

Euthanasia: Most controversial and debatable topic

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Abstracts: Euthanasia or mercy killing is a topic of controversies and debate morally, ethically; legally. Present article deals with various aspects of euthanasia like concept of euthanasia, types, medical, legal, ethical, social, religious & philosophical, policies in other countries & particular reference to Indian culture. [Darji J A et al. NJIRM 2011; 2(3) : 94-97]

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Introduction: The term euthanasia derived from the Greek word “eu” and “thanatos” which means “good death” or “easy death”. It is also known as Mercy Killing. Euthanasia means Producing painless death of a person suffering from hopelessly incurable and painful disease¹.

Types of euthanasia are:

- 1) **Active or Positive:** It is an act of Commission. It means a positive merciful act to end useless sufferings and meaningless existence. For example by giving large doses of a drug to hasten death.
- 2) **Passive or Negative:** It is an act of Omission. It means discontinuing or not using extraordinary life sustaining measures to prolong life. For example failure to resuscitate a terminally ill or incapacitated patient(e.g. a severely defective newborn infant).Other methods include discontinuing a feeding tube, or not carrying out a life –extending operation or not giving life extending drugs etc.“Letting die” means to give way to an ongoing inner-organismic process of disintegration, without supporting or sustaining vital functions. Therefore the extubation (removal from a ventilator) of an incurably ill patient, though a physical action with subsequent death, is not killing in its proper meaning¹.
- 3) **Voluntary:** Euthanasia practiced with the expressed desire and consent of the person concerned.
- 4) **Involuntary:** Euthanasia practiced against the will of the person
- 5) **Non- Voluntary:** Euthanasia practiced in persons who are incapable of making their

wishes known.For example in persons with irreversible coma or severely defective infants.

Doctor -Assisted Suicide : Assisted suicide: someone provides an individual with the information, guidance, and means to take his or her own life with the intention that they will be used for this purpose. When it is a doctor who helps another person to kill themselves it is called ‘physician assisted suicide’².

In doctor assisted –suicide the doctor provides the patient with medical know-how (i.e. discussing painless and effective medical means of committing suicide) enabling the patient to end his/her life³.

Ethical Contradiction :The Hippocratic oath and International code of medical ethics pose ethical contradiction for the doctors. Hippocrates mentions euthanasia in the in the **Hippocratic oath**, which was written between 400 and 300 B.C. The original oath states: “To please no one will I prescribe a deadly drug nor give advice which may cause his death.” According to him, a doctor is to relieve the pain of his patient in one hand and protect and prolong his life on the other hand. The first can be used in favour of the doctrine of euthanasia but the second counters the doctrine. American Medical association holds it inconsistent with the ethics of advanced medical technology. Advanced medical technology could or should prolong sufferings⁴.

Religious and Philosophical backgrounds: No religion approves euthanasia. Philosophers like Aristotle, Plato and Pythagoras favoured euthanasia. Different organizations have moved from time to time from public opinion in favour of euthanasia and legalise it. Suicide is generally prohibited in **Indian** religions. According to Hindu beliefs, if a person commits suicide, he neither goes to the hell nor the heaven, but remains in the earth consciousness as a bad spirit and wanders aimlessly till he completes his actual and allotted life time. Suicide puts an individual's spiritual clock in reverse. One exception to the Hindu prohibition of suicide is the practice of prayopavesa, or fasting to death. Prayopavesa is not regarded as suicide because it is natural and non-violent, and is acceptable only for spiritually advanced people under specified circumstances. Roman Catholics oppose the right of self killing^{4,5}.

Legal Status in other countries: In many Western countries, it is generally accepted that there is no moral obligation on the part of doctor to preserve life at expense of suffering, and if in the course of good terminal care, this is ethically acceptable within the concept of "double effect", i.e. an ill effect is morally acceptable as long as there is a greater, intended good effect from an action⁵. This concept was first given legal sanction in relation to euthanasia by **Justice Devlin in the Bodkin Adams case** when he remarked, "The doctor is entitled to relieve pain and suffering even if the measures he takes may incidentally shorten life⁵."

The possibility of maintaining "physiological life" i.e. the continuation of the body functions by artificial means, while the patient remains unconscious over a period of months or years, has introduced a new dimension in to debate- "quality of life." Clearly, the sustaining of physiological functions with no prospect of recovery of consciousness or contact with the patient's environment has led to considerable debate as to whether or not such support systems should be continued, and who should be responsible for decision to turn off such systems⁶.

Views vary widely, but there is a substantial proportion in countries such as the USA practice

of euthanasia is clear offence theoretically, but in practice the judgments' of different courts during trial of euthanasia cases seem to be liberal⁴:

- 1) The case of **Karen Ann Quinlan** is representative of this. Karen, a 21- years old girl, fell in to coma after imbibing an overdose of alcohol and drugs on 15th April 1975. She passed in to "persistent vegetative state" from which recovery was extremely remote. Her parents, both devout Roman Catholics, were initially hopeful of a miracle, but as the months passed by they realized that this was only wishful thinking and that their daughter was never going to come back to meaningful existence. They requested that life support system prolonging the futile ordeal be switched off. The doctors attending on the case refused, and the issue was taken to court. In 1976, the New Jersey Supreme court delivered a verdict in favour of Karen's parent. However, while the support systems were subsequently switched off, artificial feeding was not stopped, and Karen continued to live for nearly 10 years before her heart stopped in 1985⁵.
- 2) Jack Kevorkin a 67 years old pathologist attended 27 such suicide in U.S.A. In 1990. He has been acquitted by three courts⁴.
- 3) Federal courts upheld this right of terminally ill persons with the help of doctors⁴.
- 4) In 1996 U.S.A. judgment says: " competent adults have constitutional right to seek help in choosing a dignified and humane death than reducing to a child like state of helplessness"⁴.

On 01/01/1997 Florida judge upheld the right of a dying AIDS patient to go in for doctor assisted suicide to end his sufferings⁴.

Today not only in the terminally unconscious patients but also in conscious patients who are suffering from an intractable, painful, terminal illness, euthanasia is being increasingly considered as applicable, provided the patient concerned makes request, and he is judged to be of sound and rational mind. Withdrawing treatment and allowing a patient to die (passive euthanasia) is therefore not perceived as repugnant anymore in certain situations. In fact in several western countries, adult individuals over a specified age can

execute a living will or advance directive: laws that recognize the right to say in advance that one does not want to be kept alive by artificial means when there is no hope, the right to die with dignity⁶.

Some countries have virtually legalised active euthanasia if performed by physician under strict guidelines (physician – assisted suicide), e.g. Netherland⁶, Belgium⁶, Luxembourg⁶. Some parts of the world have enacted legal status, e.g. The Death with dignity Act(1994) of the state of Oregon, USA, and The Northern Territory of Australia, which was however overturned by the Australian senate in 1997. Netherland Practices physician-assisted suicide openly ever since the Royal Dutch Medical Association officially endorsed it in 1984, and the parliament approved the practice, provided it was done within a frame work of specified guidelines. In 2000 Netherland becomes first country in the world to legalise physician assisted suicide. In 2000 the Switzerland based dignitas, a legal euthanasia centre, begins its operations under the lax euthanasia laws of the country, and as of 2008 has assisted nearly 900 deaths⁶. However, a clear-cut legalizing physician assisted suicide has so far not been passed in Switzerland. In 2002 Belgium becomes second country and in 2008 Luxembourg becomes third country to legalise physician assisted suicide⁶.

Legal Status in India : Like almost in all other countries euthanasia has no legal status³. The practice of euthanasia is a clear act of offence, either a suicide or assistance to commit suicide or a murder. Judgment of honorable Supreme Court declares that: **'Right to Die'** is not included in the **'Right to Life'** under **Article 21 of Indian constitution**. Article 21 assures the right to live with human dignity³, free from exploitation. Article 21 is a provision guaranteeing protection of life and personal liberty and by no stretch of imagination can imply **'EXTINCTION OF LIFE'**. Right to life is a natural right embodied in Article 21 but suicide is an unnatural termination or extinction of life and therefore not compatible and inconsistent with the concept of right to life³.

Recent judgement of The Supreme court of India for mercy killing in case of Aruna Shanbaug: Aruna Ramachandra Shanbaug is a nurse who was

crippled by an act of a class IV employee of the same hospital where she was working as a nurse. Her only mistake was her honesty, sincerity and devotion to duty. She complained against the Class IV employee to the authorities for some of his negligence. The employee took revenge on her and tried to rape and in the process of saving herself from the clutches of the brute, she got mentally and bodily crippled when the man tied her with the dog chain. The man is free after seven years of imprisonment, but the woman is lying in a permanent vegetative state (PVS) for the last 37 years in KEM hospital in Mumbai. It is reported that she had been well looked after by the doctors and nurses of the hospital. A writer by the name Ms Pinky Virani who visited Aruna on certain occasions filed a petition for mercy killing (euthanasia) in the Supreme Court of India and the case made the people to eagerly wait for the verdict of the Supreme court not only in India but throughout the world⁸.

The judges passed the judgment that the plea for the passive euthanasia has to be made by the hospital and the judges laid down the guidelines for allowing passive euthanasia. Pronouncing the judgement, Justice Markandey Katju said, "There is no statutory provision in our country as to the legal procedure for withdrawing life support to a person in PVS or who is otherwise incompetent to take a decision⁸. We agree with Mr. T.R. Andhyarujina that passive euthanasia should be permitted in our country in certain situations, and we disagree with the learned Attorney General [G.E. Vahanvati] that it should never be permitted."The Supreme Court asked the parliament to frame guidelines in this respect. The judgment of the Supreme Court consisted of about hundred pages. The benches of judges further said, "We are laying down the law in this connection which will continue to be the law until Parliament makes a law on the subject. A decision has to be taken to discontinue life support [to a patient in PVS] either by the parents or the spouse or other close relatives, or in the absence of any of them, such a decision can be taken even by a person or a body of persons acting as a next friend. It can also be taken by the doctors attending the patient. However, the decision should be taken bona fide in the best interest of the patient." In the present case, the court said

that the parents of Aruna having been dead and there being no close relations showing interest in her, it was left to the KEM hospital staff to take a decision and the hospital staff, in very clearly terms, had expressed their wish that Aruna Shanbaug should be allowed to live. The Supreme court bench however said that the active mercy killing of patient suffering from acute disease was illegal.

While giving their judgement, the bench also recommended to the parliament to delete Section 309 of the Indian Penal Code (IPC) which deals with the attempt to suicide cases as this law has lost the test of the time and had therefore become anachronistic.

Conclusion: Today there is ranging controversy all over the world as to its legal standing aside from the moral and ethical issues involved. Having seen that the law is not unprepared to reexamine former rigid attitude toward the sanctity of life those in favour of Euthanasia exhibit some zeal in supporting their views³. The opponents of Euthanasia state that there are moral, religious and ethical obligations which cannot be ignored. They argue that no one has right to take away the life of an individual not even individual him or herself. The concept of sanctity of life is inviolable and doctors having taken an oath (The Hippocratic oath) "to preserve life at all cost" cannot justify a patient to die or passive means⁶.

Recommendations: We are of strong belief that in India Euthanasia must not be made legal because: It may provide a grey area to the opportunists in various fields related to it. "It can be like a Legal sword in the hands of Devils". In such cases the patient's "right to die" is converted to a "duty to die". In this relation we must remember the words of Lord Edmund Davis "Killing both pain and patient may be good morals, but it is far from certain it is good law⁹."

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