

Death Wish

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Introduction

Euthanasia is a hot topic and is going to get hotter. The word euthanasia comes from the Greek 'Eu' meaning good and 'thanatos' meaning death. It means good death- a mercy killing of a person by another to end his suffering. While countries like the Netherlands, Belgium, parts of Australia and the American state of Oregon etc., have legalized euthanasia, it continues to be illegal in most of the world. It is high time that euthanasia should be legalized in our country too, with provisions of pertinent safeguards to prevent any possible abuse by medical professionals in particular and the society in general. Article 21 of the constitution guarantees 'Right to Life' which is a natural and fundamental right. Does that mean everybody has the duty to live until they die a natural death? What is wrong if one chooses to die for any reason whatsoever? In an era of growing medical sophistication combined with longer life expectancies, many people are concerned that they should not be forced to linger on in states of advanced physical and mental decrepitude by artificial means. There is no point in forcing a terminally-ill patient to stay alive against his will when chances of his survival are dismal. There is no justice and humanity in this approach. This is where euthanasia comes into picture. The need for euthanasia is felt in the following conditions (1):-

- a) When a terminally-ill patient specifically enlists the support of a doctor to prescribe lethal drugs or to withdraw life-supportive measures that will end his suffering.
- b) When relatives want to end the suffering of a patient by enlisting the support of a doctor.
- c) When the treating doctor feels that the prolongation of the life of the patient will serve no purpose.

Euthanasia can be classified into four types:

- a) Active euthanasia: When a lethal drug is administered to a patient with a view to end his life.

- b) Passive euthanasia: when artificial life-sustaining aids are withdrawn to precipitate death.
- c) Voluntary euthanasia: When euthanasia is practiced with the expressed desire and consent of the patient.
- d) Involuntary euthanasia: When euthanasia is practiced without the consent of the patient. In this case, either the consent of the patient is not obtainable or valid or he is not apprised of the decision of his relatives.

In India like most other countries of the world, euthanasia has no legal status. As the law stands, the practice of euthanasia is a clear act of criminal offence. If it is done with the consent of the patient-the doctor may be booked under S. 306 IPC for abetment of suicide. The punishment for which is upto 10 years of imprisonment and fine. The offence is cognizable and non-bailable. If it is done without the consent of the patient, the physician may be booked under S. 300 IPC and S. 302 IPC for causing murder. The punishment for which is life imprisonment or death sentence depending on the merit of the case.

Views on Euthanasia: Many people believe that like the 'Right to Life' the 'Right to die' is also a fundamental right and this gives each one of us the option of choosing the time of our death. The 'Right to Die' is a subject that causes people to challenge the limits set by the Indian constitution. The Venkatesh episode has kick started a furious debate in the administration, medical community and the judiciary on the controversial subject of euthanasia. The issue is discussed periodically and is avoided time and again. Yet, it is one of the most discussed ethical, moral and religious debates of our time (2).

Surprisingly, there are many protagonists of euthanasia for terminally-ill patients especially when they voluntarily implore for that. Some patients wish to die a dignified and painless death rather than just surviving mechanically on artificial means serving no purpose to the self and to

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the society. It is inhuman to maintain the life of a patient indefinitely upon sophisticated machinery especially when the chances of biological survival are not conceivable. Furthermore, employing euthanasia might have secondary benefits for patients whose chances of recovery are much better in terms of employing the resources which are being wasted on hopeless cases (3).

Not many doctors are ambivalent on this issue because of the fact that the Hippocratic oath and the International Code of Medical Ethics pose ethical contradiction for them. According to the Oath and the Ethics, a doctor is supposed to alleviate the pain and suffering of his patients on one hand, and to protect and prolong their lives on the other. The former may be used in favour of the doctrine of euthanasia but the latter counters the doctrine. Nevertheless, more and more doctors are concerned over the financial implications of the futile treatment for his relatives who are already under tremendous economic and psychological burden to maintain an unmaintainable life (3).

Science has reached the point where if it can not make you live forever, it can prolong your life. Better emergency systems prevent sudden deaths, when the heart stops working, life supportive measures keep a patient artificially alive. Such an existence purely on sophisticated gadgets is surely not worth living (4). The recent episode of Venkatesh has further sparked off a new twist to the ongoing debate on euthanasia vis-à-vis Human Organ Transplantation Act 1994. With the act coming into effect from 4th February, 1995; brain-death has acquired legal status in India. In other words, under the act, the human organ can now be removed from the body of a person who has been pronounced brain-dead by a board of medical experts constituted in accordance with the provisions of the act provided the valid consent for the same had been given by the person during his life time. Where the brain-stem death of any person less than 18 years of age occurs, the parents or next of kin of the deceased person may give authority for the removal of any human organ from the body of the deceased person. However 'non heart-beat death' does not fall under the purview of the act. In essence, the human organ can not be removed from the body of a person whose brain is physiologically functional but the heart is irreversibly non-functional. Thereby jeopardizing the lives of many critically-ill patients who are in dire need of the human

organs for their survival. It is in a way "waste of potential resources". So some people even suggest to include non heart-beat deaths under the ambit of the 'HOTA 1994' for the larger interest of the society.

Opponents of euthanasia however claim that it does not make sense to consider ending the suffering of a person by putting an end to the sufferer. The treatment of severe headache is not the removal of the head but in seeking ways of relieving the pain while keeping the head intact. Moreover, the disease which is incurable today might become curable tomorrow. The sanctity of the human life is a basic premise in the constitution of India. The fundamental 'right to Life' in chapter (III), Article 21 says a person can not be denied their 'Right to Life' except in accordance with the procedures defined by the Indian law. A mercy-killing is a direct contradiction of the time-honoured Hippocratic oath and the medical ethics that proscribe actions which might lead to the harm and eventual death of a patient. Some people vehemently oppose euthanasia on the ground that once legalized, it would amount to legalizing suicide and homicide. Also, it would be flagrantly violated by the vested elements in the medical community in particular and the public in general for material gains or otherwise. In modern societies where the incidence of suicide is rising, the implementation of euthanasia would encourage more and more patients to opt for it rendering S.306IPC and S.309IPC defunct. Spiritual leaders view euthanasia as a symptom of underlying disease in our society. As such, all religions of the world abhor the practice of euthanasia. Above all, there is a contentious issue of deciding what life is worth-living and what life is not? Should the final decision rest upon the treating doctor or the lawful guardian of the patient? Shall we euthanize the mentally handicapped en masse? How about the homeless and any other social misfits? Till such questions are answered satisfactorily, the topic of euthanasia shall remain a gray area for all of us to negotiate carefully (5,6).

Euthanasia World Wide (7)

Australia: Voluntary euthanasia law passed in 1996, but it was repealed in 1997.

Netherlands: Legally authorize assisted suicide of dying patients as well as voluntary euthanasia since April, 2002.

Belgium: Voluntary euthanasia was legalized in 2002. But two doctors should be involved in forming a decision regarding euthanasia, plus a psychologist if there are doubts about the patient's competency.

U.S.A: In America, the state of Oregon legalizes assisted suicide law (in the sense of a doctor prescribing lethal drugs for self administration by a patient) in Oct., 1997. The first assisted death under the new law occurred in 1998. In 1990, the Medical Association America adopts the position that with informed consent, a physician can withhold or withdraw treatment from a patient near death. Colombia: Voluntary euthanasia is legalized since 1997. Euthanasia is practiced on request of a terminally – ill patient only. Assisted suicide remains a crime.

Other Countries

In Uruguay, the judges are authorized to forgo punishment of a doctor whose previous life has been honorable where he commits homicide motivated by compassion, induced by repeated requests of the patient. In Sweden, Norway, Denmark and Finland-Euthanasia is not legalized. But in cases where consent was given and the reasons compassionate, the court pass lighter sentences. In Germany – direct killing by euthanasia is a crime so is in France which has also banned all publications that advise on suicide – ‘Final Exit’ a treatise on sure shot ways to commit suicide, has been banned since 1991.

Italy- Euthanasia is legally forbidden.

U.K In England and Wales there is a possibility of up to 14 years imprisonment for anybody assisting suicide. Oddly, suicide itself is not a crime. Like France, there are laws banning a publication if it leads to a suicide or assisted suicide. The killing of another at his own request is murder, as the consent of the victim is irrelevant in such a case.

The law in Canada is almost the same as in England.

Future Scenario in India (8)

If euthanasia is legalized in our country, we are likely to witness the following problems:

- a) A small number of patients will opt for mercy-killing. Even among this small number, questions would arise about how many were free of clinical depression, fully informed and insulated from coercion and undue influence.
- b) A much larger number of patients for which no voluntary consent exists would be killed.

- c) Law would be flagrantly violated by the black sheep in the society but the law-enforcement agencies would be at a loss to prosecute the violators for want of evidence. For example, cases would be encountered in which S. 300 IPC may be fully applicable but prosecutors would refuse to prosecute the accused because of the assisted-suicide defence.

Conclusion

Voluntary euthanasia, however, would be more logical and alternative choice provided strict safeguards are applied and enforced (i.e., requiring a waiting period to ensure that the decision is consistent and not an impulsive reaction to a prognosis; ruling out people with clinical depression or other confounding conditions; ruling out any undue influence or coercion on the patient; seeking second opinion of another competent consultant etc.).

If a law is brought forward with adequate safeguards to prevent abuse and with a description of some clear benefits, it should be considered favourably. If a law can not be drafted that substantially satisfies the concerns about possible abuse, it is far better for us to accept the limitations of the current situation than to play with the fundamental protection of an individual's life.

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