

EUTHANASIA: A BRIEF COMMENT

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Abstract

Euthanasia is one of the debatable phenomena today in relation to the rights of man. Euthanasia is the process which comprises of two people i.e. the person whose life will be ended and will be given relief from unbearable pain and the other is the one who ends the former life. Human Life is the God's gift, everyone is told to lead a happy, comfortable and wise life and people who commit suicide or talk about ending their life is not seen with a respectable eye, one term is designated to them i.e. "Coward" it is easy to give a title to a person but no one understand or genuinely concerned why one has a suicidal tendencies, maybe the one was in a lot of unbearable pain, every single day of his life is burden on other as well as on himself so do we need to live such life? Do we need to bother someone else because of our illness? Declaring the right to die with dignity as a fundamental right, the Supreme Court in a landmark judgment passed an order allowing passive euthanasia in the country. The Supreme Court has given a historical verdict that allows passive euthanasia legal in India. The Court said that 'living will' be permitted but with the permission from family members of the person who sought passive Euthanasia and also a team of expert doctors who say that the person's revival is practically impossible. The court stated the rights of a patient would not fall out of the purview of Article 21 (right to life and liberty) of the Indian Constitution.

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INTRODUCTION

Human Life is the God's gift, everyone is told to lead a happy, comfortable and wise life and people who commit suicide or talk about ending their life is not seen with a respectable eye, one term is designated to them i.e. "Coward" it is easy to give a title to a person but no one understand or genuinely concerned why one has a suicidal tendencies, maybe the one was in a lot of unbearable pain, every single day of his life is burden on other as well as on himself so do we need to live such life? Do we need to bother someone else because of our illness?

Concept of Euthanasia

Euthanasia is one of the debatable phenomena today in relation to the rights of man. Euthanasia is the process which comprises of two people i.e. the person whose life will be ended and will be given relief from unbearable pain and the other is the one who ends the former life. Though Euthanasia is an act of a kindness opponents argue that it is unethical as death lies in the hand of God, human are no one to end the life of a person which is a gift from a God. Opponents of Euthanasia can be bifurcated in those who profess any faith and others who do not profess any faith. The former argue that only one who may be entitled to end the life of a person is God, and therefore it is not possible for human being to end the life of another, and later argue that Euthanasia is simply a crime because in one way or other regardless the reasons one person is killing the person.

In layman term, Euthanasia is defined as "the termination of a very sick person's life in order to relieve them of their suffering". A person who undergoes euthanasia usually has an incurable condition. But there are other instances where some people want their life to be ended. In many cases, it is carried out at the person's request but there are times when they may be too ill and the decision is made by relatives, medics or, in some instances, the courts. Euthanasia is against the law in the UK where it is illegal to help anyone kill themselves. Voluntary euthanasia or assisted suicide can lead to imprisonment of up to 14 years.¹

HISTORICAL BACKGROUND

"I will give no deadly medicine to anyone if asked, nor suggest any such counsel."² Euthanasia comes from the Greek words, Eu (good) and Thanatosis (death) and it means "Good Death", "Gentle and Easy Death". This word has come to be used for "mercy killing". In this sense, Euthanasia means the active death of the patient or inactive death in the case of dehydration and starvation.

The first recorded use of the word euthanasia was by Suetonius, a Roman historian, in his *De Vita Caesarum-- Divus Augustus* (The lives of the Caesars -- The Deified Augustus) to describe the death of Augustus Caesar:

¹ Ethics of Euthanasia, Available at: <<http://www.bbc.co.uk>> Accessed on 25 July 2018

² About 400 B.C. – The Hippocratic Oath (By the "Father of Medicine" Greek physician Hippocrates)

“...while he was asking some newcomers from the city about the daughter of Drusus, who was ill, he suddenly passed away as he was kissing Livia, uttering these last word: “Live mindful of our wedlock, Livia, and farewell,” thus blessed with an easy death and such a one as he had always longed for . For almost always, on hearing that anyone had died swiftly and painlessly, he prayed that he and his might have a like euthanasia, for that was the term he was wont to use.”³

Augustus death while termed euthanasia” was not hastened by the actions of any other person.

Throughout the history, Euthanasia has been practised, accepted, hated and rejected. It is not a cultural discovery afforded by recent technology and advances. Although this practice has been survived from ages it has changed with cultural values and technology.

MERITS OF EUTHANASIA AND SUICIDE

In suicide, a man voluntarily kills himself by stabbing, poisoning, or by any other way. One’s intention is to kill oneself. There could be various reasons for a suicide such as depression, breakup, frustration in love, failure in examination, rejection for jobs etc. On the other hand, Euthanasia is the process of ending one’s life so that the person is free from pain and suffering, this act is done by the third person, he is either actively or passively involved i.e. he aids or abets the killing of another person. Suicide is voluntary, meaning it is the person’s will to end his life while euthanasia can also be involuntary or non-voluntary.

Involuntary euthanasia is ending a person’s life against his will. Non voluntary euthanasia is ending a person’s life when he is unable to give his consent as in the case of child euthanasia.⁴

***Note:** Assisted Suicide and Euthanasia are different from each other though in both third parties is involved be it a physician or a doctor. Assisted suicide is an act which intentionally helps another to commit suicide, for example by providing him means to do so. When it is a doctor who helps a patient to kill himself (by providing a prescription for lethal medication) it is physician-assisted suicide. Thus in assisted suicide, the patient is in complete control of the process that leads to death because he/she is the person who performs the act of suicide. The other person simply helps (for example, providing the means for carrying out the action). On the other hand, euthanasia may be active such as when a doctor gives a lethal injection to a patient or passive such as when a doctor removes life support system of the patient.*

CATALOGUING OF EUTHANASIA

Euthanasia is a compounded matter, there are many different types of euthanasia .Euthanasia may be classified according to the consent into three types:

³ Anne Kornhauser, the Modern Art of Dying : A History of Euthanasia in the United States, 30 POLITICAL AND LEGAL ANTHROPOLOGY REVIEW (2007)(Book Review)

⁴ Difference between Suicide and Euthanasia, Available at: <<http://www.differencebetween.net>> Accessed on: 30 July 2018

- 1) *Voluntary Euthanasia* – Voluntary Euthanasia is practiced with an expressed desire and consent of the patient. In simple words a person who is killed has requested to be killed. Voluntary Euthanasia is primarily concerned with right to choice of terminally ill patient to kill patient who decides to end his or her life, choices which serve his/her best interest and also that of everyone else.
- 2) *Non-Voluntary Euthanasia* – Non Voluntary Euthanasia is practiced without the consent of the patient; no request was made by the person who is killed. The decision is made by another person because the patient is unable to make a decision. This type of Euthanasia is done when the person is unable to communicate his wishes and needs. In Non-Voluntary Euthanasia the patient has left no such living will or given any advance directives, as he may not have had an opportunity to do so, or may not have anticipated any such accident or eventuality. Person who is not mentally competent such as comatose patient to make an informed request to die comes under the category of non-voluntary euthanasia. In cases non voluntary euthanasia, it is often the family members, who make the decision.⁵
- 3) *Involuntary Euthanasia*- When the person who is killed made an expressed wish not to have euthanasia? In other words, it is involuntary when the person killed gives his consent not to die. When the patient is killed without the expressed wish to the effect, it is a form of involuntary euthanasia. It refers to cases wherein a competent patient's life is brought to an end against the wishes of that patient that oppose euthanasia; and would clearly amount to murder.⁶

According to means of death euthanasia is bifurcated into:

- Active Euthanasia
- Passive Euthanasia

Active Euthanasia – Active Euthanasia refers to causing intentional death of a human being by direct intervention. It is also known as positive euthanasia or aggressive euthanasia. It is a direct act of ending one's futile life and meaningless existence Active euthanasia is said when someone uses lethal substances or forces to end a patient's life. Active euthanasia is the quicker means of causing death and all form of active euthanasia is illegal. Active euthanasia involves painlessly putting individual to death for merciful reasons, as when a doctor administer lethal dose of medication to a patient.

Passive Euthanasia – Passive euthanasia is intentionally causing death by not providing the life sustaining things i.e. care food or water. It is also known as Negative Euthanasia or Non-Aggressive Euthanasia .In other words discontinuing, withdrawing or removing life supporting system. Passive Euthanasia is usually slower more uncomfortable than active. Euthanasia is passive when death is caused because a treatment that is sustaining the life of

⁵ Airdale NHS Trust V Blend 1993(1) A11 ER821 (HL)

⁶ Osborn's Legal dictionary

the patient is held off and the patient dies as a result thereof. In “passive euthanasia” the doctors are not actively killing anyone; they are simply not saving him.⁷

SYSTEMS OF EUTHANASIA⁸

Competent adult patients have the right to refuse medical treatment. Such refusals of treatments are morally and ethically different from euthanasia, and should remain legally different.

Dr Tricia Briscoe said at the 2004 Medical Law Conference

“The right to refuse treatment flows from a right to inviolability - a right not to be touched, including by continuing treatment, without one’s consent - not from a right to die. Withdrawal of treatment will mean death, but it will result from the patient’s underlying illness.”⁹

When, however, an action or medication is withheld from a patient for the *primary* purpose of causing or hastening death, this is passive, or indirect, euthanasia. These measures may include the with-holding or withdrawal of ordinary measures such as food, water (hydration) and oxygen.

Examples of passive euthanasia are:

- when food and water is withheld from sick or disabled newborn babies who might otherwise have lived
- with-holding or withdrawing food and water from someone who is diagnosed as being in a ‘persistent vegetative state’, has dementia, or who is not improving fast enough (e.g. from a stroke)
- ‘do not resuscitate’ orders written on patients’ charts

Drugs

In Oregon, a doctor can write a prescription for drugs that are intended to kill the patient. When the prescription is filled, directions centre on making certain that the patient understands about taking all the pills in a single dose, dies after taking the prescription. The lethal drugs are covered by some Oregon health insurance plans. They are paid for by the state Medicaid program under a funding category called “comfort care.” Research into euthanasia in the Netherlands claimed people awake from comas after taking supposedly fatal drug doses and suffer side effects such as vomiting and gasping. To reduce the chances of the euthanasia drugs being vomited up, an anti-emetic must be given. The study showed that when patients tried to kill themselves using drugs prescribed by a doctor, the medication did not work as expected in 16% of cases. In a further 7% of cases

⁷ Aruna Ramchandra Shanbaug v. Union of India, 2011 (3) SCALE 298

⁸ Available at: <<http://www.life.org.nz>> Accessed on: 7 August 2018

⁹ Available at: <www.nzma.org.nz/news/issues/medical-ethics> Accessed on: 7 August 2018

there were technical problems or unexpected side effects. Problems surface so often that doctors felt compelled to intervene in 18% of cases, according to a report in the New England Journal of Medicine. Even when the doctor directly performed euthanasia, complications developed in 3% of the attempts. Patients either took longer to die than expected or woke from a drug-induced coma that was supposed to be fatal in 6% of cases.

Injectations

In the Netherlands, the practice is an injection to render the patient comatose, followed by a second injection to stop the heart. First a coma is induced by intravenous administration of barbiturates, followed by a muscle relaxant. The patient usually dies as the result of anaemia caused by the muscle relaxant. When death is delayed, intravenous potassium chloride is also given to hasten cardiac arrest.

Starvation and Dehydration

Right-to-die activists often advocate the withdrawal of food and water in order to hasten death. This means of death is frequently approved when application is made to the courts. Proponents of euthanasia recommend the use of what is known as Terminal Sedation in combination with the withdrawal of food and water. Terminal sedation allows for the measured use of sedatives and analgesics for the necessary control of symptoms such as intolerable pain, agitation, and anxiety, in order to relieve the distress of the patient and of family members. If all food and fluids (nutrition and hydration) are removed from a person -- whether that person is a healthy Olympic athlete who takes food and fluids by mouth or a frail, disabled person who receives them by a feeding tube -- death is inevitable. That death will occur because of dehydration.

Dr. Helga Kuhse, a leading campaigner for euthanasia, said in 1984: "If we can get people to accept the removal of all treatment and care - especially the removal of food and fluids - they will see what a painful way this is to die and then, in the patient's best interest, they will accept the lethal injection."

Gases, plastic bags and the 'peaceful pill', this method, referred to as 'self-deliverance,' are most commonly advocated by right-to-die activists such as Derek Humphry and Dr Philip Nitschke. In Humphry's book *Final Exit* describes the method and has been found in the possession of people who have used the method to commit suicide. Dr Nitschke developed what he calls the 'CO Genie' - an apparatus that turns out lethal carbon monoxide that can be made at home. Nitschke has held workshops in Australia and New Zealand teaching people how to manufacture such devices for themselves.

Dr Nitschke's latest initiative is a barbiturate-based 'peaceful pill.' Nitschke's Peanut Project (named for an old street term for "Barbiturate") intends holding workshops for small groups of elderly and seriously ill Exit members from different countries to make their own Peaceful Pill.

NATIONS WHERE EUTHANASIA ARE LEGAL

Netherlands

In April 2002, the Netherlands became the first country to legalize euthanasia and assisted suicide. But it imposed a strict set of condition “the patient must be suffering unbearable pain, their illness must be incurable, and demand must be made in **“full consciousness”** by the patient

Belgium

Belgium became the second country in the world to pass a law in 2002 to legalize euthanasia. The law mentions doctors can help patients to end their lives when they freely express a wish to die after suffering unbearable pain. Patients can also receive euthanasia if they have clearly stated it before entering a coma or similar vegetative state. Interestingly, Belgium became the first country to legalize euthanasia for children in 2014. There is no age limit for minors seeking a lethal injection but there are strict norms for it.

United States

Doctors are allowed to prescribe lethal doses of medicine to terminally ill patients in five US states. Euthanasia, however, is illegal. In recent years, the “aid in dying” movement has made incremental gains, but the issue remains controversial. Oregon was the first US state to legalise assisted suicide. The law took effect in 1997, and allows for terminally ill, mentally competent patients with less than six months to live to request a prescription for life-ending medication. More than a decade later, Washington State approved a measure that was modelled on Oregon’s law. And last year, the Vermont legislature passed a similar law. Court decisions rendered the practice legal in Montana and, most recently, in New Mexico.

Germany & Switzerland

In German-speaking countries, the term “euthanasia” is generally avoided because of its association with the eugenicist policies of the Nazi era. The law therefore tends to distinguish between assisted suicides. In Germany and Switzerland, active assisted suicide – i.e. a doctor prescribing and handing over a lethal drug is illegal. But German and Swiss law does allow assisted suicide within certain circumstances.

In Germany, assisted suicide is legal as long as the lethal drug is taken without any help, such as someone guiding or supporting the patient’s hand. In Switzerland, the law is more relaxed: it allows assisted suicide as long as there are no “self-seeking motives” involved. Switzerland has tolerated the creation of organisations such as Dignitas and Exit, which provide assisted dying services for a fee.

India

Declaring the right to die with dignity as a fundamental right, the Supreme Court in a landmark judgment passed an order allowing passive euthanasia in the country. The Supreme Court has given a historical verdict that allows passive euthanasia legal in India.

The Court said that ‘living will’ be permitted but with the permission from family members of the person who sought passive Euthanasia and also a team of expert doctors who say that the person’s revival is practically impossible.¹⁰ The court stated the rights of a patient would not fall out of the purview of Article 21 (right to life and liberty) of the Indian Constitution.¹¹

Right to life’ including the right to live with human dignity would mean the existence of such right up to the end of natural life. This may include the right of a dying man to die with dignity. But the ‘right to die with dignity’ is not to be confused with the ‘right to die’ an unnatural death curtailing the natural span of life. Thus the concept of right to life is central to the debate on the issue of Euthanasia. One of the controversial issues in the recent past has been the question of legalizing the right to die or Euthanasia. Euthanasia is controversial since it involves the deliberate termination of human life. Patient suffering from terminal diseases are often faced with great deal of pain as the diseases gradually worsens until it kills them and this may be so frightening for them that they would rather end their life than suffering it. So the question is whether people should be given assistance in killing themselves, or whether they should be left to suffer the pain cause by terminal illness.¹²

CONCLUSION

The concept of right to life is central to the debate on the issue of Euthanasia. One of the controversial issues in the recent past has been the question of legalizing the right to die or Euthanasia. Euthanasia is controversial since it involves the deliberate termination of human life. The question is whether people should be given assistance in killing themselves, or whether they should be left to suffer the pain cause by terminal illness.

¹⁰ Available at: <<http://english.samajalive.in>> Accessed on: 7 August 2018

¹¹ Available at: <<https://indianexpress.com>> Accessed on: 7 August 2018

¹² Available at: <<http://www.legalservicesindia.com>> Accessed on: 7 August 2018