



EUTHANASIA IN THE CURRENT SCENARIO

Dr. Tanvi Gusain*	M.D. scholar, Dept of agada tantra, Shri Krishna Government Ayurvedic College, Kurukshetra*Corresponding Author
Dr. Brijendra Singh Tomar	Professor, Dept Of Agada Tantra, Shri Krishna Government Ayurvedic College, Kurukshetra
Dr. Satbir Kumar Chawla	Assistant professor, Dept Of Agada Tantra, Shri Krishna Government Ayurvedic College, Kurukshetra

ABSTRACT In ancient times even when medical science was not advanced enough as it is in modern times, ayurvedic physician were expected to diagnose the diseases as sadhya, krucha sadhya, yapya or asadhya and the treatment was given accordingly. Even though the stage of disease was considered asadhya & the general rule was not to treat the asadhya. But even acharyas have taken into consideration the medical duties as a physician and treated the asadhya condition. With the advancement in the medical technology, it has improved the mortality of medically terminal ill patients but somehow has created problems for the patients who are in suffering and doesn't have will to live anymore. Demanding for euthanasia by anyone isn't an easy task, creating a lot of chaos before coming to a decision while considering various factors. Euthanasia literally means mercy killing or 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 still remains an ethical issue. In this paper we are going to explore the current law in Indian administration in relation to euthanasia. Also, its legalisation in other countries at the present times.

KEYWORDS : Euthanasia, Active Euthanasia, Passive Euthanasia, Ethics

Introduction

The word euthanasia is derived from Greek word Eu meaning good and Thanatos meaning death i.e., good death. It denotes producing painless death of a person suffering from hopelessly incurable and painful disease¹.

All over the world, people still debate on the euthanasia. It has been a burning issue from the time it was introduced in 5th century B.C – 1st century B.C when Greek and romans were used to support active euthanasia². A lot of changes and advancements has been observed up to till date.

Euthanasia or mercy killing or assisted suicide are synonymous terminologies defined as painless killing of a person who is suffering from incurable disease, senility or a permanent damage to brain which cannot be repaired or cured³.

Types of euthanasia⁴

Depending on the act of induction and willingness of the patient, euthanasia is classified into four types.

Depending on how it is induced euthanasia could be active or passive euthanasia.

a) active euthanasia: it is an act of commission. Death is induced by direct/ indirect action, e.g., by giving large dose of a drug that hastens death.

b) passive euthanasia: it is an act of omission. Here there is no active intervention to end the life. The doctor stands by passively. Allowing nature to take its course. No specific medicine is given or life supporting measures are provided.

Death is induced by the discontinuation of life sustaining measures to prolong the life in desperate cases. Thus, it is, refraining from action that would probably delay the death and permit natural death to occur⁵. Depending on the willingness of patient, it could be voluntary and involuntary⁶.

a) voluntary/ involuntary euthanasia: means at the will of the person, and involuntary means against the will of the person, i.e., compulsory. it means euthanasia is induced at the will of an individual by his or her request, e.g., a patient suffering from incurable disease requesting the doctor to terminate his/ her life.

b) non voluntary euthanasia: it means euthanasia induced in persons who are unable to express their wishes, e.g., in person with irreversible coma or severely defective infant, etc.

Current scenario in India

At the present time India has no specific law about euthanasia. The supreme court guidelines are law until and unless parliament passes the legislation. But passive euthanasia is legalized in India.

India supreme court legalised passive euthanasia in 2018, stating that it was a matter of 'living will'.

In India it is still under formation. Article 21 in the Constitution of India 1949, clearly state's that the protection of life & personal liberty. No person shall be deprived of his life or personal liberty except according to procedure established by law⁷.

Right to life is the fundamental right of every Indian citizen even before birth.

Therefore under 309 IPC, Chapter 26 of offences affecting the human body, attempting to commit suicide is a punishable offence⁸.

The act of euthanasia is punishable under IPC 302 punishment for murder & 304 IPC punishment for culpable homicide not amounting to murder⁹.

According to Professional Conduct, Etiquette and Ethics Regulations, 2002 Practicing euthanasia shall constitute unethical conduct. However, on specific occasion, the question of withdrawing supporting devices to sustain cardio-pulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating physician alone. A team of doctors shall declare withdrawal of support system. Such team shall consist of the doctor in charge of the patient, Chief Medical Officer / Medical Officer in charge of the hospital and a doctor nominated by the in-charge of the hospital from the hospital staff or in accordance with the provisions of the Transplantation of Human Organ Act, 1994¹⁰.

Law In Other Countries

Euthanasia is legal in five countries in Europe: Belgium, the Netherlands, Luxembourg, and more recently Germany and Spain. The former two countries even recognise requests from minors under strict circumstances. Assisted suicide, in which somebody is given the means to end their own life, has been legal in Switzerland since 1942 but active euthanasia is not allowed. Other countries such as Austria, Finland, and Norway allow passive euthanasia under strict circumstances, where those suffering from an incurable disease can decide not to be administered life-prolonging treatments, such as artificial nutrition or hydration¹¹.

The Netherlands: The country introduced specific legislation to legalise assisted suicide and active euthanasia in 2002. But the courts have permitted them since 1984¹². The guidelines have been laid out in the Dutch for the doctors. Euthanasia and assisted suicide are legal only if the criteria laid down in the Dutch Termination of Life on Request and Assisted Suicide Act are fully observed. Only then is the physician concerned immune from criminal prosecution¹³.

Termination of life on request can take two forms. In the case of euthanasia, the physician administers a fatal dose of a suitable drug to the patient. In assisted suicide, by contrast, the physician supplies the lethal drug but the patient administers it. Both forms are covered by the Act and in both cases, doctors must fulfil the statutory due care criteria¹⁴.

Minors may themselves request euthanasia from the age of 12, although the consent of the parents or guardian is mandatory until they reach the age of 16. Sixteen and seventeen-year-olds do not need parental consent in principle, but their parents must be involved in the decision-making process. From the age of 18, young people have the right to request euthanasia without parental involvement¹⁵.

Belgium: The country legalised euthanasia in 2002. Two doctors must be involved, and also a psychologist if the patient's competency is in doubt. The doctor and the patient can negotiate whether death is given by lethal injection or prescribed overdose¹⁶. Belgium has long been one of the most progressive countries when it comes to euthanasia. In 2002, Belgium formally legalized euthanasia by way of the Belgian Euthanasia Act, which allowed euthanasia for adults who experience "constant and unbearable physical or mental suffering that cannot be alleviated"¹⁷.

Belgium's law allows minors to access euthanasia if they have a terminal illness or incurable illness. The child has to undergo a psychiatric evaluation and parents must consent to euthanasia in Belgium. Belgium law requires that a child make repeated requests before the euthanasia is performed and "suffering based on a psychiatric disorder is excluded"¹⁸.

Switzerland: Suicide assisted by a physician and a non-physician is allowed since 1941, but euthanasia is banned. Three right-to-die organisations in the country help terminally ill people by providing counselling and lethal drugs. Death by injection is banned¹⁹.

For example, the USA Oregon Death with Dignity Act requires the patient to be a resident of Oregon; Canadian law only permits aid-in-dying for permanent residents of a given Province who contribute to and are insured by the Canadian healthcare system²⁰. However, the law in Switzerland does not include such limitations. Moreover, Swiss law does not require an ongoing relationship between the patient and the prescribing physician, as is required in Luxemburg or the Netherlands. As such, many non-residents opt for aid-in-dying in Switzerland. The process is relatively easy and is usually facilitated by Swiss Non-profit Right-To-Die organizations, especially the renowned Dignitas²¹.

Britain: Under the Suicide Act 1961, both euthanasia and assisted suicide are criminal offences in the UK. Euthanasia can result in a murder charge, and assisted suicide by aiding or even counselling somebody in relation to taking their own life is punishable by 14 years' imprisonment²².

United States: As of June 2021, the only jurisdictions that allow this procedure are Oregon, Washington D.C., Hawaii, Washington, Maine, Colorado, New Jersey, California, and Vermont²³.

California Governor Jerry Brown signs into law the End-of-Life Option Act, which legalizes physician-assisted suicide for Californians with terminal illnesses²⁴.

Hawaii's "Our Care, Our Choice Act" is signed into law. The Act goes into effect since January 1, 2019²⁵.

Discussion

Mercy killing, as it is popularly called, euthanasia is legal in the Netherlands and Belgium. These countries allow it to be performed on patients who suffer from the chronic pain associated with an incurable illness. We need to understand the difference between the term euthanasia & the assisted suicide at certain points. In euthanasia doctor is allowed by law to end a person's life by a painless means, as long as

the person and their family agree while in assisted suicide a doctor assists an individual in taking their own life if the person requests it.

In Switzerland where euthanasia is banned but physician or non-physician assisted suicide is legal has made it as a hub of tourism. A plea moved in Delhi HC seeks orders to stop a man from travelling to Europe for euthanasia as the patient suffers from chronic fatigue syndrome, a debilitating medical condition. The patient obtained a Schengen visa to travel to Europe under false claims, as the plea states. But the real purpose was for assisted suicide²⁶.

Except the European countries Belgium & the Netherlands, active euthanasia is illegal. In USA states, physician assisted suicide is legal rather than passive euthanasia. And various acts like End-of-Life Option Act can be observed.

Currently in India there is no act or legislation which specifically legalise euthanasia in India. It's the guidelines given by supreme court in the 2018 regarding legalising the passive euthanasia after thorough process. Declaring the right to die with dignity as a fundamental right, the supreme court passed an order allowing passive euthanasia in the country. The SC has issued guidelines in recognition of "living will" made by terminally-ill patients²⁷.

These guidelines include who can execute the will and under what conditions can the medical board endorse passive euthanasia. Also, the guidelines and directives provided by SC shall remain in force till a legislation is brought to deal with the issue. The draft bill has proposed in 241st of law commission deals with passive euthanasia & living will. Living will have been defined as "a document in which person states his/ her desire to have or not to have extraordinary life prolonging measures used when recovery is not possible from his/ her terminal condition"²⁸.

In new research it has been concluded that legalising euthanasia or assisted suicide does more harm than good, and is a threat to suicide prevention²⁹.

Conclusion

Starting from its definition, euthanasia is understood as good death. But is it really a good death as it involves many factors like law of a country, emotions of the associated family & friends or even religious views, like Catholics who strongly oppose euthanasia & physically assisted suicide as the life is a gift given by god and we have no right to take someone life. In India also, euthanasia has never been legalised until 2018, due to the fear of its misuse by corrupt individuals to attain their ulterior motives. Also due to the article 21 which specifically states 'right to life' and not 'right to death' and it becomes a punishable offence according to law.

It is an issue of medical ethics for a medical practitioner as the Hippocratic oath clearly states 'I will not give a lethal drug to anyone if I am asked'³⁰. The modern version of Hippocratic oath states 'If it is given to me to save a life, all thanks. But it may also be within my power to take a life; this awesome responsibility must be faced with great humbleness and awareness of my own frailty.'³¹ under the context of modern oath, the physically assisted suicide becomes legally accepted. Again, which maybe seem right in the context of law but not emotionally and religiously. Euthanasia is like a coin which has two sides, both negative as well as positive. And both sides have to be considered legally & emotionally from the point of view of a patient. In a country like India where there is a good chance of getting misused, strict act & laws need to be passed for its proper implementation.

REFERENCES

- Rao, (2019) Textbook of Forensic Medicine & Toxicology, 2nd ed.
- ProCon.org. (2022, December 15). Historical Timeline - Euthanasia - ProCon.org. Euthanasia. <https://euthanasia.procon.org/historical-timeline> 3,4,5,6. Rao, (2019) Textbook of Forensic Medicine & Toxicology, 2nd ed.
- https://mea.gov.in/Images/attach/Article_on_Constitution_of_India.pdf
- <https://legislative.gov.in/sites/default/files/A1860-45.pdf>
- <https://wbconsumers.gov.in/writereaddata/ACT%20&%20RULES/Relevant%20Act%20&%20Rules/Code%20of%20Medical%20Ethics%20Regulations.pdf>
- Hurst, L. (2022, December 10). Euthanasia in Europe: Where is assisted dying legal? Euronews. <https://www.euronews.com/next/2022/12/10/where-in-europe-is-assisted-dying-legal>
- 12,16,19. DH News Service. (2011, March 7). Euthanasia illegal in many countries. Deccan Herald. <https://www.deccanherald.com/content/143907/euthanasia-illegal-many-countries.html>
- 13,14,15. Ministerie van Justitie en Veiligheid. (2017, June 6). Euthanasia, assisted suicide and non-resuscitation on request. Euthanasia | Government.nl. <https://www.government.nl/topics/euthanasia/euthanasia-assisted-suicide-and-non-resuscitation-on-request>

17. "Child Euthanasia in Belgium - O'Neill." O'Neill, 10 Feb. 2020, oneill.law.georgetown.edu/child-euthanasia-in-belgium
18. BBC News. (2016, September 17). Belgium minor first to be granted euthanasia. <https://www.bbc.com/news/world-europe-37395286>
20. Sperling, D. (2019). *Suicide tourism: understanding the legal, philosophical, and socio-political dimensions*. Oxford University Press.
21. Ahmed JU, Faroque AR, Akhi AA, Iqbal S, Ahmed A. Dignitas: planning for death. *Dign Plan Death*. (2021 Aug 24)
22. NHS website. (2021, November 18). Euthanasia and assisted suicide. <https://www.nhs.uk/conditions/euthanasia-and-assisted-suicide/>
- 23,24,25. Zabriskie, M. (2022, May 26). Physician-Assisted Suicide Fast Facts. CNN. <https://edition.cnn.com/2014/11/26/us/physician-assisted-suicide-fast-facts/index.html>
26. Mathur, A. (2022, August 12). Sick man seeks euthanasia in Switzerland, family friend moves Delhi HC to stop him. *India Today*. <https://www.indiatoday.in/law/story/sick-man-seeks-euthanasia-in-switzerland-family-friend-moves-delhi-hc-to-stop-him-1987112-2022-08-12>
27. Staff, F. P. (2018, March 9). Supreme Court legalises passive euthanasia: Dignity in death is a facet of Right to Live, rules five-judge bench-India News . *Firstpost*. <https://www.firstpost.com/india/supreme-court-legalises-passive-euthanasia-dignity-in-death-is-a-facet-of-right-to-live-rules-five-judge-bench-4383093.html>
28. <https://main.mohfw.gov.in/sites/default/files/70091570991462535057.pdf>
29. Suicide Prevention: Does Legalising Assisted Suicide Make Things Better Or Worse? (Professor David Albert Jones). (n.d.). *Anscombe Bioethics*. <https://www.bioethics.org.uk/research/euthanasia-assisted-suicide-papers/suicide-prevention-does-legalising-assisted-suicide-make-things-better-or-worse-professor-david-albert-jones/>
30. *Greek Medicine - The Hippocratic Oath*. (n.d.). https://www.nlm.nih.gov/hmd/greek/greek_oath.html
31. NOVA | Doctors' Diaries | The Hippocratic Oath: Modern Version | PBS. (n.d.). https://www.pbs.org/wgbh/nova/doctors/oath_modern.html