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### Right To Patient's Life

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This article defines the nature and value of the right to life enshrined in its history regulations; reveals his conflict with certain types of care, identifies the components of the right to life, analyzes modern legal doctrines in the area of the right to life and ultimately determines the right a living as a duty.

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#### 1. Introduction

The most important and most valuable among individual rights and freedoms is the right to life. Life is a basic good and one of the highest social values of human deprivation which is irreversible and means the demise of the individual. As noted by N.I.Matuzov, "the right to life - the first fundamental natural right of man, without which all other rights lose their meaning because the dead do not need no rights"<sup>[1]</sup>.

Therefore, the right to life is at the maximum legal protection, based on the Constitution. The right to life includes the totality of human rights in general, but does not coincide completely with any of them in particular. The right to life means not only giving up the war, the prohibition of slaughter and death, but also a decent existence conditions that are necessary for the full development of man. Unlike other rights , the right to life is a crucial prerequisite foundation of human dignity, guaranteeing the integrity of the physical existence of man, because life is regarded as one and indivisible good, which is not subject to limitation.

The right to life provided a number of constitutional guarantees. Among them, one of the main guarantees of the right to life is the health system and its continuous development, the progress of medical science, improve medical security system improvement of sanitary and epidemiological welfare. When it comes to health care, it is necessary to consider the right to health is not just living as maintaining physiological human existence , and the focus should be on quality of life, that is internal (psychological) and external (physical) human condition, how fully a person feels in society, the extent to which it is socially active , as far as society is adapted to the perception of people , such as physical or mental disabilities. State authorities and local governments are required to take comprehensive measures to improve quality of life. It is important to remember that even a person dependent on hardware that supports its physiological existence, has the right to life and the provision of health and social care at the highest level reached by society. Human life - a physiological and psychological functioning of the organism as a whole. Man has the right to life

and with persistent violations of these functions (paralysis, mental disorder), and in these cases it is life in legal terms can not be considered less valuable than the life of any other person<sup>[2]</sup>.

Today it is evident that obtaining medical care - one of the aspects of the right to life.

The universality of this law and its natural character fixed in the international legal instruments that are recognized by all civilized countries of the world (for example, art. 3 of the Universal Declaration of Human Rights, art. 6 of the International Covenant on Civil and Political Rights, art. 2-1 of the Convention on protection of Human Rights and Fundamental Freedoms, etc.). For the first time legally right to life was enshrined in the Declaration of Independence in 1776 p., When he was proclaimed "the equality of all people, the right to life, liberty, personal happiness." Further, given the different national characteristics, it is considered to be the rule of law in all major countries of the world. The requirements of international instruments are fully reflected in the Constitution of Ukraine, particularly in the Preamble of the Constitution of Ukraine declares that the state cares about the rights and freedoms of man and worthy conditions of life and in art. 3 of the Constitution stipulates that a person 's life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value. Medical assistance is often in conflict with the right to life. This is the practice of organ transplantation and human tissue (when the donor - living man - removed a pair of organs for transplant next, often putting his life a great danger) of a transaction cancer patients (as a result of operation the patient dies, but without her holding he could have some time to live), the termination of pregnancy by abortion or operations that destroy the fetus through the development of defects in the fetus, the number of euthanasia and other medical measures.

Stetsenko S.G. consider the right to life as a set of elements (features):

1. The right to preserve life;
2. The right to security of person;

3. Right to require the State to implement measures to support life;
4. Right to dispose of their lives;
5. Right to health and health care<sup>[2]</sup>.

A further concern paragraph 1 and 4, from which the following.

If a person has the right to preserve life, then this corresponds to the right to interrupt the life, or would have heard - the duty to preserve life.

The right to dispose of their lives involved, the right to live or cease to live, to live a healthy way, or by killing the life bad habits.

When the state is to preserve the population and its replication we can not afford such a free interpretation.

Right to life - a rule that connects a rule of conduct zahal social noho, religious and legal. Therefore, mayemorozhlyadaty it as mononormu in which the rights and duties of man merge together.

From the above it follows that the right to life - is at the same time the duty to live, and to live healthy and in accordance with kulturny, moral and legal norms of society.

Unfortunately today there is a substitution of concepts: the right to dispose of life entails the right to die. In this context it is justified by the right to euthanasia.

Analysis of modern legal doctrines in the law on euthanasia allows to distinguish three main groups:

1. The legal doctrine that categorically denied the right to euthanasia (S. Stetsenko, I. Senyuta, N. Kozlova, A. Zybrev, G. Borzenkov, S. Borodin, P. Tarakin, A. Kapinus). This group insist that legalizing euthanasia could lead to abuse, the loss of hospice, as well as paralysis of scientific progress in the medical field.

2. Legal doctrines that justify that the right to euthanasia depends on the will of man (Yuri Dmitriev, E. Shlenyeva, V. Glushkov, J. Siulyanova, L. Minelli). Under this legal doctrine most important tenet is the recognition of the autonomy of the individual, human rights itself resolve all issues related to its body, mental and

emotional status. All kinds of procedures should be carried out by the informed consent of the individual. According to this doctrine protection of the patient shown in the following: first, to provide comprehensive information to the patient about his illness, and secondly, in the assertion of the right to self-determination of the patient, the choice of medical intervention, according to his understanding and ideas, and thirdly in the doctor's duty to implement patient choice, with consistent informing him of the progress and results of diagnostic procedures and treatment.

3. Legal doctrines that justify that the right to euthanasia arises from the right to life (A. Coney, N. Maleyin, E. Te, G. Romanov, M. Maleyina). Under this legal doctrine of the right to life logically implies the right to die, as the right to die is a component of the right to life, regardless of the right to life becomes a duty, since from it you can not refuse, obviously, is characteristic only for duty, not for law<sup>[3]</sup>.

It should be noted that the authors of legal doctrines in the law on euthanasia, due to the fact that first of all it is an ethical problem, using as ethical and philosophical sources, because the issue of euthanasia is considered in the context of good and evil. But very difficult to deal with the problem of euthanasia in the context of good and evil, because each different ideas about good and evil, even among supporters of a single system of morality - or religious or philosophical.

Different attitudes to suicide various world religions. Attempt avoid suffering, bestowed by God, declared religious theorists Christianity sin, depriving udavlenika or drowned forgiveness and salvation. They were denied burial in the cemetery and buried ignominiously at the crossroads. And the family suffered a sinner, losing legitimate inheritance. A miracle survivor sentenced to imprisonment with hard labor for a murder. The Military and Naval article number Peter I had a rather harsh note: "If anyone would kill himself, then his dead body tied to a horse, dragged through the streets by the feet to hang, so that though the others of lawlessness on a fix did not dare."

Euthanasia and today is pursued in the countries of Catholicism. For example, in Poland from

1970 to 1986 reported an average of 12 suicides per 100,000 population.

Islam strictly condemns the arbitrary deprivation of life itself. Therefore, in countries which profess the Muslim religion, this phenomenon is extremely rare. The Jewish faith also is the guardian of life and self-worth prohibits suicide.

According to Chinese belief, the souls of suicides are hungry, homeless spirits - "gui", and everyone is afraid of retaliation.

Statutes of ancient texts, suicide is strictly devout Hindus condemned as a great sin. However, religious suicide is not only not condemned, but in deed and erected as a sacrifice to God, or circumcision. This kind of suicide (diksha) committed by self-immolation or samoutopleniya. The entire Indian literature is full of examples and facts of this kind. In the Middle Ages, often produced mass religious suicide. There were blood sacrifices in the temples of the goddess Kali, when prayers cut off body parts or killed themselves.

Particularly widespread were the religious samoutopleniya during a pilgrimage to the sacred rivers - the shooting - Tham. Whoever commits the diksha (suicide) reportedly reaches "Moksha", ie, the complete liberation from the suffering of life on earth. The most desirable for samoutopleniya is the confluence of the Ganga Jumna with the city of Allahabad. There are even instructions on how to commit suicide, most preferred is jumping into the river from the branches of the sacred banyan tree. Who will do it, he was believed to falls in the abode of the god Shiva. In Allahabad, to this day, there are thousands of years of banyan trees, thick branches stretches over the muddy waves of the Ganga. As in the past, these trees and these days are jumping into the water the most devout Hindus to end all their own lives and thus gain "salvation".

Another ancient custom of Hindu religious suicide is death under the wheels of heavy chariots. In this regard, there is another kind of pilgrimage - to the Jagannath temple in Orissa. Every year at the beginning of the rainy season when the huge gathering of pilgrims statues of the gods of the temple transported to the other end of

town. These days, all measures are taken to prevent these bloody mystery. However, some cases of "connection with the divine", as well as injuries and injuries occur each year. Chariots pulled by ropes numerous servants of the temple. On both sides of these elephants march in bright ceremonial robes. Large police units struggling to cope with the fact that the drive back from the huge crowds and heavy wheels, which are the eyes of fanatics<sup>[4]</sup>.

One of the most important rights that it provides physical existence of man as a biological being is the right to life as declared by Art. 27 Constitution of Ukraine, which states: "Everyone has the inherent right to life." And article 3 of the Constitution of Ukraine provides for provisions under which a person's life and health, safety and security are recognized in Ukraine as the highest social value. These rights and guarantees are the content and direction of the state.

Abolition and restriction of these rights shall not be permitted, except that they may temporarily installed in military and emergency. Since the right to life guaranteed inviolability of the physical existence of man and, therefore, does not permit disposition by someone other than the man himself.

Article 52 of the Basic Laws on Health of Ukraine stipulates that medical personnel are required to assist in the full patient who is in critical life-condition. p. 2 of art. 52 prohibits passive euthanasia, and p. 3 of art. 52 also prohibits active euthanasia, which states that medical personnel "launching euthanasia - the deliberate acceleration of death or killing terminally ill to end their suffering ."

The prohibition of euthanasia also provides p. 4 art. 281 of the Civil Code of Ukraine, which states that satisfy the request of the individual to terminate his or her life - is forbidden.

If the implementation of passive euthanasia in some cases does not contradict Ukrainian legislation, the implementation of active - is prohibited.

In Russia, euthanasia is illegal, but according to art. 33 "Principles of Legislation of Russian Federation on health care" every patient has the right to refuse medical intervention or require its

suspension. This means that passive euthanasia is fact legalized.

Euthanasia is not permitted in all countries. For example, countries where euthanasia is permitted, are the Netherlands, Belgium, Sweden, Switzerland, USA (state Oryhon and Washington).

Obviously, the right - this is what a person can use, but may opt for this reason that a person can give this is right, otherwise we will discuss not right, but a duty.

It makes no sense to argue that many patients condemned to death are forced to live in unbearable suffering in pain. They chose to "blissful death" as a salvation. At this point acutely raises the question of an expression of charity health care workers in the highest manifestation of it, what is considered by many, and could be euthanasia. But this issue is so controversial in determining that the statement in his circles of people with distorted moral values possible abuse of stakeholders. For example, the ideology of Nazi Germany during euthanasia understand the destruction of so-called "inferior" people: newborns with "improper development of the" mentally ill with tuberculosis, malignant neoplasms, the disabled, the elderly and the so-called "lower race". They had created a whole industry of killing as gas chambers, crematoriums. There is no guarantee that euthanasia is ultimately not reborn in genocide.

One issue that arises when discussing the problem of euthanasia is to be motivated professional doctors in the event that will be legalized this kind of "services". Doctors did not have to try to relieve the suffering of sick people agonizing, and the method of "treatment" of such patients will be the same in all cases. Therefore, doctors hold steadfast dogma that patients need to be treated, no matter what. We must remember that the abuse never not be excluded. In addition, the possibility of legal euthanasia kills the patient any hope for fighting for their lives.

Considering the topic of euthanasia can not dwell on the issue, which is often discussed in the media: Why leave the children to live with a variety of birth defects, which in the future will join the ranks of potential dependents society. Do

not be wiser to put the money that the state spends on their upkeep, the recovery of valuable members of society who are in dire need of material resources.

It is reasonable in terms of the features of the legal regulation of health care and its relationship with the right to live separately consider:

1. Human right to health care;
2. Right to medical care.

implementation of active - is prohibited.  
implementation of active - is prohibited.

## 2. Conclusions

The right to health is important to take as a special case of responsibility to the individual, as a manifestation of the social functions of the state. It takes into account both their own health component - the existence and functioning of health care institutions, and government - the creation within the state the conditions under which human health, their right to health care will be provided with the most. At the same time, the right to health care is comprehensive on the individual, her health lies in the possibility of man's right to receive such assistance in the event of a disease or pathological condition. Especially important to note that one can not fully exercise their right to life when she denied or restricted the right to medical care.

## 3. References

1. Berezin E. Chronic obstructive pulmonary disease Matuzov N.I. The right to life in the Russian and international standards. Jurisprudence 1998; 1:198.
2. Stetsenko S.H. Medychne Law of Ukraine - Special Section.  
[http://pidruchniki.ws/14940511/pravo/\\_oderzhannya\\_medichnoyi\\_dopomogi\\_prava\\_zhittya\\_lyudini](http://pidruchniki.ws/14940511/pravo/_oderzhannya_medichnoyi_dopomogi_prava_zhittya_lyudini).
3. Vorona V. The right to euthanasia as a component of the right to life / Right of Ukraine 2010, 5.  
<http://www.info-prensa.com/article-392.html>
4. Ryazancev S. Thanatology - the study of death. - Chapter III. - The right to an easy death. -  
[http://www.gumer.info/bibliotek\\_Buks/Science/ryazantzev/4.php](http://www.gumer.info/bibliotek_Buks/Science/ryazantzev/4.php)