News. “Belgium Approves Child Euthanasia.” *BBC News*. January 13, 2014. <http://www.bbc.com/news/world-europe-26181615> (accessed January 16, 2014).

² Ibidem.

³ Ibidem.

⁴ Ibidem.

⁵ Ibidem.

⁶ Vrakking, Astrid. *End-of-Life Decisions for Children*. (Erasmus University Rotterdam, 2006), 53.

⁷ Ibidem, 53.

⁸ Government of the Netherlands. “Euthanasia, assisted suicide and non-resuscitation on request Euthanasia” Government of the Netherlands. <http://www.government.nl/issues/euthanasia/euthanasia-assisted-suicide-and-non-resuscitation-on-request> (accessed May 26, 2014).

have extended their euthanasia laws to children highlighting a difference in their opinions on a child's right to self-determination compared to other countries. What is interesting to note is that although both countries have extended their laws to minors, they both differ on the age threshold in which minors reach a proper level of competency to understand such matters. It is evident that the competency of children and the rights of a child are determined by the society they reside in.

Adults play a vital role in the decision-making processes of children and this is evident in the conditions set out in both the Belgian and Dutch euthanasia laws pertaining to minors. Adults play an especially vital role in deciding upon end-of-life decisions because their approval is needed when children request to be euthanized. With the exception of the Netherlands and Belgium, other states that do promote euthanasia only do so for those above the age of maturity. Some of these states include Colombia, India, Ireland, Luxembourg, Mexico, and certain states in America (Oregon, Washington, Montana, and Vermont).⁹ Children are not allowed to request to be euthanized in those countries/states. This restriction on children exists because they are assumed to be incompetent and incapable of understanding the consequences associated with euthanasia. As a result, children are not allowed the option of minimizing their suffering caused by untreatable illnesses in those countries. Adults, in contrast, are able to have the option of terminating their lives in order to end their suffering. This highlights an unfairness in terms of euthanasia laws in those countries because one group is allowed the option of ending their suffering whereas another is made to endure the suffering because of their assumed lack of competency which is not justified.

Incompetence refers to an individual being unsuited or "devoid" of certain qualities that are necessary for "effective conduct or action".¹⁰ Incompetence in most societies is associated with children since competence comes with age and experience. Childhood is equated in society with incompetence and immaturity whereas adulthood is equated with competency and maturity due to experience. In a news article entitled "The Child Killers" in Newsweek Professor van der Werff Ten Bosch, who is a paediatric oncologist at the Brussels

⁹ "Where Is Euthanasia Legal?" *Newhealthguide.Org*. <http://www.newhealthguide.org/Where-Is-Euthanasia-Legal.html> (accessed April 21, 2014).

¹⁰ TheFreeDictionary.com. *Incompetent*. <http://www.thefreedictionary.com/incompetent> (accessed May 26, 2014).

University Hospital, states that children should not be “[bossed] around”.¹¹ Children suffering from terminal illnesses, according to Professor van der Werff, “mature much faster than other children” because they are confronted with their imminent death and as a result think frequently about death and how they would like to die.¹² Their experiences shape their competency meaning that they have different priorities and also a different competency levels as compared to healthy children. The professor even claims that those children are often “more courageous than their parents”.¹³ It makes sense to think that a child facing these abnormal circumstances will think differently than a child that is not suffering from a terminal illness. They both have different experiences that shape their understandings and priorities in their lives. If competency is equated with experiences, then those children suffering and experiencing unbearable pain would be competent enough to understand what it means when they request to be euthanized. This would suggest that because of circumstances influencing the competency level of children, that each child be given or have certain rights restricted based on an individual evaluation of their competency or capability rather than being based on their age. Each child faces unique circumstances and these shape their choices and maturity levels, meaning that not all children have the same competency level. It is evident that competency is different for each individual and that the grouping of children under one category does not do justice to their levels of competency.

From the new law being implemented in Belgium, it is evident that there exists a debate on whether children should be given the right to die. Euthanasia is still a controversial concept in the majority of the world. Extending the right to die to children is even more controversial since society aims to protect children through restricting their rights rather than enhancing their autonomy through attributing more rights like these. The true competencies of children are being undermined because it is much simpler to group all children under 18 under one category rather than to evaluate them on an individual basis to determine their true competencies. On the one hand, society wants to protect children by restricting their rights because they assume that children cannot handle certain rights. On the other hand children are being wrongly restricted because they are assumed to be incompetent without proper evaluations. The dilemma here is evident and it is precisely the issue of whether children do have the right to die which will be looked at in this dissertation. This dissertation will argue

¹¹ Braw, Elisabeth. “The Child Killers.” *Newsweek.Com*. December 4, 2013. <http://www.newsweek.com/2013/12/06/child-killers-244872.html> (accessed April 21, 2014).

¹² *Ibidem*.

¹³ *Ibidem*.

in favour of both children and adults having the right to die. Real-life cases are also incorporated into this dissertation to strengthen the argument and to also give a more realistic approach to this question of whether children do have the right to die. Symmetrical and Asymmetrical claims against both children and adults having the right to die will be refuted in section 4 in order to highlight the strength in claiming that all individuals have the right to die. The following sections 1.2 to 1.4 will first explain what euthanasia or the right to die is followed by whether euthanasia is considered to be murder. This is essential in understanding the moral implications euthanasia has.

1.2. Definition of Euthanasia:

It is important to outline what is meant by the term ‘euthanasia’ when trying to understand why certain people view this new law in Belgium as immoral. When talking about “the right to die” it is in reference to euthanasia. Euthanasia means the “taking of human life” but not for “malicious purpose[s]”.¹⁴ In the Merriam Webster dictionary euthanasia is defined as the

“act or practice of killing hopelessly sick or injured individuals (as persons or domestic animals) in a relatively painless way for reasons of mercy;..the act or practice of allowing a hopelessly sick or injured patient to die by taking less than complete medical measures to prolong life – called also mercy killing.”¹⁵

The word euthanasia is derived from the Greek word of “eu” meaning good or well and “thanatos” meaning death which combine to be the good death.¹⁶ The various definitions of euthanasia all have common ground. It is that the killing is carried out for the sake of those being killed in order to alleviate their stress and suffering. It is a mercy killing. The immorality of the concept comes to the fore because it involves the act of killing which is considered to be a universal immoral thing to do. However, it is also immoral to allow

¹⁴ Vodiga, Bruce. “Euthanasia and the Right to Die-Moral, Ethical and Legal Perspectives.” *Chicago.-Kent Law Review* 51, no.1 (1974): 3.

¹⁵ Merriam-webster.com. *Euthanasia*. <http://www.merriam-webster.com/medical/euthanasia> (accessed May 30, 2014).

¹⁶ Hirsch, Dana E. “Euthanasia: Is It Murder or Mercy Killing-A Comparison of the Criminal Laws in the United States, the Netherlands and Switzerland.” *Law Review* 12, (1990): 822.

individuals to suffer unbearable pain or a very low quality of life. There are also different types of euthanasia which make the idea more controversial, especially involuntary euthanasia. The various types will be explained in section 1.3.

1.3. Voluntary, Non-Voluntary & Involuntary Euthanasia:

There are different types of euthanasia. The first being voluntary euthanasia, in which the individual requests to be euthanized and is able to give consent to being euthanized.¹⁷ This is also the type of euthanasia that is being advocated in the new Belgian Law. What is important to understand is that euthanasia is still considered to be voluntary even if the person is not able to reaffirm their request at the moment when the lethal injection is being administered. If prior request or confirmation has been made by the person in question, before the individual has gotten to a state in which they cannot consent anymore, then it is still considered to be voluntary euthanasia.¹⁸ Prior consent plays a vital role in making this type of euthanasia voluntary. Some form of consent is necessary.

Non-voluntary euthanasia refers to instances where individuals cannot make a decision or cannot give consent due to being unable to understand the choice of life and death and have not given prior consent. These individuals include people who are comatose, infants, old people becoming senile or individuals who are mentally incapable of understanding such a choice.¹⁹

The final type of euthanasia which is the most controversial is involuntary euthanasia. Here, the individual being killed is able to consent to euthanasia but has not been asked and has been killed anyway. Or the individual has been asked and the individual wants to live but is killed anyway.²⁰ The individual doing the killing makes the choice for the individual being euthanized without the consent of the latter. This type of euthanasia is frequently regarded as murder; however, this is not always the case. First of all, it is very rare that people who are able to consent to euthanasia are not asked for their consent; therefore, this type of euthanasia does not occur frequently. Usually if an individual is able to give consent, but has not been asked and the act is carried out, it is considered murder because it goes against the

¹⁷ BBC.co.uk. "BBC - Ethics - Euthanasia: Voluntary and involuntary euthanasia." <http://www.bbc.co.uk/ethics/euthanasia/overview/volinvol.shtml> (Accessed May 9, 2014).

¹⁸ Singer, Peter. *Practical Ethics* (Cambridge: Cambridge University Press, 1993), 178.

¹⁹ BBC.co.uk. "BBC - Ethics - Euthanasia: Voluntary and involuntary euthanasia." <http://www.bbc.co.uk/ethics/euthanasia/overview/volinvol.shtml> (Accessed May 9, 2014).

²⁰ *Ibidem*.

individual's right of self-determination.²¹ The killing of an individual, even though they request to live, can be considered to be euthanasia only if the motive for killing the individual is to prevent unbearable suffering that that individual might endure in the near future and are going to die anyway.²² An example of when involuntary euthanasia is not wrong is, for instance, when a soldier is suffering from such a severe injury and is suffering from unbearable pain and begs the doctor to try and save their life. The doctor however, knows that there is no hope for the soldier since he will die in a matter of minutes. In order to spare the soldier from suffering anymore pain the doctor shoots him in the head.²³ It is evident that the motivation for killing the individual, regardless of their plea to live, is to ensure that the individual will not endure unbearable pain and suffering. In this example the individual was going to die anyways and quickening their death was for the victims benefit.

1.4. Active and passive euthanasia:

It is necessary to also distinguish between active and passive euthanasia. Active euthanasia refers to a third party actively administering a lethal injection that will induce a painless death. With passive euthanasia the third party lets the patient die by withholding treatment and/or "nourishment".²⁴ Both active and passive euthanasia lead to the same consequence which is death but most of the time passive euthanasia is more widely accepted.²⁵ The reason why proponents of passive euthanasia promote it is because there is no moral rule against letting people die but there is one against killing people.²⁶ Active euthanasia is seen as an act of killing a person. Yet there is almost no distinction between killing someone through passive means and through administering a lethal injection which is considered active euthanasia. Both actions result in the death of the patient but the means of arriving at the same outcome are supposedly different. The one is seen as moral whereas the other is seen as immoral.

²¹ Hirsch, "Euthanasia: Is It Murder or Mercy Killing-A Comparison of the Criminal Laws in the United States, the Netherlands and Switzerland," 822.

²² Singer, *Practical Ethics*, 179.

²³ BBC.co.uk. "BBC - Ethics - Euthanasia: Voluntary and involuntary euthanasia." <http://www.bbc.co.uk/ethics/euthanasia/overview/vol invol.shtml> (Accessed May 9, 2014).

²⁴ Hirsch, "Euthanasia: Is It Murder or Mercy Killing-A Comparison of the Criminal Laws in the United States, the Netherlands and Switzerland," 823.

²⁵ Singer, *Practical Ethics*, 209.

²⁶ *Ibidem*, 209.

Advocates of passive euthanasia state that the difference lies in the fact that death is an “unwanted side-effect” of withholding medicine or nourishment.²⁷ It is permissible because death is not the direct consequence of the action. If passive euthanasia is justified because it means letting an individual die, then we are justified in reasoning that letting people die from starvation in many poor countries is also justified because we are letting them die and not actively killing them.²⁸ This highlights a flaw in the reasoning behind passive euthanasia because it considers death an unintended consequence that was not directly intended which is untrue. This is evident also in the term ‘passive euthanasia’ which has the word euthanasia in it, meaning that death is intended from the start. When doctors withhold treatment and/or nourishment from individuals then they already know that the consequence will be death from the very start and it is not an unintended consequence. Therefore, the reasoning behind the permissibility of passive euthanasia is redundant. Active euthanasia is just as permissible as passive euthanasia because both are motivated to reduce suffering and both have the consequence of death.

1.5. Is euthanasia murder?

Euthanasia is considered immoral and equated with murder by those opposing it. Murder is different than euthanasia because of the motivation behind the killing. In most states in the United States, euthanasia or mercy killing is considered to be murder. The definition of murder there is that it is the “unlawful killing of a human being with malice afore-thought”.²⁹ It is considered to be “first degree murder” when the act was “wilful, deliberate, and pre-meditated” and the fact that the victim consented to the act does not excuse it.³⁰ Although the act of mercy killing is done out of compassion, in those states where active euthanasia is illegal, it is considered murder because the act is done intentionally.³¹ Here again the distinction between passive and active euthanasia comes to the fore. In section 1.4 I described the inconsistencies of passive euthanasia and that it is actually just the same as active euthanasia because death cannot be considered an unwanted side-effect since it is always a known side-effect. Active and passive euthanasia both have the same outcome which is death and it is carried out to stop suffering.

²⁷ Ibidem, 206.

²⁸ Ibidem, 206.

²⁹ Hirsch, “Euthanasia: Is It Murder or Mercy Killing-A Comparison of the Criminal Laws in the United States, the Netherlands and Switzerland,” 833.

³⁰ Ibidem, 833.

³¹ Ibidem, 834.

Although euthanasia is considered to be immoral it is carried out as a last option to end suffering and unbearable pain of individuals whose future, if forced to carry on living, will yield a low quality of life. It is important here to look at what a low quality of life means and what it implies that we should morally do. If a mother has been warned that she is suffering from a medical condition which will cause her to give birth to a defective child and the quality of life for the child would be considered to be very low then we as society see it as immoral for her to become pregnant and bring this child into existence.³² Death is equated with the ending of existence and thereby equated with non-existence and not being born is not existing also.³³ Therefore, if that child is anyways conceived and given birth to with the birth defect then we must end the life of the child to be morally consistent since that child was not supposed to be conceived in the first place because it would be immoral. By not conceiving the child, the child is non-existent and by ending the life of the child is to cause the child to not exist anymore. They both have the same result but the issue that individuals have is that it involves killing even though the killing is justified to end suffering.

Section 1 has introduced the inspiration for this thesis on the right to die for children. It was important to outline that different countries have different laws regarding the permissibility of euthanasia but also whether children are allowed to partake in this law. It is evident that euthanasia is still not a widely accepted concept in many states because only a total of seven countries have legalized euthanasia. Euthanasia is controversial because of the shaky grounds that certain types of euthanasia are permissible whereas others are not. So far, this dissertation has clarified the definition of euthanasia and advocated why active euthanasia is not murder. The capabilities and competency of a child is shaped by the environment in which they live in. Each society has a differing outlook on the capability and competency of a child and this is evident when looking at the Netherlands and Belgium who have two different age thresholds when it comes to allowing children to partake in the decision-making process affecting their own lives. In sum, the rights of a child are constructed by society's legal systems which puts restrictions on children. It does not reflect the true competencies of individuals. The next section will look at the legal rights of the child on the international level. This is necessary to highlight the changes that have taken place in regards to children's right. Here we will see a change in how children were perceived in the

³² Singer, *Practical Ethics*, 128.

³³ *Ibidem*, 128.

past as mere objects without rights at all to being considered to be persons with limited rights nowadays.

2. The Legal Rights of Children

It is necessary when looking at whether children have the right to die at the difference between the legal rights of the child when it comes to their right to die and the moral rights of the right to die for the child. Moral rights are grounded in our beliefs and therefore cannot be created but are instead discovered. Moral rights are also distributed equally. Legal rights are created in the societies we live in and are based on most moral rights but it does not mean that all legal rights everywhere are the same. Legal rights usually create an unfair distribution of rights because they can be given to certain groups and not to others.³⁴ Euthanasia is a legal right in certain countries and only for certain groups, as has been mentioned in the introduction of this thesis. Euthanasia is also considered by many to be an immoral right but by others also a moral right because it helps to eliminate suffering which is an immoral thing to suffer from. This thesis argues that euthanasia is a moral right, and that children should be also given the legal right to request to be euthanized. It is important to look at the international convention on children's rights to highlight why children are legally not allowed the right to die and why societies that use this convention as a guideline seem to uphold this restriction.

In the international Convention on the Rights of the Child that was ratified in 1989 there are two specific articles pertaining to the extent of the rights that a child should possess and how much autonomy they should possess. The problem with these two articles is that they are quite contradictory and vague and therefore each country is able to interpret these articles in their own way. Article 3 of the convention states that countries should take the "best interests of the child" as a "primary consideration" when making any decision relating to children.³⁵ Article 3 sets the guidelines for others making decisions for children and how others should make decisions for children. The individuals surrounding the child have the right to make decisions relating to the child and the power lies with those individuals. Article 12 in contrast promotes the empowerment of the child itself. In article 12 the child is allowed to express their opinions if they are "capable of forming his or her own views".³⁶ Article 12 implies that if a child is competent enough to have their own opinions then they should be allowed to express these views. Competency is important in determining whether a child

³⁴ Wenar, Lief. "Rights." *Stanford Encyclopedia of Philosophy*, December 19, 2005. <http://plato.stanford.edu/entries/rights/> (accessed May 27, 2014).

³⁵ ohchr.org. *Convention On The Rights Of The Child*. <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed April 21, 2014).

³⁶ Ibidem.

should be allowed to claim their rights. Article 12 also states that a child is able to express their opinions but the extent to which their opinions will be taken into consideration is determined on their “age and maturity”.³⁷ This article reflects the attitude that most societies have in regards to the competency of children and that it is determined by age and maturity. Many societies set the threshold of maturity at almost the same levels which are between 16 years of age or 18 years of age. Most of the time article 3 will take precedence when it comes to children’s rights, since most societies prefer to make decisions on behalf of the child in the name of their best interests rather than ask the child what they want.

The international law on children is open to interpretation by nation states however a paternalistic attitude is evident in this convention and it is also the same attitude that many societies have in relation to children. Paternalism is justified because of how the international laws and also national laws portray children as being irrational and not independent. Adults in contrast are portrayed as autonomous and rational.³⁸ The paternalism stems from a sense of duty that most societies have to protect children. The international laws state that decisions made in regards to children must be done for the benefit of the child and that the child’s opinions be taken into consideration if the child is old enough and competent enough. The issue here is that although the competency of the child should be looked into, the overall age thresholds in society are set at a fixed age rather than based on individual competency. It is easier to group individuals rather than evaluate them case-by-case in society which creates considerable unfairness. The Netherlands and Belgium are two states that are taking steps to reduce this paternalistic tendency within their societies by giving more power and autonomy to children to determine how they live their lives.

Although children face many legal restrictions, it is a result of them being viewed nowadays as persons rather than mere property as they once were. In the latter half of the twentieth century children were given the status of person rather than property in society and laws were being put in place to protect children. Children were considered to be “small adults” in the past, and were given “adult responsibilities” and as a result and were forced into hard labour without experiencing a proper “childhood” that they would experience nowadays.³⁹ There is a sharp contrast in the protectionist attitudes present nowadays towards

³⁷ Ibidem.

³⁸ Breen, Claire. *Age discrimination and children's rights* (Leiden: M. Nijhoff, 2006), 4

³⁹ Hart, Stuart N. “From Property To Person Status: Historical Perspective On Children's Rights.” *American Psychologist* 46, no.1 (1991): 53.

children and those in the past since parents were allowed to with their children as they saw fit which included being “ignored, abandoned, abused, sold into slavery, and mutilated.”⁴⁰ The abuse done to children in the past was no longer considered to be permissible in the new era. It is evident then that the legal rights of the child determine their status in society as is evident in the change of their status from past to present. Legal rights have the power to improve the value of the child. Society has the ability to restrain children’s rights or attribute more rights to children.

2.1 The moral rights of Children:

The previous section looked at the legal aspect of children’s rights and how it affects their right to die. This section will look at moral rights and argue why the right to die is considered a moral right and that therefore children should be attributed this moral right as well. Moral rights are equal and not different based on arbitrary differences. All human beings have the same moral rights, but it is the legal aspect that creates differences. According to the Equal consideration’s thesis, children are accorded the same moral consideration as adults.⁴¹ The thesis also states that age should not be a determining factor in whether a child has a moral right, since the fact that children are children does not mean that they have an inferior status.⁴² Children should have the same moral status as adults because they are both persons. Moral rights are associated with persons and to deny children moral rights would be to deny them being persons which is unacceptable.⁴³ There is a moral right to avoid pain meaning that all persons should be allowed the option of euthanasia to avoid this pain.

In an article written by Samantha Brennan and Robert Noggle, they aim to reconcile the difference between the Equal consideration’s thesis and the Unequal Treatment Thesis. They do this on the basis of the roles that individuals take on in society. First of all it is necessary to explain what the Unequal Treatment thesis is.⁴⁴ Under this thesis children are allowed to be restricted depending on their age. This thesis is the basis of how many modern-day societies structure their rights distribution. This thesis is also based on retroactive consent, in which the restrictions placed on children now would be appreciated by those

⁴⁰ Ibidem, 53.

⁴¹ Brennan, Samantha, and Robert Noggle, “The moral status of children: Children's rights, parents' rights, and family justice,” *Social Theory and Practice* 23, (1997): 2.

⁴² Ibidem, 3.

⁴³ Ibidem, 3.

⁴⁴ Ibidem, 3.

children when they are adults.⁴⁵ It seems then that these two theses are incompatible because the one promotes equal rights for all and the other advocates restrictions on rights. According to Brennan and Noggle, they are compatible based on the roles that individuals take on in society.⁴⁶ It is possible for everyone in society to have the same basic rights, but that they have different rights based on their roles.⁴⁷ The term ‘person’ according to Peter Singer is derived from a Latin term “for a mask worn by an actor in classical drama” and by wearing these “masks the actors signified that they were acting a role”.⁴⁸ Peter Singer describes being a person as an individual who “plays a role in life, one who is an agent.”⁴⁹ So there is an overall conclusion that being a person involves taking on a role in society. For example, doctors and lawyers have different rights due to their roles as compared to a postman. The role is associated with capabilities and abilities of the person and if the individual does have the acquired “qualifications” necessary for the role then that individual should have the right.⁵⁰ Here then an individual’s competency determines their role rather than an individual being placed in a role due to a factor such as age determining their roles. Age has no value in attributing roles because if an individual is eighteen it does not mean that because of their age they have the qualification of being, for example, a policeman. Instead their experiences through learning to be a policeman, which has improved their competency level, would lead an individual to have the qualifications to become a policeman. If having a role allows for unique rights, then it can be argued that sick individuals have a role and that is being sick and therefore should have unique rights. Because of their experiences with being sick they are qualified to then have certain rights that are associated with being sick such as having the right to die as a means of ending their suffering. Therefore, sick adults and sick children should be given the same rights because they both have the role of being sick persons. By being sick they have attained certain competencies like understanding what death is and also enduring certain suffering which make them qualified to have rights like the right to request to be euthanized. It makes sense to then claim that a terminally-ill child be given the same rights as a terminally-ill adult because they share the same qualification of being terminally-ill.

⁴⁵ Ibidem, 3.

⁴⁶ Ibidem, 3.

⁴⁷ Ibidem, 7.

⁴⁸ Singer, *Practical Ethics*, 87.

⁴⁹ Ibidem, 87.

⁵⁰ Brennan and Noggle “The moral status of children: Children's rights, parents' rights, and family justice,” 7.

The moral status of children's rights leans towards attributing children the same rights as adults, whereas legal rights as mentioned in the previous section shows that children are justified in being treated differently due to the assumed incompetency they possess. The next section will look further into the various theories on children's rights. This dissertation so far argues in favour of equating children with equal rights especially in regards to the euthanasia law. This stance will be furthered in the following sections, with a specific focus on promoting the Liberationist stand which shares in common the notions of the thesis of Equal considerations mentioned in this section.

3. Theories on Children's Rights:

When understanding whether children have the right to die it is important to also look at the theories which either advocate or oppose children's rights. In this section four strands of children's rights theories will be looked at. The first being Will theory, second is Interest theory and finally the Liberationist perspective will be explained in section 4. The Liberationist perspective is defended in this thesis.

3.1. Will/ Choice Theory:

According to the Will Theory of rights, children do not have rights. Therefore, they also do not have the right to die or demand to be euthanized. Will theory states that person A has a right against person B, if and only if, person A has the capacity to "waive, or demand, the performance of" this duty by person B.⁵¹ If person B fails to carry out the duty, then person A must have the capacity to enforce the duty. The important factor determining whether an individual has a right is their ability to control the individual carrying out the duty. Under this theory each individual is made a "small scale sovereign" over other people's duties towards that individual.⁵² Therefore, children and the mentally disabled are not considered to be rights-holders according to Will theory because they do not have the capacity to exercise control coherently.⁵³ According the H.L. Hart who is an advocate of the Will theory, children will only be capable of waiving or demanding the duty of others once they have reached the age of maturity.⁵⁴ The issue with this theory is that there are then individuals that cannot exercise power such as infants and unconscious people and therefore are considered to not have rights. But this is incorrect because those individuals still have rights such as the right to not be tortured for example or the right to not be raped.⁵⁵ This theory does not account for those individuals are considered to be persons but unable to exercise control. Just because an individual cannot voice their opinion does not mean that they do not have rights. Rights are inherent. In the context of the right to die it does not follow that just because an infant cannot verbalize their opinions that they do not have an inherent right to avoid pain and suffering. Avoidance of pain and suffering is a moral right, as mentioned in section 2.1., moral rights cannot be created but are instead discovered and

⁵¹ Kramer, Matthew. *The legacy of H.L.A. Hart* (Oxford: Oxford University Press, 2008), 225.

⁵² Hart, Herbert L.A. *Essays on Bentham* (Oxford: Clarendon Press, 1982) 183.

⁵³ Kramer, *The legacy of H.L.A.*, 225.

⁵⁴ *Ibidem*, 243.

⁵⁵ MacCormick, Neil. *Legal Right and Social Democracy*, (Oxford: Oxford University Press, 1982), 154–66

therefore is a right that all beings possess. They have this right because it is a right that all individuals have regardless of their ability to express this opinion in words. Hence this theory is implausible because it creates a marginalization of certain groups of people on the basis of exercising control as a factor in having rights which is not a sufficient factor. It also states that certain individuals do not have rights when they clearly do.

3.2. Interest Theory:

Interest theory advocates preserving the interests of the individual. According to this theory the competency of an individual does not play a part in whether the individual has a right or not because the aim of this theory is to protect the right-holder's interests.⁵⁶ All individuals are right-holders because they have an interest in something. Since children have an interest to be protected they therefore have rights.⁵⁷ Being able to make a choice is not a requirement under this theory, and also having the power to control is also not a necessity. Under interest theory there are no groups being marginalized unlike in will theory. As a result, children and also individuals in a coma or are handicapped also have rights. This theory emphasizes the importance that the rights work to the benefit of the right-holder and this is dependent on the context in which the right is being exercised.⁵⁸ The basis of these interests are that they are based on universal and fundamental interests of the individual such as "sufficient nutrition, potable water, adequate shelter, and basic medical care."⁵⁹

According to this theory, children do have rights but they are dependent on adults to fulfil those rights or to request those rights for the child. By adults fulfilling those rights, then children have rights. Therefore, the relationship begins with the adult and ends with the child rather than the rights stemming from the start from the child. The interests of a child are determined by adults in society and they are assumed to be the rights of the child. This is done so on the basis of retrospective judgement.⁶⁰ Retrospective judgement is similar to retroactive consent that was mentioned in section 2.1 when describing the thesis of unequal treatment which shares also many characteristics with the interest theory. According to

⁵⁶ Micheal Hastings. "For an Interest Theory Conception of Human Rights." *Academia.edu*, https://www.academia.edu/3023745/For_an_Interest_Theory_Conception_of_Human_Rights. (accessed May 4, 2014), 3.

⁵⁷ Wenar, Lief. "Rights." *Stanford Encyclopedia of Philosophy*, December 19, 2005. <http://plato.stanford.edu/entries/rights/> (accessed May 27, 2014).

⁵⁸ Hastings, "For an Interest Theory Conception of Human Rights," 4.

⁵⁹ *Ibidem*, 4.

⁶⁰ Fortin, Jane. *Children's rights and the Developing Law* (New York: Cambridge University Press, 2009), 16.

retrospective judgment there are three types of interests which are “basic, development and autonomy” interests.⁶¹ The basic interests refers to “physical, emotional and intellectual care and well-being”.⁶² Development interests are interests that society should fulfil in order to improve the individuals potential and finally autonomy interests refer to the extent that the child is free to choose how they live.⁶³ If the developmental or basic interest of a child comes into conflict with their autonomy then the developmental and basic interests must take priority because any threat to the well-being of the child is assumed to be unacceptable to the child if they were an adult and looked back at the situation.⁶⁴

This retrospective judgment causes issues when it comes to euthanasia laws for children. First of all, the theory claims that when developmental or basic interests come into conflict with autonomy interests then the former interests must take priority. The problem here is that although those interests are based on universal interests, what is considered as acceptable autonomy interests are based on the legal framework within a state. Meaning that in one country euthanasia being permitted for children would mean that the child has the freedom to choose how they die and there would be no conflict between their basic and development interests and autonomy because the child is able to choose how they live. However, in other countries this would cause conflict since the well-being of the child is not considered to be improved if they are allowed the right to die. Another issue with this theory is that those interests are determined by healthy adults when making decisions for sick children. This means that a terminally-ill child may understand their own situation better than adults who are not suffering from a terminally-ill disease but are making judgments for those terminally-ill children. Obviously doctors and medical staff would be more competent in their understanding of a sick child’s suffering, however most legal laws are created by individuals in government who have no qualifications regarding the matter. For those healthy adults who assume to know the best interests of the child, they would maintain that euthanasia would violate the basic interests of the child. Retrospective judgment only works if that terminally-ill child will actually grow up to be an adult and would look back on the situation and state that the choice made was indeed the right one at that moment. The problem with terminally-ill children is that they will not have that opportunity, instead their life span is limited. These fundamental and universal interests are also based on the assumption that individuals are

⁶¹ Ibidem, 16.

⁶² Ibidem, 16.

⁶³ Ibidem, 16

⁶⁴ Ibidem, 16

healthy rather than severely ill. The well-being interest then is different for a healthy individual and a sick one. The problem still remains that adults are the individuals that determine the rights of the child on the basis of what they believe to be the best interest of the child rather than the child itself making the decision for themselves if they have the capacity to do so.

Although interest theory makes a leap in the right direction with considering children to be right-holders, it still does not give them the full freedom to carry out those rights. There is still a reliance on others to carry out the rights for the child meaning that others may choose either to fulfil these rights or not. The child is not considered to have the same moral status as an adult, and this is necessary in order for children to be true rights-holders. This is where the Liberationist perspective comes into the picture. This perspective takes interest theory one step further by stating that all children have the same rights as all adults. The Liberationist perspective will be explained in further detail in the following section.

4. Liberationist perspective.

The liberationist perspective rejects the claim that children do not have rights and are in agreement with Interest theory in that children are right-holders. Liberationists state that children be given the same rights as adults and also be given the “same moral and legal status” as adults.⁶⁵ Liberationists state that children should be given the same right to self-determination that adults possess.⁶⁶ The reason that liberationist’s state that children should be attributed the same rights as adults is because of their disagreement with the “paternalistic treatment” of children in society is unjustified.⁶⁷ These paternalistic tendencies are emphasized in the “social and legal structures” in society that restrict the rights of children.

According to the main advocates of the Liberationist perspective, which are Holt and Farson, the lack of rights children possess is due to the societal construct of childhood which justifies oppressive attitudes and discrimination towards children.⁶⁸ Children are limited in what they are allowed to do because of the way society perceives children as being incompetent of understanding certain consequences. For Holt, in the family dynamic, the parents are the “chief oppressors” of children and in order to combat this oppression children must be given equal rights.⁶⁹ The liberationists would advocate giving the right to die for children if the right to die for adults exists.

A second argument that favours the liberation of children is by John Harris. If capacity plays an important role like will theory advocates in having rights, then their claim is that having certain capacities means you have rights.⁷⁰ In order to be consistent with this latter claim then, adults that do not possess the capacities necessary to have rights (disabled, blind, mentally-challenged) should be denied certain rights as well.⁷¹ Otherwise, in order to remain consistent, grant children equal human rights to certain children that do possess the capacities necessary to have rights. If competence means that individuals should have rights, then children that are competent and autonomous should be given rights and adults that are not competent nor autonomous should not be given rights. Since in society all adults are given full human rights regardless of their competency, the claim that children should not be

⁶⁵ Austin, Micheal. *Conceptions of parenthood* (Aldershot, England: Ashgate, 2007), 66.

⁶⁶ *Ibidem*, 66.

⁶⁷ *Ibidem*, 67.

⁶⁸ Fortin, *Children's rights and the Developing Law*, 4.

⁶⁹ *Ibidem*, 8.

⁷⁰ Austin, *Conceptions of parenthood*, 68.

⁷¹ *Ibidem*, 68.

given the same rights because they are all assumed to be incompetent is then redundant.⁷² The basis of Harris's claim is autonomy and respecting autonomous decisions and the age of the person in question should not automatically disqualify them from being able to make an autonomous decision. In order to determine whether a decision is autonomous, this must be done on a "case-by-case basis for both adults and children."⁷³ If it is determined that the child is making a competent and autonomous decision then it follows that the child should be given absolute control on their right to self-determination.

The obvious problem that arises here is that in order to determine whether a decision is autonomous would require a lot of resources and time in order to properly evaluate the autonomy of those decisions. A reply that liberationists give is that it is easier to attribute to everyone the same rights and those that require the exercise of certain rights will choose to exercise those certain rights. It is only for life-threatening decisions that a proper evaluation of an individual's competency is necessary since death is viewed as absolute harm, and there are already protocols in place that test an individual's competency in regards to euthanasia. By attributing everyone the same rights does not mean that each individual will exercise all those rights rather they have the option to do so.⁷⁴ Reaching the age of maturity entails more freedoms in the form of being able to smoke, drink and vote. Once individuals have reached that age of maturity, it does not mean that every individual will smoke or drink, but they have the option to do so. Therefore, by giving the right to die to children does not necessarily follow that every child will request to die, it is only those that see a need to be euthanized that will genuinely exercise this right. Those few children that choose to be euthanized can then be individually evaluated on whether their decisions are truly autonomous and therefore needing fewer resources to do so as opposed to evaluating each and every individual.

A third argument in favour of promoting equal rights for children and adults is an argument that attacks the competency claim that many opponents of children's right use. Liberationists state that preventing a child from making decisions because they might make the wrong decisions is not a valid reason because even wrong decisions are a means of learning.⁷⁵ Since learning right from wrong is a learning process through experience, the

⁷² Ibidem, 68.

⁷³ Ibidem, 68.

⁷⁴ Ibidem, 68.

⁷⁵ David Archard. "Children's Rights." *Stanford Encyclopedia of Philosophy*. November 1, 2010, <http://plato.stanford.edu/entries/rights-children/> (accessed June 3, 2014).

experiences are necessary and should not be restricted. By attributing children certain rights does not mean that other individuals cannot advise or counsel children to possibly choose another option. For children suffering a terminally-ill disease, their experiences shape their priorities and they are also aware of their death. By preventing them from requesting to be euthanized does not mean that they will not die and does not necessarily protect those terminally-ill children from dying because this is an inevitable outcome for them. The outcome will always be death for terminally-ill individuals and therefore giving children an option of not having to endure suffering is something that should not be denied if we are to be morally considerate of children.

This dissertation will defend the Liberationist claim that children should be attributed the same rights as adults. If adults are given the right to die then this right should also be extended to children. This dissertation will refute the opposing symmetrical and asymmetrical claims. To make it easier to understand I will also create a 2x2 matrix in order to set out the claims clearly:

Child Adult	Right to die	No right to die
Right to die	Pro-euthanasia for all	Only adults have the right to die
No right to die	Only children have the right to die	Anti-euthanasia for all

From this matrix the following asymmetric and symmetric claims are derived:

1. **Adults and children have the right to die.**
2. Adults have the right to die but children do not have the right to die.
3. Children have the right to die but adults do not have the right to die.
4. Adults and children do not have the right to die.

This dissertation will refute the claims 2, 3, and 4 and will defend 1. Claim 3 is supported by the Liberationist theory on children's rights. Section 4 will be used to refute the other 3 claims and will be split according to the various claims.

5. Refuting symmetrical and asymmetrical claims

5.1. Adults have the right to die but children do not have the right to die.

So far this dissertation has argued in favour of children having the same rights that adults have. The argument follows the liberationist perspective. In many countries, having the right to die, is only permitted for adults above the age of eighteen years of age whereas children are not permitted to do so. The reason why states advocate that adults have the right to die and children do not, is because states assume that children lack competency. Adults are associated with characteristics such as maturity, experience, and capacity for judgment.⁷⁶ Children are considered to be irrational and unable to comprehend the responsibilities associated with certain rights. Paternalism within society plays a large part in creating this image of the incompetent and irrational child as has been mentioned in the previous section on the legal rights of children. Essentially the basis for why adults have the right to die and not children is because of the assumed inability to comprehend such matters like death. However, what this dissertation claims is that the experiences will impact the competency of individuals and therefore will mean that individuals seeing the necessity for euthanasia will do so because the experiences they are going through will necessitate it. For individuals that cannot make autonomous decisions like these because they are incapable of verbalizing their interests then will have to rely on others to make the decision for them as if they were those individuals. If others can see that they individual is suffering intolerable pain, then the individuals should be relieved of their suffering through allowing them the option of being euthanized.

In order to refute the claim that adults have the right to die but children do not, it is necessary to look at the reasons why euthanasia is permissible for adults in order to explain how these reasons are also applicable to children. There are many reasons in favour of allowing adults to request to end their lives if they are suffering unbearable pain. The three main arguments in favour of euthanasia will be explained in the following paragraphs. The first reason favouring euthanasia is derived from the utilitarian perspective and is based on the pleasure principle by Jeremy Bentham. According to this principle, humans are governed by pleasure and pain in all aspects of their lives.⁷⁷ Humans strive for pleasure and avoid all

⁷⁶ Singer, *Practical Ethics*, 8

⁷⁷ Driver, Julia. "The History of Utilitarianism." *Stanford Encyclopedia of Philosophy*. March 27, 2009. <http://plato.stanford.edu/entries/utilitarianism-history/> (accessed May 28, 2014).

forms of pain.⁷⁸ When making decisions humans will evaluate their actions on whether it will yield the highest amount of pleasure.⁷⁹ Therefore, striving for pleasure grounds our interests as well and it is not the necessity of intelligence that grounds our interests as humans. This argument when used in favour of euthanasia claims that if everyone has an interest in striving for pleasure then making someone endure pain is not in anyone's interest and it is unacceptable. It also creates a moral obligation for others to help the individual to not endure pain and instead to help them achieve pleasure. Not fulfilling the wishes of an individual to avoid pain and strive for pleasure is to yield to an evil since pain is associated with evil. Euthanasia is justified if the pain that the individual will suffer in the future outweighs the pleasure they would be able to experience while still living. It is only wrong to kill an individual who would experience far more pleasure than pain.⁸⁰ Death is "the end of all pleasurable experiences" or any experience for that matter because the individual ceases to exist.⁸¹ Thus individuals suffering an incurable disease which has the patient suffering unbearable pain is justified according to the utilitarian calculation. Meaning people should be allowed to euthanize themselves because the foreseeable future has more pain than pleasure and death is the end of experiences. Since all humans feel pain, and intelligence is not necessary in feeling pain, it should follow that if an adult is given the right to avoid pain that children should also be given this liberty. This means that infants who are considered to not be self-conscious beings also have an interest in avoiding excruciating pain.⁸²

The second argument in favour of euthanasia stems from the libertarian perspective. According to John Stuart Mill's harm principle the "pursuit of personal well-being" should only be interfered with if it harms others.⁸³ According to this principle "individuality" or "autonomy" are necessary in order to achieve "well-being" which is achieved through "self-determination".⁸⁴ The harm done to others is the main motivator for interference and harm done to oneself is no cause for interference.⁸⁵ In order for an individual to pursue autonomy they must be given the right to self-determination and this self-determination entitles the

⁷⁸ Ibidem.

⁷⁹ Ibidem.

⁸⁰ Singer, *Practical Ethics*, 102

⁸¹ Ibidem, 102.

⁸² Ibidem.p.171

⁸³ Nys, Thomas, Yvonne Denier, and Toon Van de Velde. *Autonomy & Paternalism: Reflections on the Theory and Practice of Health Care* (Leuven: Peeters, 2007), 7.

⁸⁴ Ibidem, 7.

⁸⁵ Ibidem, 7.

individual to choose how they live their lives so long as it does not harm others around them. Since euthanasia results in the death of the individual requesting to be euthanized, it is therefore not harming anyone else in causing their deaths. Death is a personal thing. According to this principle euthanasia should be acceptable. John Stuart Mill however did state that it was justified for the state to put in place restrictions on children in order to protect them.⁸⁶ Even though he does claim that children should be restricted in their rights in society, his harm principle says otherwise when it comes to only limiting the euthanasia laws to adults. Under the harm principle, the main feature is not doing harm to others, and euthanasia only results in harm to oneself and not to others. Therefore a child having the right to euthanasia only results in harm to themselves and not others, the same as for adults having the right to euthanasia. Although the word harm is associated with a negative connotation, it can also result in a positive outcome especially for individuals suffering incurable and painful diseases. The counterclaim to this argument is that although euthanasia only harms the individual in question, it causes harm to those that love the individual because their death causes grief for them. However, forcing another individual to endure pain and suffering for your benefit is a selfish act and does not benefit the individual who is suffering. It is not done on moral grounds but instead on the basis of the needs of another. Another individual's grief is usually not as severe as forcing an individual to endure pain and suffering by forcing them to stay alive even if they do not want to.

The third argument favouring euthanasia is if euthanasia will not be permitted it will happen anyways. It is better to make it legal so that it can be better regulated. An example that Peter Singer gives in his book "Practical Ethics" about a man named George Zygmanskiak is a prime example of mercy killing occurring without it being permissible. Mr. Zygmanskiak had been a severe accident that had left him paralysed from the neck down.⁸⁷ Euthanasia was not permissible in New Jersey, the state where he lived.⁸⁸ George begged his brother Lester to kill him because he did not want to go on living in the state he was in any longer.⁸⁹ Lester walked into the hospital one day with a gun and shot his brother through the head.⁹⁰ Right before killing George, Lester once again asked George whether he wanted to be killed and

⁸⁶ Hart, "From Property To Person Status: Historical Perspective On Children's Rights." 53.

⁸⁷ Singer, *Practical Ethics*, 177.

⁸⁸ *Ibidem*, 177.

⁸⁹ *Ibidem*, 177.

⁹⁰ *Ibidem*, 177.

George nodded his head in agreement.⁹¹ Peter Singer states that if the killing had been legalized then it could have been performed in a much less distressing manner than was currently done. Since mercy killing is considered murder Lester had to keep his plans a secret and thereby making it impossible to evaluate the motives for killing properly.⁹² If the plans were made known then steps could have been taken to ensure that the killing was done purely to end the suffering of the brother through a court process. Although it is evident that the brother did it for the love of his brother, it still remains that legalizing euthanasia gives more control and means of monitoring through legal measures to ensure that the killing is done for the right reasons. If euthanasia is legalized it allows an individual a more dignified means of ending their lives than what happened to George Zymaniak. In the Netherlands, the Groningen Protocol was set up as a result of legalising euthanasia for infants in order to monitor the process of euthanasia and whether they are done properly and for the right reasons why the medical staff. Under this protocol rigorous evaluations and reviews take place once an infant has been euthanized and the doctor is obligated to report each euthanized case for review.⁹³ The evaluations take place in court and the court determines whether the doctor was justified in their actions and if not they are prosecuted.⁹⁴ With strict regulations in place there is increased assurance then that mercy killings are done with justified reasons. Fears that doctors will become God-like and choose to kill whomever they want become an irrational thought when strict policies are in place.

There is also a fourth argument favouring euthanasia but from an economic perspective. This argument is not very popular amongst many societies however it is one that is still valid and important to include amongst the arguments favouring euthanasia. According to the argument euthanasia should be permissible to free up scarce and expensive medical resources.⁹⁵ Especially for individuals that are suffering incurable and severe diseases that require expensive and extensive medical care.⁹⁶ Instead of focusing these sparse resources on individuals that will die anyway, they could be used on others who are not going to die.⁹⁷ The money saved when not being spent on the lives of those individuals that will die anyway

⁹¹ Ibidem, 177.

⁹² Ibidem, 177.

⁹³ Verhagen, Eduard and Pieter Sauer. "The Groningen protocol - euthanasia in severely ill newborns." *New England Journal of Medicine* 352, no.10 (2005): 961-2.

⁹⁴ Ibidem, 962.

⁹⁵ Wilkinson, John. "The ethics of euthanasia." *Palliative medicine* 4, no.2 (1990): 83.

⁹⁶ Ibidem, 84.

⁹⁷ Ibidem, 84.

could be then redirected into improving the health care sector or other sectors in the society like education.⁹⁸ Although this is a valid argument it is one that no one advocates seriously because it makes individuals out to be disposable rather than attributing individual's dignity which is the foremost reason for euthanasia being advocated. Euthanasia is done out of compassion for another individuals suffering and is not done on the basis of saving on money and resources.

The four arguments above are used to mainly promote euthanasia for adults however I fail to see why they cannot be used to promote euthanasia for children as well. The arguments presented above favour euthanasia for humans in general and are not focusing on specific adult characteristics. The claim that adults have the right to die and children do not is not valid due to the fact that the arguments above are just as valid for children. These arguments are in favour of euthanasia for humans or persons meaning that children would also fall under this category. The following paragraph will look at what it means to be a person and how adults and children are persons and therefore claims about euthanasia being a good thing should apply also to children. It is important to first define what a person is and this will be done in the following paragraphs.

Peter Singer equates personhood with individuals being “rational and self-conscious” in an effort to forgo any discriminatory characteristics that would describe a person.⁹⁹ Singer wanted to find a means of describing beings without using physical and biological differences in an effort to reconcile the differences between animals and humans. By doing this Singer also provides a strong argument favouring the equal consideration of children in certain rights. Peter Singer furthers the argument through another theory that Micheal Tooley proposes. According to Tooley, beings or persons must be able to “conceive of themselves as distinct entities existing over time” and the desires that a being has are related to the rights they are said to have.¹⁰⁰ However, although this argument is used to explain why a person has the right to life, it can also be used to argue why a person has the right to die if it is their desire to die then they have the right to do so. In order to account for persons that are sleeping or unconscious, Tooley also claims that if a being has had the “concept of having a continued existence” at a certain moment in their lives but not anymore, they are still considered to be

⁹⁸ Ibidem, 84.

⁹⁹ Singer, *Practical Ethics*, 87.

¹⁰⁰ Singer, *Practical Ethics*, 97.

persons.¹⁰¹ Being a person also entails “a creature capable of valuing its own existence”.¹⁰² If a person wants to live and they are killed, then they are said to have been wronged because they are “deprived of something they value”.¹⁰³ Those persons that do not want to live in contrast are not wronged when they are killed through voluntary euthanasia. This argument can also be extended to individuals that are considered to be “non-persons or potential persons” which include individuals incapable of valuing their own existence such as infants and individuals that are unconscious.¹⁰⁴ These non-persons or potential persons cannot be wronged because they cannot “wish to live” because wishing requires self-awareness and consciousness.¹⁰⁵ Therefore they will not have their “[wishes] frustrated by being killed”.¹⁰⁶ The importance of being a person is not that it is important to respect life but to respect the autonomy of the person. The autonomy of an individual allows them to also add value to their own lives. To value one’s life is make our own “choices, decisions and preferences” which in turn “helps us to confirm and modify our own character and enables us to develop and to understand ourselves”.¹⁰⁷ Therefore, having autonomy is vital in attributing value to one’s life. If an individual does not have autonomy then their life cannot become more valuable through their choices and preferences. Autonomy allows the individual to makes choices for themselves and thereby increase their self-determination. Personhood is equated with self-awareness and self-consciousness and therefore autonomy is also associated with personhood.

According to the description in the previous paragraphs children fall under the category of persons. The issue arises with infants who are considered to not be self-conscious beings according to Peter Singer. It is important to also differentiate what children and infants are. All individuals under the age of eighteen years of age are grouped under one category of being a ‘child’. But when a child reaches a level of self-awareness and self-consciousness they do not do so at eighteen but at the age of two or three years of age.¹⁰⁸ This is a result that many psychologists have found after researching on when children become self-aware.¹⁰⁹

¹⁰¹ Ibidem, 98.

¹⁰² Keown, John. *Euthanasia examined*. (Cambridge: Cambridge University Press, 1995), p.9.

¹⁰³ Ibidem, 9.

¹⁰⁴ Ibidem, 9.

¹⁰⁵ Ibidem, 9.

¹⁰⁶ Ibidem, 9.

¹⁰⁷ Ibidem, 11.

¹⁰⁸ Rochat, Philippe. “Five levels of self-awareness as they unfold early in life.” *Consciousness and cognition* 12, no.4 (2003): 718.

¹⁰⁹ Ibidem, 718.

Meaning that children are persons from the age of two or three years. The Liberationists were right in claiming that the age-threshold is set too high in restricting rights for children because they are able to understand and comprehend their desires at a much younger age. Micheal Freeman also criticises this age-threshold set in society by stating that there is no real distinction between an individual who is eighteen years old and one day and another individual who is seventeen years and three-hundred and sixty-four days old.¹¹⁰ It is not as if on the day you become eighteen years old you will suddenly become very intelligent and suddenly possess great abilities as opposed to the day before your birthday when you were still seventeen. This age threshold is not a valid boundary in dividing competencies because competencies are determined by experiences and not age. There have been cases in the past where minors were allowed to determine whether or not they followed through with medical treatment even if their lives were in danger highlighting that the age-threshold is not a firm boundary. In a Court case in Illinois there was a seventeen year old girl who was suffering from acute non-lymphatic leukaemia and refused to undergo a blood transfusion because she was a Jehovah's Witness and prohibits blood transfusions.¹¹¹ The court in America ruled in her favour stating that although she was under eighteen she was "mature for her age" and the age threshold for achieving full adulthood is merely a guideline and should be open to exceptions like these.¹¹² This is an example of the age-threshold not reflecting the true maturity and competencies of individuals. This was a case in which an individual was allowed to choose how they lived their lives and were not prevented from making decisions pertaining to their bodies on the basis of their age. There was another case in America where a minor named Chad was involved in a severe car crash which left him in a vegetative state.¹¹³ Chad had stated prior to his accident that if he ever ended up in a vegetative state that he would want to be taken off life support. Since he voiced these opinions when he was seventeen this became an issue.¹¹⁴ If Chad had expressed his wishes when he was officially considered to be an adult then there would have not been an issue although the difference in age is only a few months. His case was taken to Court and his parents had to endure a tediously long trial in order to be able to fulfil Chad's wishes. Ultimately the Courts ruled in

¹¹⁰ Freeman, Micheal, and Philip E. Veerman. *The Ideologies of children's rights* (Dordrecht: M. Nijhoff Publishers, 1992), 35.

¹¹¹ Meisel, Alan, Kathy Cerminara, and Thaddeus Pope. *The Right to Die: The Law of End-of-Life Decision making* (New York: Aspen Publishers, 2004), 9-19

¹¹² *Ibidem*, 9-19.

¹¹³ *Ibidem*, 9-19

¹¹⁴ *Ibidem*, 9-19

their favour but after demanding copious amounts of evidence to support the wishes of Chad to be taken off life-support. It is unfair that Chad's wishes may not have been fulfilled merely due to his age even though he definitely knew and understood what he was requesting when stating his wishes to be taken off life-support. The technicality of his age almost prevented him from being able to have his wishes granted.

Infants still remain a problem when it comes to them being able to express their interests because they cannot talk. Infants are considered to be non-persons according to Peter Singer and their interests cannot be violated as a result. Although infants cannot verbalize their interests they can still express what they feel through gestures and noises.¹¹⁵ Pain is a universal language and, as mentioned earlier, intelligence is not a necessary component in understanding pain since all beings experience pain.¹¹⁶ Peter Singer gives the example of his daughter falling and scraping her knee and through crying she makes known to him that she is in pain.¹¹⁷ Pain is indeed something that is a private sensation and you can never directly know the pain another is feeling. The only way to know someone else's pain is through their own "self-report" or through observation of their behaviour.¹¹⁸ Infants may not be considered to be persons because they have no sense of self-awareness but they still have the capacity to feel pain. The pleasure principle argument favouring euthanasia states that if the pain outweighs the pleasure then euthanasia is the moral option to ensure that pain is alleviated. So infants also have the right to die but are much more limited in expressing their interest. The right to die for infants would be more reliant on adults accurately inferring the pain they are experiencing. This should not be a problem because those individuals are usually doctors that make decisions like these. Doctors are qualified and experienced with pain and suffering because they see it frequently and thereby are able to make judgments on how much pain an individual is going through regardless of whether they can verbalize this pain or not.¹¹⁹

¹¹⁵ Alderson, Priscilla. *Young children's rights* (London: Jessica Kingsley Publishers, 2008), 88.

¹¹⁶ Singer, *Practical Ethics*, 23

¹¹⁷ *Ibidem*, 69.

¹¹⁸ Schechter, Neil, Charles Berde, and Myron Yaster. *Pain in infants, children, and adolescents*. (Philadelphia: Lippincott Williams & Wilkins, 2003), 130.

¹¹⁹ De Wispelaere, Jurgen, and Daniel Weinstock, "Licensing Parents To Protect Our Children?" *Ethics And Social Welfare* 6, no.2 (2012): 196.

5.2. Children have the right to die but adults do not have the right to die.

The second claim that will be refuted is that children have the right to die but adults do not have the right to die. The previous section focused on refuting the claims that adults have the right to die but children do not. The claims for why adults have the right to die could easily be extended to children since they are not determinant on characteristics that only adults have. The same arguments in this sections would be used to advocate euthanasia for children. As mentioned in the previous paragraph, those argument are not dependent on adult or child characteristics, but instead on human characteristics. The claim that adults have the right to euthanasia and children do not exists in many countries that have legalized euthanasia, however the claim that only children have the right to euthanasia would never be one that would have existed in society. Therefore, it seems useless to refute this claim because it is one that would never exist in society and thereby refutes itself. The only time this claim would be in an imaginary world ruled by children who oppressed adults and thereby were given the right to die whereas adults were not because they were ruled by children. However this world does not exist and therefore I will not spend time refuting a claim that is impossible. Since the whole point of this dissertation is to advocate equality between groups by attributing to everyone the right to die as a compassionate means of alleviating an individual's suffering, it would make no sense to argue in favour of only children having the right to die. Section 5.1 explained why euthanasia should also be extended to children as well as to adults and therefore the claim that only children should have the right to die is also automatically refuted as a result of what was said under section 5.1.

5.3. Adults and Children do not have the right to die.

This dissertation has thus far been in favour of euthanasia not only for adults but also for children. Arguments have been provided in favour of euthanasia but nothing has been said about the objections to euthanasia. These objections will be laid out in this section and also refuted. The claim that will be refuted here is that neither adults nor children have the right to die. This claim is one that the majority of world holds within their society since euthanasia is illegal in those societies. The only reason that this dissertation would favour this position would be on the basis of consistency, since the argument here is that either all human beings have the right to die or no human beings have the right to die. This should not be determinant on age as has been emphasized throughout this dissertation. However, my argument is in

favour of euthanasia and therefore the objections against euthanasia will be refuted to strengthen the argument for why children and adults have the right to die.

The first objection to euthanasia is that it may pressure people who feel that they may be a burden on others to end their lives.¹²⁰ Some people may feel that they are a financial burden on their relatives and may therefore choose to euthanize themselves to stop burdening their family members.¹²¹ The first reply to this argument is that if people thought dying was a means of alleviating a burden on their family then they would not need to rely on being euthanized for this to happen. There are many alternative ways of dying and euthanasia would not be the only means of doing so in this context. The second reply to this argument is that euthanasia is heavily regulated in societies where it is permitted. In general, individuals requesting to be euthanized are also tested on their ability to think rationally and whether they have made their decision to end their lives on a rational basis. There is a specific test made to test the competency of children as well and it is called the *Gillick Competency Test*. This test is named after an infamous case in England in which the mother of a sixteen year old child went to court to sue the health service sector for providing “contraceptive advice” to her child in confidence without notifying the parents.¹²² The Courts and House of Lords overruled the mother’s claim stating that if a child is capable of making a rational assessment of the situation then the consent given must be adhered to. The parent’s rights become secondary to the child’s rights in such decisions, especially if the child is tested to be competent enough to make those decisions.¹²³ This test evaluates the ability of individuals to give consent for their treatments or refusal of such treatments and whether they understand what those treatments or lack of treatment will result in.¹²⁴ When individuals request to be euthanized the motivation behind the request is looked into and their competency is tested. Also the right to die is usually limited to those individuals suffering from medical problems and an

¹²⁰ Shand, John. “A reply to some standard objections to euthanasia.” *Journal of applied philosophy* 14, no.1 (1997): 43.

¹²¹ *Ibidem*, 43.

¹²² Wheeler, Robert. “Gillick Or Fraser? A Plea For Consistency Over Competence In Children.” *British Medical Journal*, 332, no.7545 (2006): 807.

¹²³ Nspcc.org.uk. *Gillick Competency And Fraser Guidelines*.

http://www.nspcc.org.uk/Inform/research/briefings/gillick_wda101615.html (accessed April 22, 2014).

¹²⁴ Spencer, Grace E. “Children's Competency To Consent: An Ethical Dilemma.” *Journal Of Child Health Care: For Professionals Working With Children In The Hospital And Community* 4, no.3 (1999): 119.

individual's sickness and suffering is usually very evident for medical staff to see. The right to die is not extended to any person who suddenly is inspired to die, it is usually for those that are suffering unbearable pain. If an individual really wants to kill themselves and has no medical reason to do so, then those individuals would find another way. In sum, the argument against the objection is that euthanasia is not necessary for individuals who feel they are burden to others to kill themselves because there is always another means. Euthanasia is only extended to individuals suffering incurable pains or will suffer incurable pains as a result of medical issue.

The second objection is that euthanasia deprives the individual of changing their decision because once the act is successfully conducted the individual is dead.¹²⁵ The reply to this objection is that once someone is dead they cease to exist. This means that the being does not experience anything anymore and has no preferences anymore.¹²⁶ It does not make sense to argue that a dead person may change their minds after being euthanized because once you are dead you cease to be able to change your mind on such a matter. The objection is based on the perspective of others on the matter or on the perspective that is "senselessly hypothetical" because it is an assumption of what the dead person might want.¹²⁷ Euthanasia is thought of as being a negative thing whereas continuing to live is considered to be a positive thing.¹²⁸ However, euthanasia may be chosen because of the positive outcome it will yield since continuing to live for certain individuals who are suffering will yield a negative quality of life for them.¹²⁹ Living through unbearable and insufferable pain without anything to alleviate it is obviously worse than ending your life to avoid having to endure such pain.

A third objection to euthanasia is one that is frequently voiced among opponents of euthanasia and it is the slippery slope argument. This argument states that by permitting euthanasia will lead to "morally objectionable" acts of euthanasia.¹³⁰ This argument is refuted on the basis that there may be cases where a person is involuntarily killed by another individual which will give some kind of gain to the latter individual (usually in cases of inheriting money for example).¹³¹ But there are also instances where people force someone to

¹²⁵ Shand, "A reply to some standard objections to euthanasia," 44.

¹²⁶ Singer, *Practical Ethics*, 128-130

¹²⁷ Shand, "A reply to some standard objections to euthanasia," 44.

¹²⁸ *Ibidem*, 45.

¹²⁹ *Ibidem*, 45.

¹³⁰ *Ibidem*, 45.

¹³¹ *Ibidem*, 45.

stay alive against their wishes for the benefit of these people and not the person being forced to stay alive (to receive government benefits for example).¹³² It is easier to detect the first situation happening because it is easier to note if someone is dead than if someone is being forced to stay alive.¹³³ Therefore, there is no certainty of whether there are more people being killed for some sort of gain than people being forced to stay alive for some sort of gain.¹³⁴ It could be that there are more people being forced to stay alive against their wishes which is worse since they are made to endure suffering and it is less easily detectable. Whereas when an individual is involuntarily killed, it is much more detectable in society. Many claim under the slippery slope argument that promoting euthanasia means that society is undervaluing life.¹³⁵ This seems to be a strange objection because although euthanasia means ending a life, it is done for the benefit of the person being killed as a means of showing compassion to that persons because you do not want them to suffer.¹³⁶ Euthanasia is not undermining life but instead giving it more value by helping the individual to avoid having to live out their days through pain and suffering and allows them to die with dignity.¹³⁷ Allowing autonomous individuals to request to be euthanized also attribute more dignity to them by allowing them to determine not only how they live but also how they die.

The third objection is that palliative care has improved over the last years that there is no need to euthanize anymore because there is sufficient care to help alleviate pain. According to those advocating palliative care over euthanasia, they claim that nowadays improved methods in the use of “analgesics and narcotics” enable us to help relieve pain rather than only euthanize as a means of relieving severe pain.¹³⁸ Although these improvements have been made in the field of palliative care there still remains a lot of trial and error in determining the right level of medication to relieve pain for the patient which is usually in itself a painful experience. Not only is this a problem but it is also “highly paternalistic” according to Peter Singer to tell a patient that they are being taken care of so well that they do not need to be given the option of being euthanized.¹³⁹ This is paternalistic because the choice is being made for the autonomous patient rather than the patient being

¹³² Ibidem, 45.

¹³³ Ibidem, 45.

¹³⁴ Ibidem, 45.

¹³⁵ Ibidem, 45.

¹³⁶ Ibidem, 45.

¹³⁷ Ibidem, 45.

¹³⁸ Wilkinson, John. “The ethics of euthanasia.” *Palliative medicine* 4, no.2 (1990): 86.

¹³⁹ Singer, *Practical Ethics*, 200.

able to choose whether to opt for palliative care or other options. It should be left to the individual to decide whether or not they choose palliative care or not in order to respect individual freedom and autonomy.¹⁴⁰ By legalizing euthanasia it provides individuals with an option to end their lives.

The fourth objection to euthanasia is that although it may be good for the patient it may bring grief to those surrounding the patient and thereby cause others harm.¹⁴¹ However, this objection is quite ridiculous in the sense that those individuals that it would bring harm to are usually family members and relatives and those individuals want what is best for their family member who is suffering unbearable pain. This is evident from cases like this one in Belgium, before euthanasia for children was legalized, in which two parents were pleading with Courts to be able to euthanize their baby who was suffering from Krabbe's disease.¹⁴² The mother named Linda van Roy could do nothing but watch as her baby gradually deteriorated painfully; euthanasia was at that point not permitted but instead palliative care was being administered.¹⁴³ According to the mother, she could see that her baby was suffering so much pain and that there was no more medication left to give to relieve the pain.¹⁴⁴ The mother was so angry at the fact that her daughter had to go through so much suffering rather than being able to end her suffering through euthanasia.¹⁴⁵ Another refutation of this objection is that the grief that others would feel is nearly not as bad as the pain and suffering that the individual would have to endure were they to be forced to stay alive. Other people's grief could be considered to be self-centered because if they force the individual to stay alive even though he/she does not want to stay alive then those family-members are doing it for their benefit and not for the benefit of the individual being forced to stay alive.¹⁴⁶ The suffering that death brings others does not affect the individual that is killed because

¹⁴⁰ Ibidem, 200.

¹⁴¹ Luper, Steven. "Death." *Stanford Encyclopedia of Philosophy*, May 26, 2009. <http://plato.stanford.edu/entries/death/> (accessed May 30, 2014).

¹⁴² Diana Magnay, C. "Parents plead to be able to help terminally ill children die." CNN. November 27, 2013. <http://edition.cnn.com/2013/11/27/world/europe/belgium-euthanasia-for-children-debate/> (accessed May 30, 2014).

¹⁴³ Ibidem.

¹⁴⁴ Ibidem.

¹⁴⁵ Ibidem.

¹⁴⁶ Luper, Steven. "Death." [online] *Stanford Encyclopedia of Philosophy*, May 26, 2009. <http://plato.stanford.edu/entries/death/> (accessed May 30, 2014).

when a person is dead then they do not feel anything because they cease to exist as mentioned earlier.

A fifth objection to euthanasia is grounded on religious reasons. It is claimed to go against nature to kill ourselves through euthanasia. The issue with this objection is that if it is impermissible to end our lives through using unnatural means such as medicine then prolonging lives through the use of medicine is also impermissible as well since this too is impermissible.¹⁴⁷ Interfering with nature cannot be seen as a moral problem because in society humans interfere with nature from the moment of conception of other human beings through medication and in vitro fertilization for example.¹⁴⁸ According to David Thomasma, he views interference with natural processes as a means to soften the process.¹⁴⁹ He gives the example of women giving birth and when a woman is about to give birth she cannot stop the process and in order to soften the intensity of the natural process many women ask for an epidural injection.¹⁵⁰ Thomasma states that this is similar to euthanasia because it provides a means of softening the natural dying process since we cannot stop terminally-ill individuals dying but instead can help to soften the process instead.¹⁵¹

5.4. Adults and children have the right to die.

The symmetrical and asymmetrical claims have been refuted in order to advance the claim that both adults and children should have the right to die. The Liberationist perspective is being advocated here. The arguments favouring euthanasia for adults can also be applied to children because they are not dependent on specific adult characteristics. The main motivator for euthanasia for children is to improve the value of an individual's life, which can be advanced through attributing more autonomy to an individual. An individual's life loses its value if an individual is suffering, especially if the suffering is unbearable. Competency is unnecessary in understanding pain which is associated with suffering. Thus all individuals including infants should be allowed the option of being euthanized if their pain and suffering does not outweigh the positive goods in their lives. By allowing children to also make autonomous decisions is to also attribute more dignity to them and self-determination. Children have the ability to make autonomous decisions and if in doubt there is always a

¹⁴⁷ Thomasma, D. *Asking to die*. (Dordrecht: Kluwer Academic Publishers, 1998), 224.

¹⁴⁸ *Ibidem*, 225.

¹⁴⁹ *Ibidem*, 225.

¹⁵⁰ *Ibidem*, 225.

¹⁵¹ *Ibidem*, 225.

means of testing their autonomy. Simply by stating that an individual is not autonomous enough because of a factor such as age is not a valid argument since there are adults who are considered to be less autonomous than certain children under the age of eighteen. The main unified factor that promotes euthanasia for both adults and children is a means of alleviating suffering. This is also an aspect that will be looked into in further detail in the following section as a means of strengthening the claim that children and adults have the right to die.

6.Suffering.

Suffering is considered to be a cornerstone in the realisation of euthanasia and therefore it is important to understand what is meant by suffering. So far, this dissertation has advocated equal rights in terms of the right to die for both children and adults and has done this through refuting symmetrical and asymmetrical claims in the previous section. The arguments favouring euthanasia can be extended to children because they are not dependent on adult characteristics and it has been made evident that infants are considered to be non-persons due to their inability to be self-conscious and self-aware. It has been argued that children should be given the right to die to advance their autonomy and that restricting this right on the basis of their assumed incompetency, based on them being categorized as children, is unacceptable. Instead children should be evaluated on their individual competencies just as adults are when it comes to them being able to ask to be euthanized. Infants should also be given the right to die on the basis that all beings suffer, and it is not morally acceptable to watch someone suffer and not intervene. Doing wrong does not only refer to an action but it also consists of inaction as well.¹⁵² For example, if we find a little girl has fallen down a well, it is not morally acceptable for us to leave that little girl in the well for fear that we may injure ourselves. Still this is not a sufficient explanation of what suffering is considered to be. Therefore, this section will be dedicated to defining what suffering is and what this means for both adults and children alike in the euthanasia debate. Since we have established through Peter Singer's theory that children and adults are persons but infants are not but still should be given moral consideration when it comes to their suffering, I will proceed to talk of both adults and children as one entity.

Suffering refers to a state "of feeling bad overall, or [a] disagreeable overall feeling".¹⁵³ Happiness in contrast refers to a "state of feeling good overall, or [an] agreeable overall feeling."¹⁵⁴ Good and bad feelings can be experienced at the same time; this entails that although you have a few bad feelings, they could be counteracted with more good feelings and this also works vice versa.¹⁵⁵ According to Jamie Mayerfeld on his book on suffering and moral responsibility, he sees a feeling as being disagreeable if it is "intrinsically worse than unconsciousness".¹⁵⁶ It is important according to Mayerfeld when looking at

¹⁵² Mayerfeld, Jamie. *Suffering and moral responsibility* (New York: Oxford University Press, 1999), 8.

¹⁵³ *Ibidem*, 15.

¹⁵⁴ *Ibidem*, 15.

¹⁵⁵ *Ibidem*, 15.

¹⁵⁶ *Ibidem*, 15.

suffering to evaluate whether unconsciousness is better than the suffering or if the suffering can be made bearable through certain “goods”.¹⁵⁷ If the suffering becomes unbearable then individuals would rather choose to be unconscious or non-existent. He does state that feelings and mental states are different in that happiness or suffering affects feeling but does not directly affect an individual’s mental state.¹⁵⁸ Meaning that an individual in general can evaluate their lives on the basis of how they feel. Mayerfeld does disagree with Bentham that our lives are solely determined by our pursuit of happiness and avoidance of suffering. Instead he argues that there are different degrees of happiness and suffering that we as individuals prefer. In general individuals prefer “an experience involving happiness to one involving less intense happiness”, the same is true for suffering in which we prefer “an experience involving less intense suffering to one involving more intense suffering.”¹⁵⁹ Here, the feeling of suffering is a personal thing, and should be left to the individual to evaluate on the basis of whether the goods in their lives can outweigh the suffering in their lives. Mayerfeld also states that it is possible to know to some extent what another individual is feeling by objectively assessing what it is like to be a certain individual who will feel a certain way.¹⁶⁰ It is possible, according to Mayerfeld, to understand another individual’s suffering. This is important in reference to infants who cannot voice their suffering through words and also adults who may be suffering an impairment that does not allow them to clearly state their preferences either. However, if an individual is able to voice their preferences in regards to their suffering then this should be done, it is only for cases where an individual cannot voice their suffering that others should evaluate the suffering for them.

Suffering is not limited to being a result of illness or injury, when looking at the definition given by Jamie Mayerfeld. Instead it is based on an individual evaluation of one’s life in terms of the goods being weighed. This idea is also furthered by Jukka Varelius whose article on euthanasia states that it should not be limited to individuals suffering from illnesses because suffering is a personal thing. According to Varelius it is not sufficient to say that for an “autonomous agent” that suffering is the only thing that “can make life bad” since you could be deprived of certain things like “liberty” which may make your life bad or you may experience “pain” but not necessarily suffer from it.¹⁶¹ The bottom line is that there are things

¹⁵⁷ Ibidem, 16.

¹⁵⁸ Ibidem, 17.

¹⁵⁹ Ibidem, 20.

¹⁶⁰ Ibidem, 19.

¹⁶¹ Varelius, Jukka. “Illness, suffering and voluntary euthanasia.” *Bioethics* 21, no.2 (2007): 77.

other than illness and injury that can “make life bad for an autonomous agent”.¹⁶² When referring to voluntary euthanasia he states that only those that are autonomous agents are able to request to be euthanized.¹⁶³ Otherwise “heteronomous” individuals would be associated with non-voluntary euthanasia because they are “not capable of having autonomous desires and aversions” and are also “unable to have higher order attitudes towards their suffering so that they could consider it as having good characteristics”.¹⁶⁴ The essential argument is that autonomous agents should be allowed to request to be euthanized after they have autonomously considered their lives to be intrinsically bad for themselves that they prefer to end their lives.¹⁶⁵ What is also important is also for the individual to evaluate “whether or not that badness is inescapable” through other means or only through death.¹⁶⁶ If an autonomous agent is “tired of living,” or “considers her existence as meaningless” and wants to be euthanized this should be also acceptable.¹⁶⁷ This autonomy is also advocated by Peter Singer when he claims that persons are persons as a result of their self-awareness and self-consciousness and therefore should be allowed to make decisions for themselves or at least be able to pursue their preferences.

If a person judges their life to be unacceptable and if they have also been tested and found to be autonomous in their judgements then it should follow that they should be given the right to request when they die. Suffering is in general a personal thing however it is not impossible to understand what another individual is feeling and therefore makes it possible to evaluate whether an individual's request is something an autonomous person would request. Infants are considered to be not self-conscious, which is a requirement in order to be considered autonomous, and therefore considered heteronomous. For infants then a limited scope of suffering would be used and this would usually stem from injury or illness rather than the infant autonomously evaluating the goods in their lives and whether it outweighs the suffering. It follows then that although euthanasia is permissible on the grounds that it ends suffering through disease, it could also be extended to individuals that are considered to be autonomous to evaluate whether their lives are worth living. If an individual does not want to live anymore because they are tired of living, then it is not morally permissible to force someone to live because that would mean that the individual would suffer. For that specific

¹⁶² *Ibidem*, 77.

¹⁶³ *Ibidem*, 77.

¹⁶⁴ *Ibidem*, 77.

¹⁶⁵ *Ibidem*, 83.

¹⁶⁶ *Ibidem*, 83.

¹⁶⁷ *Ibidem*, 83.

individual who is forced to live, the suffering would be intense as compared to someone who is not tired of their life. By allowing an autonomous individual the right to die is to allow them to determine the value of their lives.

It is vital to look at the concept of suffering in terms of euthanasia because by claiming that children and adults should be able to have the right to die it means that it is implicit on their competency to understand the request they are making. Since adults and children can be tested on their level of competency which also reflects their ability to be autonomous, it should also follow that if those persons have made an autonomous decision to end their lives, because they are suffering but not directly from an injury or illness, then this request should also be validated. For infants it is another story because of their inability to be autonomous. It has been mentioned that for infants, their suffering would be based on injury or illness from which their gestures and noises can reveal how much suffering they are enduring. Others would be morally obligated to help the infant end their suffering.

7. Conclusion.

The question that this dissertation aimed to answer was whether children have the right to die. It was inspired by the recent implementation of a new law in Belgium which extends the right to die not only for adults but also for children who are suffering from terminal illnesses. The implementation of this new law was viewed by opponents in the world as being unacceptable and by advocates of this new law as a means of extending compassion to children to allow them a means of ending their suffering. The opponents see children as incapable of handling such a decision and thereby do not want children to be able to request to be euthanized for fears that they might not understand the consequences. This issue that children may lack competency has been disputed within this dissertation and also by many paediatricians who have noted that children suffering from terminal-illnesses are more competent of understanding what death is than they are assumed to be. Children of all ages and competencies are assumed to have a low level of competency although this is not the case. Children are portrayed as irrational and incompetent whereas adults are portrayed as rational and competent although this is also not always the case. There are instances where children are more competent than adults are but adults in these situations are still given increased rights and freedoms nevertheless. This is highly discriminatory because individuals are being evaluated on an arbitrary factor which they have no control over. Children cannot change the fact that they are children and just because they have the exterior of a child does not reflect their true competencies.

Euthanasia is a controversial issue on its own since it involves the act of killing which is considered to be morally impermissible and equated to murder. This dissertation argues that the difference between murder and euthanasia is in the intention of the act. The act of murder brings benefit to the killer whereas in euthanasia the benefit is for the one being killed. Euthanasia is a means of mercy killing and relieving an individual from suffering. Suffering is also considered to morally impermissible and it is also morally impermissible to force someone to continue living even though their wish is to not do so. Euthanasia provides a means for individuals to die with dignity. The George Zygmanski example highlighted that euthanasia will allow for a less distressing means of ending one's life rather than having to resort to more gruesome means in order for an individual to have their wishes fulfilled. If an individual really wants to end their life, they will find a means. If we really valued their life then, we would then at least help them retain some dignity in their lives by allowing them a dignified means of ending it through a lethal injection that will allow them to fall into a deep

sleep and then die. The supposed distinction of active and passive euthanasia was also refuted. Active euthanasia is considered to be impermissible whereas passive euthanasia is considered to be permissible because death is considered to be a side-effect of withholding medication and nourishment. However, this is a ridiculously differentiation since it is obvious when withholding medication and nourishment that an individual regardless of being healthy or sick will die. Essentially then all forms of euthanasia are active because the act is done with the notion of what the consequence will be and that is death. All euthanasia ends in death and the motivation is to end suffering of the individual.

The Liberationist theory was advocated in this dissertation which states that children and adults should have the same rights and therefore if adults have the right to die then so should children. This claim was strengthened through refuting the symmetrical and asymmetrical claims. The first claim which was refuted was the claim that adults have the right to die but children do not have the right to die. This claim was refuted on the basis of first outlining the three main reasons favouring euthanasia which were based on the pleasure principle, harm principle and that the fact that even if euthanasia is not permitted it will happen anyway. These arguments in favour of euthanasia did not have specific characteristics that made them only applicable to adults and therefore could be extended to children as well. The second claim that only children should have the right to die was refuted on the basis that it would simply never occur in real-life but only in an imaginary world. The third claim that was refuted was that both children and adults should not have the right to die, but here the overall message was that suffering is not a morally permissible thing to make someone endure. Euthanasia is a compassionate and dignified means of helping someone end their suffering.

The conclusion of this dissertation is that children and adults should have the right to die and is grounded on the fact that all beings can suffer and it may be considered immoral to kill another human being but the motivation of the act makes all the difference. Murder benefits the killer whereas euthanasia benefits the victim and is done out of compassion. Children and adults are autonomous beings and should be allowed not only the right to live but also the right to die. It is evident that morally children should be given the right to die and should therefore be legally implemented as well. Although this dissertation does advocate the morality of the right to die for children, it still remains that legal rights have the power to limit this moral right. It is up to individual nation states to choose whether they first of all advocate euthanasia and whether they would want to extend it to children. This dissertation

advocates the adoption of euthanasia as a legal right for all individuals because of how important it is as a moral right to avoid suffering.

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