

The Jurisprudence Sentence for Euthanasia

Mohammad Rahmani¹ , Nafiseh Zarvandi², Morteza Abdoljabari^{3*} 

1- Worship Jurisprudence Department, Supreme School of Specialized Jurisprudence, Al-Mustafa Al-Alamieh Community, Qom, Iran.

2- Department of Religious Studies, Faculty of Religious Studies, University of Religions and Denominations, Qom, Iran.

3- Department of Education, School of Medicine, Shahid Beheshti University Of Medical sciences, Tehran, Iran.

*Correspondence should be addressed to Mr. Morteza Abdoljabari; **Email:** abdoljabari@sbmu.ac.ir

Article Info

Received: Jun 27, 2018

Received in revised form:

Sep 3, 2018

Accepted: Sep 15, 2018

Available Online: Sep 23, 2018

Keywords:

Dispositive rule

Euthanasia

Imperative rule

Retaliation

Self-killing

Self-preservation

Suicide

Abstract

Background and Objective: Today, instead of preserving the health and life of people in some health centers, under the pretext of pity, the patients with difficult-to-cure diseases are suggested to accelerate selective death. Euthanasia dates back to ancient Roma and is one of the controversial topics discussed in different legal and jurisprudential aspects in academic circles. With the intent of explaining the jurisprudence sentence for euthanasia, alongside proposing some primary topics, in this article we have tried to introduce a new category based on an effective criterion in the jurisprudence sentence unlike the common categories in scientific circles.

Method: This library research is descriptive-analytical for which the articles of years between 1996 and 1997 were studied and reviewed. The procedure was as follows: keywords such as euthanasia, self-killing, retaliation, suicide, self-preservation, and imperative and dispositive rule were searched; then, the Qur`an and the books with jurisprudential and deductive themes such as *Fikh va Hoghoogh-e- Tahaffozi by Ayat-Allah Sistani, Vasaal Al-Shiea and Mostadrak* were used. After analysis, the findings were taught and discussed in 10 sessions of the Hawza classes. All ethical issues were observed in this study and the researchers declared no conflict of interests.

Results: The overall eight types of euthanasia and their subcategories are classified into three general major categories:

a) Three of them are the case of intentional murdering and imperative rule of prohibition as well as dispositive rule of retaliation. b) One of them is the case of general suicidal that has only imperative prohibition. c) Four of them are the case of general necessity of self-preservation, leaving which has imperative prohibition, and doesn't have dispositive rule due to self-killing.

Conclusion: All of the eight forms of euthanasia are prohibited and we recommend that instead of this, revival be tried. This requires conducting studies to find treatment for difficult-to-cure diseases.

Please cite this article as: Rahmani M, Zarvandi N, Abdoljabari M. The Jurisprudence Sentence for Euthanasia. J Res Relig Health. 2018; 4(4): 104- 117.

Summary

Background and Objective: Shiite jurisprudence has many advantages and prominences over the other legal systems in the world, such as depth, broadness, performance guarantee, and co-ordination with human

nature, inclusive rules and being reasonable (1).

Euthanasia, which is also known as mercy killing, is one of modern aspects of medical science dating back to ancient Roma that has been discussed from different angles in the world's scientific circles. It has been legalized in many countries and in some countries, it

has been strongly opposed. This issue has been proposed in Islamic Iran's scientific and research along with many jurisprudential, legal and ethical questions (2, 3).

Method: This library research is an analytical - descriptive one which has been conducted in several steps: in the first step The Qur'an verses and interpretations related to committing suicide such as Tafsir al-Mizan, Tafsir -e- Nemouneh and books like Fikh-e- Tahaffozi by Ayat-Allah Siatani was utilized. Also, the required data were collected by reference to libraries of Jamiat-al-Mustafa, Ayat-Allah Maraashi Najafi, Feyziyeh and the Grand Mosque. In the next step, the search was performed based on the keywords of euthanasia, murdering, retaliation, suicide, the necessity of self-preservation, and imperative and dispositive rules. The findings were analyzed and then their implications were discussed in 10 teaching sessions in the Hawza classes.

Results: The eight types of euthanasia and their subcategories include:

a) The first type of euthanasia:

The action is taken due to the patient's inability to demand and request to check his/her status. When the person himself is unable to make a decision, his/her family, relatives or the medical group by doing something like giving a deadly drug will end his life to relieve him/her from suffering.

Imperative rule: this type of euthanasia is pure murdering and is prohibited because is based of indisputable issues and necessities of the jurisprudential religions of the Islamic world as well as the four proof (the Quran; tradition; reason and consensus).

Dispositive rule: Because the action is contingency and intended for murder, it's severely prohibited and the murderer must be retaliated and if not retaliated, it turns into blood money (Diyah) and the murderer him/herself must pay it.

b) Second type: Voluntary active euthanasia

In this type, the patient has enough understanding and intelligence and requests the medical group to, for example, inject him an ampule to end his/her life and relieve from suffering.

Imperative rule: it's prohibited, because its murdering like the first type; hence, all of the problems and answers of first type holds true in it.

Dispositive rule: There is a conflict as to whether the second is retaliation; because, on one side it's supposed that the patient has satisfied with the deadly action of medical group, so he/she must not be retaliated and, on the other hand, patient's satisfaction is in the sentence of absence, so must be retaliated.

c) The third type:

Includes a patient who hasn't stable life and understanding, like one with brain death and the medical group end his/her life by a deadly action like injecting an ampule.

Is this the case of suicide or not? In case of murdering, which type of suicide is it? The answer to this question varies according to different basics.

Description: There's conflict as to this patient being dead or alive. The medical scholars consider him/her as dead and scholars of jurisprudence, alive, and run an alive man against him/her (4).

The third separating rule: According to second basis, it seems that it is a case of intentional suicide; because it has rules of an alive man and the medical group is going to kill the patient by doing these actions. So, all of the conditions and elements of intentional murdering are certain. As a result, it's imperatively prohibited and includes all the subjects of intentional murdering.

Dispositive rule: Regarding the pure intentional suicide, its dispositive rule is retaliation. Of course, it seems that must be further studied.

d) The forth type: Suicide

The forth type of euthanasia is a case of suiciding and it means that someone with a difficult to cure disease suicides by eating drugs.

According to imperative rule, suiciding is prohibited and is one of the Great sins whose prohibition is evidenced by the four proofs (the Quran, tradition, reason and consensus).

Dispositive rule: Since the proofs of retaliation and blood money (Diyah) are observing killing another person, the dispositive rule regarding this case ceases the matter.

e) Cases of necessity of self-preservation

The first case: the fifth type of Euthanasia is a case of necessity of self-preservation and the medical group end the difficult to cure patient's life by abandoning his/her treatment. Of course, the patient with his/her satisfaction requests that they stop treatment.

The case of leaving necessity of self-preservation is right in here and the patient's satisfaction about causing murdering indirectly is prohibited, and the dispositive rule of retaliation or blood money (Diyah) is not stable in second and third cases, because the case is retaliation or blood money (Diyah) of suicide.

The second case: the sixth type of Euthanasia is a case of leaving the necessity of self-preservation too, and the medical group abandons treatment of the difficult to cure patient without his/her satisfaction too. This type's rule is the same as fifth type.

The third case: the seventh type of Euthanasia is a case of leaving the necessity of self-preservation too, and includes a patient who hasn't stable life and understanding and intelligence, and survives only with the help of respiratory machine, the medical group doesn't connect the machine to him/her and as a result, causes him/her to die. This type is a case of leaving the necessity of self-preservation too.

The forth type: the eighth type of Euthanasia is that a patient suicide through abandoning his/her treatment stages and this case is leaving the necessity of self-preservation and is prohibited.

Conclusion: All eight forms of euthanasia are prohibited and we recommend that instead of this, revival be tried. To do so, conducting studies to find remedy for difficult-to-cure diseases seems necessary.

References

1. Shahroodi M. Encyclopedia of Shiite jurisprudence: Islamic Encyclopedia of Islamic Law; 2015.
2. Emam Hadi MA. Euthanasia (auxiliary suicide). Tehran: Research Center for Tuberculosis and Pulmonary Diseases; 2008.P.12. (Full Text in Persian)
3. MirAbdolhosein N. A Look at the Philosophy of Education: Taheri Publishing; 1998. (Full Text in Persian)
4. Feiz Kashani MM. Mafatih-Al-Sharaye. Qom: The Grand Library of Ayatullah al-Uzma Marashi (RA).P.119.

قتل الرحمة واحكامه في الفقه الاسلامي

محمد رحمانى^١، نفيسه زروندى^٢، مرتضى عبدالجباري^٣

١- قسم عبادي الفقهية، مدرسة ممتازة الفقه المتخصص، جامعة المصطفى العالمية، قم، ايران.

٢- قسم معرفة الدين، كلية معرفة الدين، جامعة الاديان والمذاهب، قم، ايران.

٣- قسم المعارف الاسلامية، كلية الطب، جامعة الشهيد بهشتي للعلوم الطبية، طهران، ايران.

* المراسلات الموجهة إلى السيد مرتضى عبدالجباري؛ البريد الإلكتروني: abdojabari@sbmu.ac.ir

الملخص

خلفية البحث وأهدافه: في الوقت الراهن، هناك في بعض المستشفيات، يُقترح للمرضى الذين يعانون من أمراض مستعصية، خيار الموت المتسارع بدلا من الحفاظ على صحة الناس وحياتهم وذلك تحت ذريعة الشفقة والرحمة. يعود تاريخ قتل الرحمة إلى روما القديمة، وقد كان في السنوات الأخيرة موضوعاً مثيراً للجدل تم مناقشته من حيثيات مختلفة بما في ذلك الجانب القانوني والفقه في مختلف الساحات العلمية.

تهدف هذه المقالة تبين الأحكام الفقهية المتعلقة بقتل الرحمة ضمن بيان بعض البحوث التمهيدية، فعلى النقيض من التقسيمات السائدة في الساحات العلمية، تسعى هذه المقالة أن تقدم تقسيماً جديداً مبنياً على المعايير المؤثرة في الأحكام الفقهية.

منهجية البحث: اجريت هذه الدراسة بمنهج وصفي وتحليلي وتمت دراسة وقراءة البحوث التي كتبت في سنتي ٩٦-٩٧ الميلادية. وكانت منهجية العمل انه تم البحث في هذه المقالات عن كلمات رئيسية بما في ذلك قتل الرحمة، قتل النفس، القصاص، الانتحار، حفظ النفس، الحكم التكليفي والوضعي ومن ثم كان القرآن الكريم والكتب الفقهية والاستدلالية مثل كتاب الفقه والحقوق التحفظي لسماحة اية الله السيستاني وكتاب وسائل الشيعة ومستدرک الوسائل مورد الاهتمام في هذه المقالة. وبعد تحليل النتائج المخلصة وتجزئتها تم تدريسها ومناقشة محتواها في المحاضرات الحوزوية. تمت مراعاة جميع الموارد الاخلاقية في هذا البحث؛ وإن مؤلفي المقالة لم يشيروا الى اي تضارب في المصالح.

الكشوفات: إن قتل الرحمة ينقسم الى ثمانية اقسام وتندرج فروعها الى ثلاث قواعد كلية: الف) هناك ثلاثة مصاديق لقتل العمد فبالإضافة الى الحكم التكليفي، يجري عليه حرمة الحكم الوضعي للقصاص، ب) هناك مصاديق واحد للقواعد الكبرى في قضية الانتحار والذي لا يحكم عليه الا بالحرمة التكليفية، ج) توجد اربعة مصاديق للقواعد الكلية في وجوب حفظ النفس وفي حالة التخلي عنها تجري عليه الحرمة التكليفية وبما انه لا يعتبر قتلا للنفس فلا يخضع للحكم الوضعي.

الاستنتاج: ان جميع اقسام قتل الرحمة الثمانية حرام وينصح بدلا من ذلك السعي في احياء النفس والبحث عن الحلول اللازمة لعلاج الامراض المستعصية.

معلومات المادة

الوصول: ١٣ شوال ١٤٣٩

وصول النص النهائي: ٢٢ ذيحجه ١٤٣٩

القبول: ٥ محرم ١٤٤٠

النشر الإلكتروني: ١٣ محرم ١٤٤٠

الكلمات الرئيسية:

الانتحار

حفظ النفس

الحكم التكليفي

الحكم النفسي

قتل الرحمة


قتل النفس

القصاص

يتم استناد المقالة على الترتيب التالي:

Rahmani M, Zarvandi N, Abdoljabari M. The Jurisprudence Sentence for Euthanasia. J Res Relig Health. 2018; 4(4):104- 117.

حکم فقهی اتانازی

محمد رحمانی^۱، نفیسه زروندی^۲، مرتضی عبدالجباری^۳ 

- ۱- گروه فقه عبادی، مدرسه‌ی عالی فقه تخصصی، جامعه المصطفی العالمیه، قم، ایران.
 ۲- گروه دین‌پژوهی، دانشکده‌ی دین‌پژوهی، دانشگاه ادیان و مذاهب، قم، ایران.
 ۳- گروه معارف، دانشکده‌ی پزشکی، دانشگاه علوم پزشکی شهید بهشتی، تهران، ایران.
 *مکاتبات خطاب به آقای مرتضی عبدالجباری؛ رایانامه: abdoljabari@sbmu.ac.ir

چکیده

سابقه و هدف: امروزه در برخی از مراکز درمانی به جای حفظ سلامتی و حیات افراد به بهانه‌ی ترحم، به بیماران صعب‌العلاج پیشنهاد تسریع مرگ انتخابی داده می‌شود. پیشینه‌ی اتانازی به روم باستان بازمی‌گردد و در سال‌های اخیر از جمله مباحث جنجالی است که در محافل علمی از جهات مختلف از جمله از منظر حقوقی و فقهی درباره‌ی آن بحث می‌شود. در این مقاله با انگیزه‌ی تبیین حکم فقهی اتانازی ضمن طرح برخی از مباحث مقدماتی تلاش شده است بر خلاف تقسیمات رایج در محافل علمی، تقسیمی نو بر اساس ملاک و معیاری مؤثر در احکام فقهی معرفی شود.

روش کار: این پژوهش کتابخانه‌یی از نوع توصیفی - تحلیلی است که برای انجام آن مقاله‌های بین سال‌های ۷۵-۷۶ مطالعه و بررسی شد. روش کار بدین صورت بود که جستجو بر اساس کلیدواژه‌های اتانازی، قتل نفس، قصاص، خودکشی، حفظ نفس، حکم تکلیفی و وضعی صورت گرفت و در ادامه از قرآن کریم و همچنین کتاب‌هایی با مضامین فقهی - استدلالی مثل فقه و حقوق تحفظی آیت‌الله سیستانی، وسائل‌الشیعه و مستدرک بهره گرفته شد. یافته‌های به‌دست‌آمده پس از تجزیه و تحلیل در کلاس‌های حوزوی طی ۱۰ جلسه تدریس؛ و مطالب آن به بحث گذاشته شد. در این پژوهش همه‌ی مسائل اخلاقی رعایت شده است و نویسندگان مقاله هیچ‌گونه تضاد منافی گزارش نکرده‌اند.

یافته‌ها: مجموع اقسام هشت‌گانه‌ی اتانازی و زیرشاخه‌های آن تحت عنوان سه کبرای کلی قرار می‌گیرد: الف) سه مورد مصداق قتل عمد است و افزون بر حکم تکلیفی حرمت، حکم وضعی قصاص نیز بر آن مترتب می‌شود؛ ب) یک مورد مصداق کبرای کلی خودکشی است که فقط محکوم به حرمت تکلیفی است؛ ج) چهار مورد مصداق کبرای کلی و خوب حفظ نفس است که ترک آن محکوم به حرمت تکلیفی است و به جهت عدم قتل نفس حکم وضعی بر آن مترتب نمی‌شود.

نتیجه‌گیری: تمام اقسام هشت‌گانه‌ی اتانازی حرام است و توصیه می‌شود به جای آن تلاش به احیاگری شود و پژوهش‌های لازم برای یافتن درمان بیماری‌های صعب‌العلاج صورت گیرد.

اطلاعات مقاله

دریافت: ۶ تیر ۹۷

دریافت متن نهایی: ۱۲ شهریور ۹۷

پذیرش: ۲۴ شهریور ۹۷

نشر الکترونیکی: ۱ مهر ۹۷

واژگان کلیدی:

اتانازی

حفظ نفس

حکم تکلیفی

حکم وضعی

خودکشی

قتل نفس

قصاص