

The Economics of Euthanasia

M. Swathi¹, D. Srinivasa Rao², M. Swapna² and L. Jayasree¹

¹P.G. Department of Legal Studies and Research, ²Department of Biotechnology,
Acharya Nagarjuna University, Nagarjuna Nagar, Guntur –522 510, Andhra Pradesh, India

E-mail : srine.rao@gmail.com

(Received on 11 December 2011 and accepted on 15 February 2012)

Abstract - In Article 21 of the Indian Constitution read thus 'No person shall be deprived of his life or personal liberty except according to procedure established by law'. Many people believe that the fundamental right Article 21 the 'Right to Life' includes the 'Right to die' is also. The 'Right to Die' is a subject that includes euthanasia, it means a good death, right to die or mercy killing of a person by another to end his suffering and people to challenge the limits set by the Indian constitution. Euthanasia is nothing else but a permit or license to the medical professional for ending the life of a person in question. At the extreme ends of disagreement, advocates say euthanasia, also known as physician aid in dying, or physician assisted suicide, is a merciful method of death. At the other end are opponents of euthanasia, who may consider this method as a form of murder. The issue of euthanasia is likely to remain high on the medicolegal or ethical agendas of many countries in coming years.

Keywords : Euthanasia, Ethical Agenda

1. INTRODUCTION

Euthanasia term derived from the Greek words “eu” and “thanatos” which means “good death” or “easy death” or 'mercy killing' [1]. Euthanasia literally means putting a person to painless death especially in case of incurable suffering or when life becomes purposeless as a result of mental or physical handicap. To give the end to the subject matter in a spite of unbearable sufferings and pain where death is certain, is known as concept of euthanasia. Meaning of euthanasia is the intentional killing by act or omission of a dependant human being for his or her alleged benefit [www.euthanasia.com] one of its kinds is assisted suicide which happens when 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 [2]. When it is a doctor who helps another person to kill themselves it is called "physician assisted suicide." As per Canadian Law Reforms Report [3] the word “euthanasia” is some what ambiguous and has several possible meaning and the act of ending the life of a person from compassionate motives, when he is already terminally ill or, when his suffering has become unbearable.” Normally – Euthanasia is defined as gentle and easy death: bringing of this especially in the case of incurable and painful diseases [4].

Since involuntary euthanasia is conducted without an individual's specifically given acquiescence, in the opinion of some, this equates involuntary euthanasia to murder. Non-voluntary euthanasia may be conducted when the person is incapable of making a decision and it is thus left to a proxy. Euthanasia by proxy consent is highly controversial, especially because multiple proxies may claim the authority to decide for the patient. A patient once diagnosed as suffering from one of these ailments is doomed to suffer with despair and dejection. He loses all hopes and peace. Some time medical assistance is phenomenally high and beyond the reach of many and who are frightening for death restlessly [5]. It may therefore be asked that will it not be prudent to legalize euthanasia so that crying may be minimized by giving death and surly peaceful and dignified death. Indian Laws allows organ donation only if a person is declared brain dead [6]. Euthanasia can be classified different types.

II. CLASSIFICATION

There are different types of euthanasia which all have distinct definitions [7]. Euthanasia may be classified as passive and active [8]. Passive euthanasia as hastening the death by altering some form of support and letting nature take in course by following one the methods such as removing life supporting medical procedure, medication etc., or stopping food and water and allowing the person to dehydrate or starve to death or not delivering CPR (Cardio-Pulmonary Resuscitation) and allowing a person, whose heart has stopped, to die [9,10]. These procedures are performed on terminally ill, suffering persons so that natural death will occur sooner. Active euthanasia involves causing the death of a person through a direct action, in response to a request from that person. Physician Assisted Suicide (PAS) euthanasia a physician supplies information and/or the means of committing suicide (e.g. a person prescription for lethal dose of sleeping pills, or supply of carbon monoxide gas) to a person, so that he can easily terminate his own life. The term “Voluntary Passive Euthanasia” (VPE) is becoming commonly used. Involuntary euthanasia is used to describe the killing of a person who has not explicitly requested aid in

dying. This is most often done to patients who are in persistent vegetative state or in coma and will probably never recover consciousness. The advancement in medical science has generated various questions amongst the concerned individual and the groups who ponder to know – what is Right to Life? Does it mean merely staying alive or does it include meaningful life?. Similarly, a debate is also on about the constantly changing meaning of “natural death”. The advance medicine can sustain human life artificially through various life support systems. Thus the question emerges, “when can one actually define natural death?”.

III. SIGNIFICANCE OF EUTHANASIA

On the one hand the good will of a dead body is considered and on the other hand one who do not want to live on the mercy of any one, can't have right to have a dignified end of his/her life?. "Surveys in European countries indicate that many thousands of people are routinely assisted to die by doctors in one of the two latter ways every year" [11]. In 1992, Sue Rodriguez forced the right-to-die debate into the spotlight in Canada. In a video statement played to members of Parliament, the Victoria woman, diagnosed with Lou Gehrig's disease in 1991, asked lawmakers to change the law banning assisted suicide and euthanasia [12]'. "If I cannot give consent to my own death, whose body is this? Who owns my life?" she said. The Supreme Court of Canada ultimately ruled against Rodriguez, but her struggle galvanized the public. Rodriguez committed suicide in 1994 with the help of an anonymous doctor.

Act 21 of the Indian Constitution guarantees “right of life” which mean “right to live with dignity”. Undoubtedly it can not be said. That guarantee of right to life does not includes right to die. The right to life including the right to live with human dignity would mean the existence of such a right up to the end of natural life [13]. This also includes the right to a dignified life up to the point of death including a dignified procedure of death. In other words this may include the right of a dying man to also die with dignity when his life is ebbing out [14]. But this right to die with dignity at the end of life is not to be confused with the right to die and an unnatural death curtailing the natural span of life as it attract the provision of 309 IPC. There are number of cases of various states which clearly shown the inconsistency of criminal law in its response to the medical practitioners who take life limiting decision.

In R. Vs Cox [15] the doctor literally followed the instructions of his distressed dying patient and deliberately injected her with strong potassium chloride resulting in the death of the patient, the jury for homicide convicted the doctor.

This in spite of the fact that all nearer, dearer and family members considered that the doctor has provided a merciful release to the old patient. Many member of the jury openly wept when the verdict was returned.

In Airedale NHS Trust Vs Bland [16], House of Lords, was called upon to decide the legality of withdrawal of feeding. In the case 'x' was severely injured in the hill borough stadium disaster. As a result of interruption of supply of oxygen, he had remained for three-years in persistence vegetative stage. He had lost all the higher brain function. There was clear medical opinion that there was no hope of this ever-regaining brain functions. He was fed and his other bodily functions met by artificial means and he received antibiotic treatment to combat recurring injection. Before the accident, he had not expressed any opinion as to how he should be treated in these circumstances. The hospital authorities supported by the parents of 'x', this sought by the declaration to the effect that they might lawfully discontinue all the life saving treatment and medical assistance. They also desired to discontinue medical assistance exception enabling the patient to end his life with dignity. The House of Lords held that there was no duty on the part of the doctors to continue such treatment when the patient had no further interest in being kept alive. The house further directed that until a body of experience and practice was built up application should be made to the family division of the high court in any case where it was considered that continued treatment and benefit [17]. There are many definitions for the word "terminal." For example, Jack Kevorkian who participated in the deaths of more than 130 people before he was convicted of murder said that a terminal illness was "any disease that curtails life even for a day" [18,19]. Dutch psychiatrist Dr. Boudewijn Chabot who provided a fatal dose of drugs to a depressed, but physically healthy, woman, stated that "persistently suicidal patients are, indeed, terminal" [20].

In India supreme Court, through not called upon to examine the issue directly but in the case of Venkatesh, on 17 December, 2004 [21,22] when he died in a sleep, prior to his death his plea to Andhra Pradesh H. C. to be allowed to donate his organs was turned down. The hospital said on the question of donation of organ in the very case it amounted to euthanasia or mercy killing, which is illegal in India. The court agreed. "The law does not allow transplanting organs from a person who is still alive," High Court judges Devender Gupta and Narayan Reddy said. "The existing law has no such provision and such a request cannot be conceded," they added even his mother K. Sujatha has not yet given it up. She has vowed to light it out in the court so as to make mercy killing legal in

India. But as there is no law regarding Euthanasia in our country the following things happened:

- i. The boy's final wishes of helping some one in need has been remained unfulfilled.
- ii. The mother and other relatives fell hurt as they couldn't fulfill the boy's final wish.
- iii. The few needy patients who could have been saved by the boy's healthy organs have been deprived of a chance to live a healthy life.

In another case of Terri Schiavo, who passed away recently is indifferent in its nature. She was unable to make a decision for herself as she was in persistent vegetative state for 15 years after an extensive brain damage. The case gained world wide publicity and after the intervention of U.S. President when the feeding tube was pulled off after 12 days, Terri left this world. In fact Euthanasia is a very difficult decision and no doubt here it is important to explain the thinking of the lawmakers to revert the decision of S. C. in *P. Rathiram Vs UOI* [23] and in *Gyan Kaur Vs UOI* [24]. Actually the right die when first time permitted justice B. L. Hanasaria observed that Act 21 speaks right to live never means a right to live a force life [25]. But once a suicide has been omitted from IPC, the welfare concept diminish as the duty of state to check over crime is lacked, as there was no fear behind it for those who make the attempt to suicide, hence before doing so one have to think it pros and quinces if he fails to die.

In history Euthanasia already existed in some form or the other by various societies and groups. The revival of classical learning in the medieval era evoked sympathetic public feelings towards suicide. Suicides committed for avoiding disgrace and humiliation, real or imaginary were considered with admiration and favor [26]. The foundation of medieval ecclesiastical view and with it the legal sanction against suicide begun to suffer tremor as a serious of doctrinal views begun to shower relentless criticism against them. Montague, the first scholar to question the orthodox view, had thought that suicide motivated by pain and fear of suffering the worst death is excusable [27]. In ancient Greece and Rome helping others to put an end to their lives was permitted in certain situation. Indian philosophical tradition has justified the idea of willing one's death (*ichacha maran*). Veer Savarkar and Vinobha Bhave are the well known examples of the person choosinf to end their lives by refusing the intake of all-nutritious. Even Mahatma Gandhi supported this idea. Mythology says Lord Rama and his brother took Jalasamadhi in river Saryu near Ayodhya. Ancient history tells that Lord Budha and Lord Mahavir achieved death by seeking it. These mythological believe suggest that trace of right to die existed

in various religions followed in India. Rishi Dadhichi is also well known to choose his death himself. Last but not the least the name of Bhishma Pitamaha can not forgotten to choose his death as per his wish.

In recent past, Vimla Devi Bhansali's good bye to society enlighten the question of right to live and right to die once again. In present case, the 60-year-old woman had chosen to observe Santhara or Sellekhana Vrata a traditional Jain ritual of voluntary non-violent abnegation of one's physical body-giving up food and water, gradually starving herself to death over a period of time. It is argued that while rituals like Santhara are evolved acts aimed at achieving spiritual liberation, the desire for suicide or impulsive taking of one's life arises from a desire to life in order to end sufferings. This implies that those being driven to suicide because of failure perception- for instance jilted in love, poor performance in examination, unemployment, bad debts and painful sufferings require counseling and care. Instead, the law punishes those who attempt to commit suicide, and this only aggravates their suffering. However, even after counseling and serious consideration of the situation if an individual still wants to end his life, it is his right to do so but without disturbing or disrupting the lives of others. So far as Quaran⁽²⁸⁾ is concern *Islam* categorically rejected of suicide. Prof. Masudul Hasan in his the digest of the Holy Quaran writes Islam forbids suicide. Man is the vicegerent of Allah on earth and he who commits suicide runs away from his obligation to God. This can be more following verses of Quaran.

“Make not your own hands contribute to your destruction.”

“Do not kill or destroy yourself.”

“It is Allah who gave you life: who will cause you to die.....”.

Islam considers life is very precious and it wants every man to devote their lives in serving oneself and the society also. Life is not meant for oneself only. Allah is given you life for serving the society. The value of one's life can be judged from the following verse of Quaran. “Whoever kills one person without any person having been killed or for creating disturbances on earth he kills the whole human race and one who saves a life he saves the whole human race.”

Generally Islam prohibits something to be eaten; they are carrion and blood and swine flesh and the dead through beating and the dead through falling from height and that which hath been killed by horns etc. But in some emergent situations, to save the life, one is allowed to eat what is prohibited because life is so precious that to save what is prohibited is allowed. The most explicit and very can did attack against the Christian attitude on suicide was made by

Voltaire [29]. He wondered why suicide was made a crime while war which cause “much more harmful to the human race than selfmurder” was not. As he did not consider suicide as antisocial he therefore, condemned the degradation of the suicide's body. He admired the ancient Romans who were not censured to live, to think or to die and propose society to follow their example. Charles Moor (Ibid) on his monumental work on suicide advocates the patristic view. He thought suicide as a wrong not because man in his life knows not for certain what is in store for him. Even if life appears to be unattractive he can never be certain if it will go on like that in the future; a suicide by his abrupt departure may counteract some hidden design of the almighty, Glanville criticized this view as an “argument for never taking any decision.”

IV. MISGIVINGS

Euthanasia is in debate from state highlighted its positive feature but it negative aspects or MTS giving can also not be ignored at all like.

- i. It will be check over the discovery of new treatment.
- ii. Medical professions are known for saving the life and not one that helps people to die.
- iii. There can be mis-diagnosis.
- iv. People Regard for doctor will go down.
- v. Legally sanctioned killing will always make any society move callous about the death.

In addition of the above in a country like India where public is backing beyond the money, it is observed that euthanasia may be misused by the masses in case of the property or else where disputes. The opponents of euthanasia fear that, when euthanasia is legalized, it may become the first option, not necessarily because killing is contagious but because the concept of life-not-worth living is open to numerous interpretations. It is this perspective that is highlighted by those who oppose this slipper slope. The objection is not to Euthanasia but against the projected consequences-such as sick, elderly, disabled being pushed into death just to spare the families, energies, emotion and money. In a study of 1,150 critically ill patients who died during the study, in only 14% was there an attempt to resuscitate. Twenty years ago most would have been. If all life-prolonging care would be forbidden, it would only save one out of eight dollars spent on health care [30]. There are many who believe that Euthanasia might brutalize those carrying it out. Once doctors get accustomed to sending certain categories of people of death, they may be indifferent to suffering inflicted on other. As Cardinal Roger Mahonet,

Archbishop of Los Angeles points out; all that it serves is the attitude that we can solve the problem of people by getting rid of people⁽³¹⁾.

V. PRESENT LEGAL POSITION OF EUTHANASIA IN VARIOUS STATES

Euthanasia – Law and practice in the Netherlands: According to the Dutch Penal Code, euthanasia is a crime. However, it is not qualified as murder (As in some other countries), but dealt within a separate action, according to Article 293, anyone who takes another person's life at his explicit and earnest request will be punished by imprisonment to a maximum of 12 years. In the same year Royal Dutch Medical Association issued an influential statement on euthanasia. In order to provide guidance to the profession as to under which conditions euthanasia could be permissible, it formulated a set of criteria developed by the Courts.

- i. The requests for euthanasia must come form the patient and be entirely free and voluntary well considered and persistent.
- ii. The patient must be experiencing intolerable sufferings (physical or mental) with no prospect of improvement and with no acceptable solutions to alleviate the patient's situation.
- iii. Euthanasia must be performed by a physician after consultation with an independent colleague who has experience in this field.

Euthanasia policy of Netherlands is unique in the world and it may be an example to other to follow its policy. In February 2008, Luxembourg passed a law to permit euthanasia and assisted suicide. However, the law will not go into effect until additional procedures are completed. Implementation is expected in mid-2008.

A. Euthanasia law in Australia

In March of 1998, Australia's remote Northern Territory (Darwin) becomes the first place to legalize voluntary euthanasia. Although Australia does not hold the same notoriety as the Netherlands, the history of the bill has been volatile and controversial. A new proposal in South Australia makes assisted suicide available to those who are "hopelessly ill." According to the "Dignity in Dying Bill 2001" a person is hopelessly ill if the person has an injury or illness (a) that will result, or has resulted, in serious mental impairment or permanent deprivation or consciousness; or (b) that seriously and irreversibly impairs the person's quality of life so that life has become intolerable to that person" [32].

B. Euthanasia Law in U.S.A

Presently the majority of states in America have laws against assisting suicide despite suicide and attempted suicide, are no longer considered crimes.

C. Euthanasia Law in U.K

In U.K., the Courts and legislators have consistently refused to remove the fundamental criminal law objection to the practice of euthanasia. This shows legal limits in this sphere by which doctor's cannot follow their individual consciences how good it may be. In 1994, New England Journal of Medicine published an article recommending legalization that would permit assisted suicide not only for individuals who have terminal conditions but also for those with "incurable debilitating illnesses [33]. Likewise, the Hemlock Society, citing the fact that many people fear becoming a burden, has publicly supported a man's legal attempt to "empower his wife to have a doctor end his life by lethal injection, without criminal liability, should he be stricken by a debilitating illness [34].

D. Euthanasia Law in India

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. There are no special provisions regarding this either in law of legislation. In India special legislations is needed. In this regard Justice J. S. Verma mentioned: "Euthanasia is not lawful at common law. It is of course well known that there are many responsible members of our society who believe that euthanasia should be made lawful; but result could. I believe, can only be achieved by legislation which express the democratic will and it is so fundamental that a change should be made in out subject to appropriate supervision and control.....". In India M. R. Masani is advocating the practice of euthanasia. The idea of euthanasia is more or less a hidden concept of those people. Who cannot think of the patient in suffering?. When people seeing a patient in acute pain and endless suffering say "May God bless him death or why death does not come to him", that shows the hidden euthanasia concept. Perhaps when these ideas will be fully expressed in an organized manner we will be in crisis. To

avoid this, certainly we need a hot debate over this issue. They believe the implementation of euthanasia should be made under some conditions. There are generally five individually necessary conditions for candidacy for voluntary euthanasia. They contend that if a person; i.) is suffering from a terminal illness; ii.) is unlikely to benefit from the discovery of a cure for that illness during what remains of her life expectancy; iii.) is, as a direct result of the illness, either suffering intolerable pain, or only has available a life that is unacceptably burdensome (because the illness has to be treated in ways that lead to her being unacceptably dependent on others or on technological means of life support); iv.) has an enduring, voluntary and competent wish to die (or has, prior to losing the competence to do so, expressed a wish to die in the event that conditions (i)-(iii) are satisfied); and v.) is unable without assistance to commit suicide, then there should be legal and medical provision to enable him/her to be allowed to die or assisted to die [35]. Further there are so many questions like that who may be member of that judicial body?. How it can be decided that a person is in irreversible coma as it was found in some cases of coma the patient come out of this coma and medical science simply said "It is the wonder of God". In fact there are so many problems for which debates are going on. In addition of the above one things should also be considered by the judicial body that who ever want the benefit from euthanasia, must donate the body organs for the benefit of the society [36,37,38].

VI. CONCLUSION

Euthanasia has been at the centre for a moral debate for long. The individual's right over his/her life and the value placed on human life by the society seem polar opposites in this debate. Opponents of euthanasia maintain that there is a clear moral distinction between merely allowing to die and actually causing or deliberately hastening someone's death. Laws of euthanasia vary greatly from country to country and from individual to individual. For some it is a crucial moral discernment; for others, it represents either casuistry or moral fiction. In India euthanasia is a live issue as the supreme court of India recently passed a verdict that attempted suicide is not a crime. This signifies social approval of suicide and euthanasia which is assisted suicide.

REFERENCES

- [1] I.U.Melvin and E.U.Philip, *The Right to Die*, pp.823, 1996.
- [2] <http://www.euthanasia/index/html/deffinitions>
- [3] Canadian Law reforms, *ILI LIB*, Vol.343,No.71, pp. .611-614, further www.cbc.ca/on_eutha.htm.
- [4] The Concise Oxford Dictionary of Current English, Ed. By R. E. Allen 403, 2004.
- [5] Ralls , “The Doctor’s Dilemma: Relieve Suffering or prolong life? ”, *South African Law Journal*, pp.1-40, 1997.
- [6] J.Podgers, “Matters of life and Death: Debate Grows over Euthanasia”, *American Bar Association Journal*, pp. 60, 1992.
- [7] H.Omayer, *The Issue of Euthanasia*, pp.7,2003.
- [8] K. Shailender), *DJA Journal*, Vol. 4, No.1, pp. 85-86, March 2005.
- [9] Baume *et al*, “Professed Religious Affilia- Goel 225 and the practice of Euthanasia”, *Journal of Medical Ethics*, Vol.21, pp.49-54, 1995.
- [10] AIR, NOC, pp.374, 2008.
- [11] The Hindu editorially observes, April 21, 2002.
- [12] www.cbc.ca/on_eutha.htm
- [13] V.Gyan kaur “Right to Dignified Death -How far is it fundamental”, *Mewar Law Journal*, pp.6, 2004.
- [14] Rao, “Euthanasia-A licence to kill”, *ILI report on global health conferences*, p.7, 1998.
- [15] In R. Vs Cox 12 B.M.L.R. 38, 1992.
- [16] In Airedale NHS Trust Vs Bland 2 W.L.R. 316, 1993.
- [17] *Law India* 1993, 2(4); 10.
- [18] Dr. Death: No law is needed on euthanasia, *USA Today*, p. 6A.
- [19] Kevorkian's attorney, Geoffrey Feiger said, "Any disease that curtails life-span is terminal." Geoffrey Fieger, Letter to the Editor, *Detroit Free Press*, December 11, 1990.
- [20] "CQ Interview: Arlene Judith Klotzko and Dr. Boudewijn Chabot Discuss Assisted Suicide in the Absence of Somatic Illness," 4 *Cambridge Quarterly of Healthcare Ethics* 1995.
- [21] *Times of India* dt.18 December 2004.
- [22] BBC News 15th December 2004, South Asia.
- [23] S. C. in P. Rathiram Vs UOI [(1194) 3SCC 394].
- [24] In Gyan Kaur Vs UOI [(1996) 2 SCC 648].
- [25] 3 SCC p. 410 Para 35], 1994.
- [26] *Groller Encyclopedia*, 1954.
- [27] L. Thakur, *History of Suicide in India*, 1986.
- [28] Khan (1997) Right to Die or Not to Die: A Note on the Supreme Court Judgment, *SCJ* 1: 34- 44.
- [29] *Encyclopedia of Philosophy*, 1967 (On Suicide).
- [30] J. Lynn, Terminally ill, Forgoing.... Care, *Dartmouth, Boston Globe*, May 21, 1994. (http://www.lifeissues.org/Euthanasia/why_cant_we_love_them_both_25.asp.htm).
- [31] Colbum D., Biscupic, May 15, 1994, “Patient has Right to commit Suicide” *The Guardian Weekly*.
- [32] Dignity in Dying Bill 2001, South Australian Parliament, Introduced on March 14, 2001 by Australian Democrats state deputy leader Sandra Kanck. http://www.democrats.org.au/sa/parlt/autumn2001/0314_e.htm on May 29, 2001.
- [33] Franklin G. Miller, Timothy E. Quill, and Howard Brody *et al.*, "Sounding Board:Regulating Physician-Assisted Death," *New England Journal of Medicine*, 1994.
- [34] http://biz.yahoo.com/prnews/981231/co_hemlock_1.html, visited on February 25, 2008.
- [35] *Encyclopedia of Philosophy*, 1967 (On Suicide).
- [36] B. Peter, O.M. Emma, and B. Adrian, “Professed Religious Affiliation and the practice of Euthanasia”, *Journal of Medical Ethics*, Vol. 21, pp. 49-54, 1995.
- [37] Umesh Chandra, “Right to Dignified Death -How far is it fundamental ”, *Mewar Law Journal*, pp. 200, 2004.
- [38] Sheeraz, “Right to Die or Not to Die: A Note on the Supreme Court Judgment”, *SCJ*, Vol.1 ,pp. 34-44. 1997.