

# A Critical Analysis of Basotho Conception of Euthanasia

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**Abstract:** This article takes a critical look at the moral justification of the aged-long practice of active and involuntary euthanasia among the Basotho people of Southern Africa. In this practice, terminally ill aged people were left at the entrance of the kraal allowing them to be trampled by cattle until they die. It is also argued that the practice of euthanasia is not alien in Africa, but Africans had their own way of practicing euthanasia. On the other hand, it is argued that this practice of euthanasia violated both the notion of human dignity and the principle of respect for autonomy. The moral theory of deontology provides the theoretical framework for the discussion. As a non-empirical paper, a review of existing literatures on the subject provides the background to the study. The paper concludes that there is no moral justification for the practice of active and involuntary euthanasia among the Basotho people.

**Keywords:** Active and Involuntary Euthanasia, Autonomy, Deontology, Human Dignity, Trampled.

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## 1. INTRODUCTION

The debate for or against euthanasia has frequently been on the Western literature. Less has been said about euthanasia specifically in the African context. Euthanasia is still regarded as a natural right and not as a civil right to end people's lives in many within African context. This article intends to differentiate two kinds of dignity namely; extrinsic and intrinsic dignity, and argue that Basotho communities in Lesotho confined themselves only with one kind of dignity namely extrinsic dignity. While it is true that euthanasia can be done in many different ways; however, it is the aim of this article to illustrate that Basotho communities were practicing both active euthanasia and involuntary euthanasia through the motives of extrinsic human dignity and this paper considered that type of practiced euthanasia as morally unacceptable.

In Lesotho, the law is still silent about the practice of euthanasia, and even the fore-parents in Lesotho who happened to practice euthanasia were doing it as a traditional norm, not because it was legal. Moreover, there are individuals and family members who go through a persistent agony due to terminal illness of their lovely family members. The question is whether these family members should also continue with the same traditional norm that previously practiced in Lesotho since there is no law that regulates euthanasia in Lesotho? Or whether people should be allowed to have a civil right to die when suffering with terminal illness and express their medical preferences through advanced directive standards while they are mentally competent; and choose to be resuscitated in the life support machine or not to be resuscitated.

This article firstly concludes that the practice of active euthanasia and involuntary euthanasia among Basotho community was violating the principle of beneficence which refers to a moral obligation to act for the benefit of others because those elders were not killed mercifully. Secondly, this paper concludes that the practice of euthanasia through the notion of 'dying with dignity' was a slogan to mask the fact that the remaining family members were considering old people as a burden to themselves. Hence, this practice was simply used as a mechanism to relieve their psychological suffering when seeing an old person becoming helpless about his/her life. Euthanasia in this paper has been used to refer to mercy-killing, while autonomy has been used to refer to the capacity for adults to express their preferences. Dying with dignity is the

notion that people use to refer to the manner in which the family members of the one suffering, choose to end the patient's life so that s/he may not suffer from persistent pain.

## 2. THE ETHICAL DEBATE IN THE PRACTICE OF EUTHANASIA IN BASOTHO COMMUNITY IN SOUTHERN AFRICA

Under this section, I generally discuss the practice of euthanasia that was practiced in Lesotho in Southern Africa. During the past, Basotho community used to put an old person at the kraal door so that the cattle can step on him/her as a way of causing good death and to help the aged person to die with dignity. This paper classifies this act under both active euthanasia and involuntary euthanasia because there was no consent at all from the person being killed. Thus, these aged fellows were killed against their own will or autonomy since they were not even asked whether they volunteer to be killed in that way or not. On this practice of euthanasia by Basotho community, Lesitsi (2002: 50-51) states that:

*Linakong tsa mathata, tsa lintoa le mefere-fere e falatsang metse, maqheku, litsohali, batho ba seng ba sitoa ho iketsetsa letho ka lebaka la lits'iu ho phalla; batho ba eletsang, ba seng ba bina koma ka hlooho, ba ts'ehelitsoe ka meeta, ba ee ba behoe monyako oa lesaka ka sepheo sa ho ba fofotsa. Bophelo ba maqheku ana, ha bo felisoa ka matsoho a batho, hoba ba ka jara sesila, sekhubo le bomali-mabe. Maqheku a behoa monyako pel'a majoe a mesehlelo hore bophelo ba 'ona bo ritpitloe ke likhomo. Likhomo li qoboloa ka potlako ha li kena, li be li nts'oe li petetsane, li hate kapa li thule leqhekoana leo.*

In English translation, this means:

*In times of hardships, wars and riots which drove away villages, old men and women, people who are unable to do anything for themselves because of old age and terminal illness; people who give advice, who are now weary and weak, supported with broken or old earthen pots, they were put at the entrance of a kraal with a purpose of finishing up their lives. The lives of these old people were not put to an end by human hands because they would be ritually unclean, have obloquy and bad luck. Old people were put near the stone planted at the entrance of a kraal in order for their lives to be annihilated by cattle. Cattle were driven quickly into the kraal, and chased out in a manner that they crowd at the exit so that they can step onto or knock down that old person.*



**Picture: 1. Depicts how the practice of euthanasia was done among Basotho community in Southern Africa.**

The family members were using the cattle as the means to end the life of the aged person with the intention that there will be no human beings accountable and guilty for that action. Their intention was basically to help the aged person to die with dignity that s/he has earned during his or her living days before s/he could be helpless. This kind of practice was seen

as a holistic way of relieving the aged people so that they may rest in peace in another world of the ancestors. In this work, I acknowledge that the intention of the community was essentially good and understandable in the context in which this kind of euthanasia was practiced during those days.

On the other hand, the surrogate decision makers of such aged people were practicing euthanasia through paternalistic manners which were based on consequentialists' perspectives. The surrogate decision makers were only focusing on the end results without paying heed to the means that they were using to end the life of these aged people. Hence, this article argues that the way this practice was done was unethical because there was no informed consent from the people being killed. This practice was morally bad because it subjected aged people to mere things that can be killed by their family members without their autonomy. "Autonomy is considered as the ability to know what morality requires of us, and functions not as freedom to pursue ends, but as the power of the agent to act on objective and universally valid rules of conduct" (O'Neill, 2002: 84). The idea of autonomy was also discussed by Beauchamp & Childress where they argue that "autonomy is a self-rule that is free from both controlling interference by others and from limitations, such as inadequate understanding, that prevent meaningful choices" (2001: 58). Autonomy in this regard can be seen on individuals who do their moral duties according to the demands of moral rules and principles. This point can be seen clearly whereby Kant (1997a: xxv) argues that:

*The laws of the kingdom of ends are the laws of freedom, both because it is the mark of free citizens to make their own laws, and because the content of those laws directs us to respect each citizen's free use of his or her own reason. The conception of ourselves as legislative citizens is the source of the dignity we accord to human beings.*

On the above arguments, it is clear that autonomy is not intended to allow individuals to act in any other ways that are not in conformity to the moral laws. Individual's rational-will should be exercised in such a way that is going to follow the rules of categorical imperative which stipulates that "we must always treat humanity whether in our own or in that of another always as an end and never as a means" (Rachels, 2007: 131). The two types of euthanasia that were practiced by Basotho community were completely violating the notion of humanity which is itself the source of an intrinsic dignity. Kant (1997b:74) categorically argues that:

*A human being alone, and with him every rational creature, is an end in itself: by virtue of the autonomy of his freedom he is the subject of the moral law, which is holy. Just because of this every will, even every person's own will directed to himself, is restricted to the condition of agreement with the autonomy of the rational being, that is to say, such a being is not to be subjected to any purpose that is not possible in accordance with a law.*

This Kantian argument is very important because it illustrates the priceless value of human beings. The autonomy of the elders in Basotho community during the past was unjustly violated. As a matter of fact, any violation to one's autonomy fails to show respect to humanity because a human life is sacrosanct and dignified in every stage. If human beings are ends into themselves, it means that we have a duty to protect their welfare; we ought to respect their inherent human rights, and we ought to avoid harming them. To put an old human being at the kraal door so that s/he may be killed by the cattle was against both the principle of beneficence, non-maleficence, and the rule of categorical imperative which says "we must always treat humanity whether in our own or in that of another always as an end and never as a means" (Kant). The principle of beneficence means the duty to help other human beings, while the principle of non-maleficence refers to the moral duty to avoid causing harm to others. As we have seen previously that euthanasia refers to good death, I think the type of euthanasia that was practiced by Basotho community was not a good death, but a horrendous death with a persistent agony for all those who were allowed to be trampled by the cattle until they die.

### 3. ISSUES ON EUTHANASIA AND THE NOTION OF HUMAN DIGNITY IN BASUTOLAND

Euthanasia is a very vexing issue in the field of bioethics that has stirred the interest of many ethicists, lawyers, and the public in general. Some have generally discarded the practice of euthanasia because they consider it as killing. Others have considered it as a civil right for individuals to autonomously choose to die. Besides these general attempts, various definitions of euthanasia have been made. Glannon for instance noted that the term euthanasia is a compound of two Greek compound words, "eu = good; thanos = death, which literally means good death, death that benefits the person who

dies. The act that results in death is performed by someone other than the patient” (2005: 129). For McQuoid-Mason & Dada (2011: 185-186) euthanasia refers to an act or omission that brings about an easy and painless death for persons suffering from an incurable or painful terminal disease.

As has been highlighted above, the act of euthanasia is done solely for the benefit of a patient’s own good. This benefit can be done in many different types of euthanasia. For example, active euthanasia is “the practice of direct bringing about a person’s death according to or against that person’s wishes” (May, 1994: 488). While voluntary euthanasia “involves a patient making a voluntary and persistent request that someone actively cause his or her death. Involuntary euthanasia involves killing patient against his or her expressed wishes to the contrary, or without consulting such wishes. Non-voluntary euthanasia involves someone killing a patient who is incompetent and unable to express his or her wishes about wanting to live or die” (Glannon, 2005: 129). The last type of euthanasia is passive euthanasia which occurs “when a person withdraws or withholds treatment from a terminally ill patient or a patient suffering from unbearable pain (e.g. switching off a ventilator or turning down a pacemaker) and the patient dies as a result of nature taking its course (*Clarke v Hurst No 1992 (4) SA 630 (D)*) (McQuoid-Mason & Dada, 2011:186).

In South Africa, euthanasia is governed by the common law which provides that active euthanasia is unlawful and constitutes murder (*S v Hartmann NO 1975 (3) SA 532 (C)*) (Ibid). However, it should be noted that passive euthanasia is allowed in South Africa. “Passive euthanasia is lawful where it involves terminating treatment in hopeless cases after all possible procedures have failed and the patient is allowed to die naturally (e.g. the withdrawal of treatment or nourishment from patients in a persistent vegetative state with no prospects of recovery) (*Clarke v Hurst No 1992 (4) SA 630 (D)*) (for representative words see; SALRC Report on Euthanasia and the Artificial Preservation of Life 1998, 154 et seq, 185; McQuoid-Mason & Dada, 2011:186). However, in the Penal Code Act, 2010 Vol. 57 of Lesotho, there is no discussion or any mention of euthanasia together with its five types.

In the case of *Clarke v Hurst*, the latter signed the advanced directive standard while mentally competent requesting to be allowed to die in the event of there being no reasonable expectation of his recovery from an extreme physical or mental disability, and his wife was a curator *personae*. While in the case of *S v Hartmann*, a doctor gave his father who suffered progressively and untreatably from carcinoma in his prostate, and thereafter from secondary cancer a heavy dose of morphine and Pentothal, and died within seconds. The doctor (son) used his discretion to help his father to die because the father did not sign any advanced directive standard. Thus, Hartmann (the son) was sentenced to one year in prison.

Basotho conception of human dignity was acquired in two senses. Firstly, people were able to enhance their own dignity/*seriti* in order to protect themselves and their families’ against witches/sorcerers (*baloi*); secondly, the community was bestowing human dignity to all individuals who respect and participate in communal traditional rituals, and to all the elders whom were considered to be the sage of the community. On the same point, people like traditional healers (*lingaka*), chiefs (*marena*), very old people (*maqheku*), and ancestors (*balimo*), were considered to be dignified people in their societies due to their different fundamental roles in the community. For example, “one of the most direct and important ways that strengthening could be achieved was by enhancing one’s *seriti*/life force” (Hincks, 2009: 45). On the same conception of dignity according to Basotho, Hincks (2009: 45) also argues that:

*While a person might be born with weak or strong seriti, he or she could also acquire more of it and use it for either beneficial or selfish ends. Despite such ambiguities, seriti was nevertheless an essential component of or foundation for botho and was therefore also essential for communal health.*

As a matter of fact, traditional doctors were able to enhance their dignity due to their special powerful calling or access to the deeper mysteries of stopping the hail storm, preventing bad actions of witches etc. Witches were also considered to have their own dignity/*seriti* (life force), but this kind of dignity was not desirable among societal members because they can use their powers for good or evil. They were feared due to the fact that they can use their powers to make someone ill (mental illness: exorcism) or die, cause lightning to strike an enemy. Very old people were considered to be dignified due to their long life earning experience. They were considered to be communal sages who lead and advice the community to do well. Ancestors were called the living dead who were most dignified than living human beings. “The primary function of ancestors/*balimo* was to protect the living and ensure harmonious relations between members of society as well as between these members and the environment, including their villages, livestock and fields” (Hincks, 2009: 41).

For this reason, it is common to find people wearing or hanging all sorts of objects believed to contain the vital power around their wrists, waists, necks or arms in traditional African communities. For the same reason others engage in ritual murders in order to enhance their power, dignity, and respect within their societies. Thus, I do not think such elders also qualify for the status of human worth regardless of being the elders. In this sense, this claim on the human worth of the elders does not help us to have a more integrated notion of human dignity that will also include all human beings equally.

The above conception of Basotho notion of human dignity was also similar to other sub-Saharan notions of dignity. For instance, in sub-Saharan African societies, emphasis is put on the communitarian relationships that bound all the members of the society. For example, Mbiti argues that “I am because we are; and since we are, therefore I am,” while Menkiti argues that “as far as Africans are concerned, the reality of the communal world takes precedence over the reality of the individual life histories, whatever these may be.” (See Mbiti, 1969: 108; Menkiti, 1984: 171). From this conjecture, Menkiti added three inferences: firstly that in the African view “it is the community which defines the person as person, not some isolated static quality of rationality, will, or memory; secondly, that the African view supports the notion of dignity/*seriti* as acquired not merely granted as a consequence of birth; thirdly, that as far as African societies are concerned, dignity is something at which individuals could fail” (Menkiti, 1984: 173).

The above arguments of Menkiti and Mbiti analyze human beings as individuals that can only attain the status of dignity through the incorporation into this or that community, failing which, the individual will never attain that status alone. It should also be noted that the type of dignity that is proposed by the extreme communitarian is not equal to all human beings because as it can be seen from Menkiti, “full dignity is attained after one is well along in society and this indicates straightway that the older an individual gets the more of a person he becomes” (Menkiti, 1984: 173).

The above arguments on the worth of human beings are more extrinsic rather than intrinsic because his notion of dignity is given to human beings by the community. If dignity is given to individuals by the community, when and how does a person become more of a person? Is dignity in the Sub-Saharan context extrinsic or intrinsic? The distinction between extrinsic and intrinsic was said clearly by Stetson where he defined intrinsic dignity as “unearned, unmanufactured, and unmaintained. Like an involuntary bodily function such as the heartbeat, it simply occurs naturally, by design, without any thought or effort being devoted to it by the individual who possesses it; while extrinsic dignity is not essential to the human person but rather contingent” (1998:15-16). The latter form of dignity emanates from the meritorious actions of some certain expected way of living with other human beings in the community, and it can be acquired differently by different people. Extrinsic dignity is conditional on the fulfillment of certain rules, norms, or expectations, but intrinsic dignity is completely unconditional and unearned, it is embedded within a human nature.

Menkiti’s notions of ‘human worth and communal incorporation’ are very vague in a sense that they do not explain as to when and how one may know when the person has attained the status of human worth within the community. The quandary issue on Menkiti’s claim is that he sees elderly people to be capable to attain the status of human worth than others. The point is that there are elderly people who are known within their societies to have access to the mysterious powers, make life full of uncertainties with unpredictable wickedness and evil and dangerous to other human beings.

#### **4. A DEFICIENCY IN UNDERSTANDING HUMAN DIGNITY IN BASOTHO COMMUNITY IN SOUTHERN AFRICA**

The practice of euthanasia among Basotho community was based on three reasons namely; ‘dying with dignity for very old people’, very old people who were terminally ill, and in times of hardships, wars and riots which drove away villages so that enemies may not disrespectfully kill the old person who is incapable to run away. They believed that if a very old person is not helped to die, then s/he will lose his/her human dignity because s/he will be unable to do basic things for himself; in other words, the person will be helpless. For instance, very old people were considered to be incapable to feed themselves, hence they would be like children if they were allowed to live any longer. Children’s dignity was considered to be very less in value. Thus, this practice of euthanasia was seen as a blessing in disguise because it will elevate the human dignity of the old person to join the life of the ancestors who were considered to be the most dignified people after God. Kasenene (1994: 140) argues that “the African worldview of vital force/*seriti*/dignity is hierarchical, descending from God through the ancestors and the elders to the individual.” This point clarifies the idea that Basotho also were using the same notion of human dignity that was accorded to individuals according to their different ranks.

While it is true that Basotho were also practicing euthanasia “to all those who were suffering from terminal illness” (Lesitsi, 2002: 51), it is argued that Basotho were having in mind only one type of human dignity which was acquired during one’s life. They did not see human beings as the bearers of intrinsic human dignity that they will never lose even if they get very old. Their form of human dignity was earned/acquired and this is why they wanted to preserve it by putting an old person at the kraal door so that s/he may still die with his/her earned dignity, which will be elevated further when the deceased joins the world of the ancestors.

In this article, it is argued that an acquired form of human dignity that was used by Basotho fore-parents was inadequate without any consideration to an intrinsic form of dignity since extrinsic dignity can perish during the life of a person. For instance, a person who was considered to be respectful and dignified in his/her own society can lose his/her dignity if it can be discovered that she was a witch because witches were disliked. Even the old person, who was considered to be dignified, was killed because it was believed that if s/he is allowed to live for a longer time, his/her dignity will deteriorate. It is also argued that human beings have dignity because they have an inherent moral intuition capacity to reflect upon their actions than animals. It is through this moral intuition that helps us to respect the humanity of other vulnerable human beings during their terminal illness or during their old ages.

Thus, the formulation of human dignity that was used by Basotho fore-parents was also very vague because people within the same community were acquiring it in many different ways. For instance, some people (witches) were considered to have dignity but at the same time their form of dignity was disliked by other communal members while other human beings were considered to have dignity because they were old people or traditional doctors.

The concept of human worth is the idea that when we ascribe human worth to an individual, we do not take a slice of the individual’s life at a given point in time and ask whether it instantiates a determinate set of mental attributes, but we think about what the life meant to the individual himself or herself, family, friends and colleagues over time. All these aspects of a human life confer a meaning and value on an individual human life. However, human worth cannot be based on a set of qualities such as the ability to reason or think, feelings or have this or that emotion, since an individual human being may at any time lack any or all of these qualities during his or her lifetime and yet continue to retain his or her human worth without anyone justified to discriminate them.

## 6. CONCLUSION

It is apparent that euthanasia is a vexing issue worldwide. However, there is no specific law in Lesotho that addresses the practice of euthanasia, and even those who practiced it in the past were simply doing it out of traditional norms whereby the target was only on the very old people. This practice was done with the aim of protecting the human dignity of the old person which s/he has acquired during his living days, dying with dignity for old people’, for very old people who are terminally ill, and in times of hardships, wars and riots which drove away villages so that enemies may not disrespectfully kill the old person who is incapable to run away. On the same point, this practice was considered to elevate the human dignity of the old person into the highest dignity of the ancestors which were considered to be the living dead that were capable to protect the family members against evil spirit.

While it is true that during the past, Basotho were not having bad faith in their practice of euthanasia, but it was done out of good will in order to help the elders who were helpless. However, in current days of bioethics, this kind of practice would be condemned because it would have violated other people’s autonomy and informed consent to express their preferences at the end of life. This paper argues that Basotho fore-parents relied only on the acquired form of human dignity which also contributed on their practice of euthanasia with the aim of preserving the human dignity of the elders. In addition, this work therefore, found this practice as a torture regarding the manner that it was done by allowing the elders to be trampled by the cattle until they die. The practiced types of euthanasia were also found to be violating an intrinsic human dignity that is embedded within human beings. These types of practiced euthanasia were really against the principle of non-maleficence which says people should avoid causing harm to others. Thus, to put an old helpless and innocent person at the door of cattle kraal and allow the cattle to kill him/her mainly because family members were only focusing on one form of human dignity (extrinsic dignity) which was vaguely acquired was an anguish torture and violation of human dignity.

If ever euthanasia can be legalized in Lesotho, this paper would support passive euthanasia which is done after all the means have been done to help a terminally ill person. Under this type of euthanasia, all the futile means that were taken to preserve the life of a person are withdrawn so that the person can die out of natural death. Unlike in the situation whereby a person will be allowed to die in the name of protecting acquired human dignity. Thus, active euthanasia and involuntary euthanasia were being used as the means to relieve the psychological sufferings of the caring family members of the old people by killing them.

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