

## EUTHANASIA – “RIGHT TO DIE” LEGAL & MORAL QUESTION

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### Introduction

In our day to day life, we often come across terminally ill patients that are bedridden and are totally dependent on others. Looking at them, we would say that death would be a better option for them rather than living such a painful life; which is painful physically as well as psychologically. This research paper deals with one of the most debated subjects in the world, i.e., Euthanasia or Right to Die. The debate is regarding the morality and legalization of euthanasia. This debate is a continuing one as some people are of the view that life is sacred and no one has got the right to end it whereas on the other hand some say that life belongs to oneself and so each person has got the right to decide what he wants to do with it even if it amounts to dying.

The Constitution of India guarantees ‘Right to Life’ to all its citizens. The constant, ever-lasting debate on whether ‘Right to Die’ can also be read into this provision still lingers in the air. On the other hand, with more and more emphasis being laid on the informed consent of the patients in the medical field, the concept of Euthanasia in India has received a mixed response. In this paper, some basic issues regarding euthanasia are discussed and then it is left to the reader to decide which course would be better: legalizing or not legalizing euthanasia.

### Meaning of Euthanasia

‘Euthanasia’ is a compound of two Greek words – ‘eu’ and ‘thanatos’ meaning, literally, ‘a good death’.<sup>1</sup> The word “euthanasia” was first used in a medical context by Francis Bacon in the 17th century, to refer to an easy, painless, happy death, during which it was a “physician's responsibility to alleviate the ‘physical sufferings’ of the body.”<sup>2</sup> Today, ‘euthanasia’ is generally understood to mean the bringing about of a good death - ‘mercy killing,’ where one person ends the life of another person for the sake of latter.<sup>3</sup> From this, one can best understand that there are two features of acts of euthanasia. First, euthanasia involves the deliberately taking person's life and second, life is taken for the sake of the person whose life it is because he or she is suffering from an incurable or terminal disease. This distinguishes euthanasia from suicide and other forms of taking life.

Oxford dictionary of English Language defines it as the painless killing of a person who has an incurable disease or who is in an irreversible coma. When a person carries out an act of euthanasia, he brings about the death of another person because he believes that the latter's present existence is so bad that he would be better off dead, or believes that unless he intervenes and ends his life, his life will become so bad that he would be better off dead. Thus, the motive of the person who commits an act of euthanasia is to benefit the one whose death is brought about.

Euthanasia is commonly referred to as “mercy killing” because in euthanasia, helping someone to die could be seen as merciful, when such person is suffering from an extraordinary pain and is wishing to die as way to end his misery, particularly if he knows that his condition is terminal and that death is imminent.

### Physician Assisted Suicide and Euthanasia

The term euthanasia is also understood as synonymous to physician assisted suicide (PAS). It is actually “mercy – killing” of terminally ill patients. However, euthanasia and physician assisted suicide are significantly different from one another. In PAS, the physician's motive is merciful and intended to end suffering. In euthanasia, the intent is to end the patient's life, while in PAS, administration of pain medications may also hasten death; the intent is to relieve suffering. Proponents of physician-assisted suicide (PAS) feel that an individual's right to autonomy automatically entitles him to choose a painless death.<sup>4</sup> The opponents feel that a physician's role in the death of an individual violates the central tenet of the medical profession.

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<sup>1</sup> Nadeau R. Gentles, Euthanasia and Assisted Suicide: The Current Debate. Toronto: Stoddart Publishing Co. Limited; 1995. Charting the Legal Trends; p. 727.

<sup>2</sup> Francis Bacon: The Major Works by Francis Bacon, edited by Brain Vickers, Oxford University Press, New York, 2008. P.630.

<sup>3</sup> <http://www.worldrtd.net/euthanasia-fact-sheet>

<sup>4</sup> Quill TE. Death and Dignity: Making choices and taking Charge. New York: WW Norton; 1993. pp. 156–7.

## Suicide and Euthanasia

There is a conceptual distinction between suicide and euthanasia. No doubt in suicide, one intentionally attempts to take his life. However, in a suicide, a man voluntarily kills himself by stabbing, poisoning or by any other way. It is an act or instance of intentionally killing oneself mostly due to depression or various reasons such as frustration in love, failure in examinations or in losing a good job etc. On the other hand, in euthanasia there is an action of some other person to bring to an end the life of an ailing person. In euthanasia, the other person is either actively or passively involved i.e. he aids or abets the killing of an ailing person. It is important to mention in this context that there is also a difference between 'assisted suicide' and 'euthanasia'. Assisted suicide is an act which intentionally helps another to commit suicide, for example by providing him with the 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 a '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.

## Degree of Cultural Acceptance

Every society known to us subscribes to some principle or principles prohibiting the taking of life. But there are great variations between cultural traditions as to when the taking of life is considered wrong. If we turn to the roots of western tradition, we find that in Greek and Roman times such practices as infanticide, suicide and euthanasia were widely accepted. But later, the rise of Judaism and Christianity contributed greatly to the general feeling that human life has sanctity and must not deliberately be taken. In these traditions, to take an innocent human life is to usurp the right of God to give and take life. It has also been seen by influential Christian writers as a violation of natural law.<sup>5</sup> This view of the absolute inviolability of innocent human life remained virtually unchallenged until the sixteenth century when Sir Thomas More portrayed euthanasia for the desperately ill as one of the important institutions of an imaginary ideal community. In subsequent centuries, British philosophers notably David Hume, Jeremy Bentham and John Stuart Mill challenged the religious basis of morality and the absolute prohibition of suicide, euthanasia and infanticide. The great eighteenth-century German philosopher Immanuel Kant, on the other hand, whilst believing that moral truths were founded on reason rather than religion, nonetheless thought that 'man cannot have the power to dispose of his life.'<sup>6</sup>

## Chorological Development of Euthanasia

About 400 B.C. – 'The Hippocratic Oath'<sup>7</sup> by the "Father of Medicine" Greek physician Hippocrates: "I will give no deadly medicine to any one if asked, nor suggest any such counsel."

1828 – The earliest American Statute explicitly to outlaw assisting suicide was enacted in New York.

1920 – The book "Permitting the Destruction of Life not Worthy of Life" by Alfred Hoche and Karl Binding was published. This book argued that patients who ask for "death assistance" should, under very carefully controlled conditions, be able to obtain it from a physician. It helped in supporting involuntary euthanasia by Nazi Germany.

1935 – The Euthanasia Society of England was formed to promote euthanasia.

1939 – Hitler ordered widespread "Mercy Killing" of the sick and disabled.

1995 – Euthanasia Bill was approved by Australia's Northern Territory.

1998 – U.S. state of Oregon legalized assisted suicide.

2000 – Netherlands legalized euthanasia.

2002 – Belgium legalized euthanasia.

2008 – U.S. state of Washington legalized assisted suicide.

2011 – The Supreme Court of India, for the first time, laid down guidelines for euthanasia and legalised passive euthanasia.<sup>8</sup>

<sup>5</sup> <http://www.worldrtd.net/euthanasia-fact-sheet>

<sup>6</sup> Kant, I. 'Duties towards the body in regard to life', Lectures on Ethics, trans. Louis Infield (New York: Harper and Row, 1986).

<sup>7</sup> <http://www.euthanasia.com/oathtext.html> accessed on 21 September, 2015.

<sup>8</sup> <http://euthanasia.com/historyeuthanasia.html> accessed on 21 September, 2015.

## Types of Euthanasia

### 1. Euthanasia is Voluntary, Non Voluntary and Involuntary

As of 2006, euthanasia is the most active area of research in contemporary bioethics. It can be categorized as voluntary, non voluntary and involuntary on the basis of whether a person gives informed consent.

Voluntary euthanasia is also called as assisted suicide as it involves termination of life by a doctor at the consent of a patient. It is legal in some countries, U.S. States and Canadian provinces.

Five conditions often proposed as necessary for candidacy for voluntary euthanasia: - Advocates of voluntary euthanasia typically contend that there should be legal and medical provision to enable a person to be allowed to die or to be assisted to die, if he/she:

is suffering from a terminal illness;

is unlikely to benefit from the discovery of a cure for that illness during what remains of her life expectancy;

is, as a direct result of the illness, either suffering intolerable pain, or only has available a life that is unacceptably burdensome (e.g., 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);

has an enduring, voluntary and competent wish to die (or has, prior to losing the competence to do so, expressed a wish to be assisted to die in the event that conditions (a)-(c) are satisfied); and

is unable without assistance to end her life.

Non-voluntary euthanasia is where consent of the person is not available such as child euthanasia. It is illegal in all countries. Involuntary euthanasia is conducted against the will of the person. It is usually considered as murder. Also, euthanasia is involuntary when it is performed on a person who would have been able to give or withhold consent to his/her own death, but has not given consent - either because he/she was not asked, or because he/she was asked but withheld consent, wanting to go on living. It has been argued that some widely-accepted medical practices (such as the administration of increasingly large doses of pain killing drugs that will eventually cause the patient's death, or the un-consented-to withholding of life-sustaining treatment) amount to involuntary euthanasia.

### 2. Acts of euthanasia can also be Active or Passive

All three kinds of euthanasia listed above - voluntary, non-voluntary and involuntary euthanasia - can either be passive or active. The Roman Catholic Church, in its Declaration on Euthanasia defines euthanasia as 'an action or omission which of itself or by intention causes death.'<sup>10</sup>

Passive euthanasia i.e. euthanasia by omission involves withholding of common treatments and antibiotics necessary for the continuance of life whereas active euthanasia i.e. euthanasia by action involves using lethal substances such as administering a lethal injection to end life.<sup>11</sup> Thus, there is a widespread agreement that omissions as well as actions can constitute euthanasia.

## International Experiences of Euthanasia

There are different euthanasia laws in the world. In some countries there is a divisive public controversy over the moral, ethical, and legal issues of euthanasia. Those who are against euthanasia may argue for the sanctity of life, while proponents of euthanasia rights emphasize alleviating suffering and preserving bodily integrity, self-determination, and personal autonomy.<sup>12</sup> Jurisdictions where euthanasia or assisted suicide is legal include the Netherlands, Colombia, Switzerland, Japan, Germany, Belgium, Luxembourg, Estonia, Albania, the US states of Washington, Oregon, Montana, and Vermont and, starting in 2015, the Canadian Province of Quebec.<sup>13</sup>

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<sup>9</sup> Stanford Encyclopaedia of Philosophy, Voluntary Euthanasia. Available at <http://plato.stanford.edu/entries/euthanasia-voluntary/>

<sup>10</sup> Sacred Congregation for the Doctrine of the Faith: Declaration on Euthanasia (Vatican City: 1980) p. 6.

<sup>11</sup> <http://www.ncbi.nlm.nih.gov/pubmed/11766225>

<sup>12</sup> *Euthanasia and Law in the Netherlands* - Page 186, John Griffiths, Alex Bood, Heleen Weyers - 1998

<sup>13</sup> A D Macleod, *The Psychiatry of Palliative Medicine: The Dying Mind*, 2<sup>nd</sup> Edition, Page 209, Redcliffe Publishing Ltd Oxford New York, 2011.

### Euthanasia Laws in Various Counties

COUNTRY	EUTHANASIA LAW
Netherlands	Euthanasia and physician assisted suicides are not punishable but they have to be performed in accordance with due criteria.
Belgium	Belgium became the second country in Europe after Netherlands to legalize the practice of Euthanasia in September 2002.
Switzerland	Physician assisted suicide is permitted.
UK, Spain, Austria, Italy, France, etc	Euthanasia or physician assisted suicide is illegal.
USA	Active euthanasia is illegal in all states in USA, but physician assisted dying is legal in the states of Oregon, Washington and Montana.
Canada	In Canada, physician assisted suicide is illegal.

### Euthanasia in India

In India, Euthanasia sounds synonymous to suicide. Right to die as a matter of choice and an important right as right to life is not recognised in India. We choose our country, our spouse, our profession, and our political masters, where we want to live and how. But how to die and when, should be a matter of choice as well or not? As per the suicide laws in India, under Section 309 of Indian Penal Code, an attempt to commit suicide is punishable with simple imprisonment up to 1 year and/or a fine. In 1994, the Supreme Court of India not only decriminalised the attempt to suicide but also observed "Right to life" includes "Right to die." In 1996, a five judge bench headed by Justice J.S. Verma overturned the 1994 decision which brought Section 309 back to life.

The origin and legalization issue of euthanasia in India is discussed in three contexts:

Passive euthanasia in India

Debate on section 309 of IPC

Religious euthanasia

Passive Euthanasia in India

Passive euthanasia is legal in India. On 7 March 2011 the Supreme Court of India, for the first time, laid down guidelines for euthanasia and legalised passive euthanasia. The Supreme Court was ruling in the case of 60-year-old Aruna Shanbaug who has been lying in a vegetative state for 37 years after being brutally attacked and raped. The Court held that causing the death of a person who is in a permanent vegetative state<sup>14</sup>, with no chance of recovery, by withdrawing artificial life support is not a "positive act of killing". However, the bench of Judges also held that this could be permitted on a case by case basis. 'Active' euthanasia, on the other hand, which could mean administering the patient a lethal drug to cause his or her death, is illegal as it is a "positive step to terminate a life," the bench ruled. This means that forms of active euthanasia, including the administration of lethal compounds, are illegal.

"The difference between active and passive euthanasia is that in active euthanasia something is done to end the patient's life, while in passive euthanasia something is not done that would have preserved the patient's life," the bench observed.

The court also laid down guidelines for passive euthanasia such as that the matter must be referred to the high court for a decision and that the doctor, or the parents or spouse of the patient must be the ones to petition for the withdrawal of life-support. In the absence of any of these, a person or a body of persons acting as 'next friend' can be permitted.<sup>15</sup>

<sup>14</sup> PVS is defined as a clinical condition of unawareness of self and environment in which the patient breathes spontaneously, has a stable circulation and shows cycles of eye closure and opening which may simulate sleep and waking.

<sup>15</sup> The Indian Express, March 8, 2011, *Indian Supreme Court rules on right to die*. Available on <http://infochangeindia.org/public-health/news/indian-supreme-court-rules-on-the-right-to-die.html>

### Debate on Section 309 of IPC

Suicide is the only crime where commission is not punishable but attempt is because if you succeed you are beyond the law. India has the highest suicide rate in the world after China. In 2013, 371 suicides took place per day which means every four minutes in India someone ends his or her life. In view of this alarming figure, the decision of the government to decriminalize attempt to suicide needs a thorough introspection.<sup>16</sup>

The Indian government had broached the subject of deleting the provision in the 1970s. In 1987, the Bombay High Court held that the right to life guaranteed by the Constitution includes the right to live and the right to end one's life, and struck down Sec 309. The Supreme Court upheld the view in 1994. But in 1996, a five judge SC Bench held that the fundamental right to life did not include the right to die, and that Section 309 was constitutionally valid. That remains the law today. But a law commission report recommended the decriminalisation of Section 309 in 2008. It was held that "It is unreasonable to inflict punishment upon a person who, on account of discord, destitution, loss of a dear relation, or other cause of a like nature... decides to take his own life. In such a case, the unfortunate person deserves sympathy, counselling, and treatment, and certainly not prison."

While legalizing passive euthanasia in India in Aruna Shanbaug case in 2011, the judges also made a significant recommendation that the Union government repeal Section 309 of the Indian Penal Code that makes attempt to

suicide an offence. Fourteen states and eight Union Territories are in favour of decriminalising suicide. Of the five objectors, Punjab wants the law to require the state to extend material aid to failed suicides.<sup>17</sup>

### Religious euthanasia in India

Most religions disapprove of euthanasia but in India practice of ending one's life voluntarily is very old and intact, it exists even now. In India, voluntary euthanasia was and perhaps is, in vogue for very aged and infirm particularly when they cease to be productive and feel they are a burden to others in society. They stopped drinking water and eating food or disappeared into the woods or drowned themselves in rivers. They considered that it is not a sin to end one's life under such circumstances. There is a Jain ethic of voluntary death through fasting for instance. Jain community practice Santhara which involves voluntarily and gradually ending life by systematic fasting. Santhara allows Jains to completely abstain from food, water and nutrition in order to wait for death. In India, an average of 200 men and women take up this fast unto death every year, most of them in Rajasthan. This practice in Jainism came into question in 2006 when Nikhil Soni, a lawyer from Jaipur, filed Public Interest litigation against it in the High Court. After nine years of litigation – with the state of Rajasthan fighting as one of the respondents in support of the Jain community – the court eventually ordered that Santhara must be abolished and treated as a criminal offence of attempt to suicide; those who support a Jain's decision to take Santhara must be charged with abetment of suicide.<sup>18</sup> However the Supreme Court of India stayed the Rajasthan High Court order declaring Santhara as illegal and held that "Article 25 (of Constitution) protects a right of every person to the 'freedom of conscience' which entitles a person to a right to have his own beliefs and faith and as such the so called 'modern' thinking cannot be imposed on the members of the Jain Community."<sup>19</sup>

### Moral Case for Euthanasia

Is it right for another person to end the life of a terminally ill patient? If it is right, under what circumstances? Is there a moral difference between killing someone and letting him die? People have different ideas about the meaning of life and value of human existence. The practice of euthanasia is highly controversial and polarizing even in places where it is permitted by law.

It is important to emphasize the motive of benefiting the person who is assisted to die because well-being is a key value in relation to the morality of euthanasia. Nonetheless, the defensibility of the contention that someone can be better off dead has been the subject of extensive philosophical deliberation. Those who claim that a person can be better off dead believe this to be true when the life that remains in prospect for that person has no positive value for her whereas some of those who hold that a person's life is inviolable deny that a person can ever be better off dead.<sup>20</sup>

<sup>16</sup> The Hindu, December 17, 2014, *Debating the Right to Die*. Available on <http://www.thehindu.com/opinion/op-ed/lead-article-debating-the-right-to-die/article6698315.ece>

<sup>17</sup> The Indian Express, December 12, 2014. Available at <http://indianexpress.com/article/opinion/editorials/off-with-section-309>

<sup>18</sup> DNA, Santhara is not suicide or euthanasia, say irked Jains, 12 August 2015, Mumbai.

<sup>19</sup> DNA, Supreme Court stays Rajasthan High Court decision declaring Jain practice of fast-unto-death illegal, 31<sup>st</sup> August 2015, New Delhi.

<sup>20</sup> Young, Robert, "Voluntary Euthanasia", *The Stanford Encyclopedia of Philosophy* (Fall 2015 Edition)

However, euthanasia should not be treated as a malicious murder because, in general, it is done out of love and compassion for the person killed. People who are suffering from prolonged illness often wish to die rather than simply waiting for nature to take its course. Sometimes they wish to control the conditions of their death, such as having friends and family members nearby and they often want to retain at least a bit of lucidity such that they know what's going on and are able to say their final goodbyes. Friends and family of people who are on life support machines or other medical interventions, sometimes, also choose to shut these devices off, essentially causing the person to die in peace.

Thus mercy for a hopelessly ill and suffering patient and, in the case of voluntary euthanasia, respect for autonomy, have been the primary reasons given by those who have argued for the moral permissibility of euthanasia. Today, there is widespread popular support for some forms of euthanasia and many contemporary philosophers have argued that euthanasia is morally defensible.

### **Does Right to Life include Right to Die?**

Fundamental Rights are necessary for leading a dignified and fulfilling life. Probably the most important Fundamental Right in the Indian Constitution is the Right to Life under Article 21. Right to life is one of the basic right without which all rights cannot be enjoyed. Right to life means a human being has an essential right to live, particularly that such human being has the right not to be killed by another human being. '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 does 'right to die with dignity' mean same as '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.

But since the inception of rights based society, it is generally understood by all societies that death is not a right, it is the end of all rights and a fate that none of us can escape. The ultimate right we have as human beings is the right to life, an inalienable right not even the person who possesses it, can take that away. It is a right that encompasses within its broad domain the right to legal aid, right to a clean environment, and a plethora of other rights. The question that came to be considered in the present context is whether inherent in this sacred right is the right to die-whether a person can be allowed to control his death and decide to end his life. Right to die has become important considering the advancement in medical jurisprudence and also the possibility of misuse of this right by family members.

We may also refer to the article of Dr. M. Indira and Dr. Alka Dhal under the caption: "Meaning of life, suffering and death" as read in the International Conference on Health Policy, Ethics and Human Values held at New Delhi in 1986. This is what the learned authors stated about life in their article;--

"Life is not mere living but living in health. Health is not the absence of illness but a glowing vitality the feeling of wholeness with a capacity for continuous intellectual and spiritual growth. Physical, social, spiritual and psychological well being are intrinsically inter woven into the fabric of life. According to Indian philosophy that which is born must die. Death is the only certain thing in life."

Going by the above it is clear that this human dignity will be lost if one is left to suffer in old age, crippled and abandoned or in any point in our lives when we are suffering from an incurable disease. If Article 21 can be interpreted as has been done in many cases above, then why can right to die not be included. After all everyone has the right to live with dignity. But in India things are not that simple. One has to take into consideration not the interest of a few but that of the 1 billion people whose lives will positively or negatively be affected by such a decision.

To draw out a definite conclusion, one has to analyze the pros and cons of legalizing right to die.

### **Legal Case for Euthanasia**

One of the controversial issues in the recent past has been the question of legalizing the right to die or euthanasia. West's Encyclopaedia of American Law states that "a 'mercy killing' or euthanasia is generally considered to be a criminal homicide" and is normally used as a synonym of homicide committed at a request made by the patient. Some governments around the world have legalized voluntary euthanasia but most commonly it is still considered to be criminal homicide. In the Netherlands and Belgium, where euthanasia has been legalized, it still remains homicide although it is not prosecuted and not punishable if the perpetrator (the doctor) meets certain legal conditions.

In India, mercy killing is nothing but homicide, whatever the circumstances in which it is affected. Indian Penal Code further punishes not only abetment of homicide, but also abetment of suicide. Although considered illegal in our country, it has several advocates in the form of voluntary organizations like "death with dignity" foundation. This has

got a fillip in the Honourable Supreme Court Judgment in the Aruna Shaunbag case. What remains to be seen is how long it takes before this sensitive issue rattles the Indian legislature.

### **Arguments Supporting Legalization of Euthanasia**

The arguments supporting legalization of euthanasia are substantial. Proponents perceive it as an act of humanity towards the terminally ill patient. They believe the patient and family should not be forced to suffer through a long and painful death, even if the only way to alleviate the suffering is through suicide.

1. Lack of any justifiable means of recovery – According to the proponents of euthanasia, it becomes ethical and justified when the quality of life of the terminally ill patient becomes so low that death remains the only justifiable means to relieve suffering. Lack of any justifiable means of recovery and the dying patient himself making the choice to end his life are conditions which make euthanasia more justifiable.<sup>21</sup>

2. Patients autonomy and right to refuse treatment – To the advocate for euthanasia, legalization of euthanasia is a natural extension of patient's autonomy and the right to determine what treatments are accepted or refused.

3. Fear of increased pain and disability – Arguments in favour of legalization of euthanasia are typically premised on the assumption that requests for euthanasia are “rational” decision, given the circumstances of terminal illness, pain, increased disability, and fears of becoming (or continuing to be) a burden to family and friends. Given the possibility that these symptoms and circumstances may not be relieved, even with aggressive palliative care and social services, the decision to hasten one's death may seem rational.<sup>22</sup> Moreover, the desire to include one's physician in carrying out a decision to end one's life can be viewed as an extension of the natural reliance of terminally ill patients on their physicians for help with most aspects of their illness, as well as reasonable mechanism to ensure that they do not become more disabled and burdensome to their family or friends by attempting suicide unsuccessfully (causing a persistent vegetative state or increased disability).

4. Psychological Insurance – Another argument raised by proponents of legalization of euthanasia is that merely knowing that one can control the timing and manner of death serves as a form of “psychological insurance” for dying patients. In other words, knowing there can be an escape from the suffering of illness may alleviate some of the stress associated with the dying processes.

5. Demanding a "right to die" – Should people be forced to stay alive? The essence of human life is to live a dignified life and to force the person to live in an undignified way is against the person's choice. Thus it expresses the choice of a person which is a fundamental principle. Article 21 of the Indian Constitution clearly provides for living with dignity. A person has a right to live a life with at least minimum dignity and if that standard is falling below that minimum level then a person should be given a right to end his life. Supporters of euthanasia also point out to the fact that as passive euthanasia has been allowed, similarly active euthanasia must also be allowed. A patient will wish to end his life only in cases of excessive agony and would prefer to die a painless death rather than living a miserable life with that agony and suffering. Thus, from a moral point of view it will be better to allow the patient die painlessly when in any case he knows that he is going to die because of that terminal illness.

### **Arguments Opposing Legalization of Euthanasia**

Opposition to legalization of euthanasia has come from numerous different perspectives. The medical profession is guided by a desire to heal and extend life. This guideline is best exemplified in the Hippocratic Oath which states, “I will prescribe regimen for the good of my patients according to my ability and my judgment and never do harm to anyone. To please no one will I prescribe a deadly drug, nor give advice that may cause his death.” Thus, the act of euthanasia by a physician contradicts the central tenet of the medical profession. Opponents of euthanasia are also worried about the slippery slope from euthanasia to murder. They value life at all stages and fear that legalizing euthanasia will unfairly target poor and disabled.

1. Euthanasia is against medical ethics – Medical ethics call for nursing, care giving and healing and not ending the life of the patient. In the present time, medical science is advancing at a great pace. Thus even the most incurable diseases are becoming curable today. Thus instead of encouraging a patient to end his life, the medical practitioners should encourage the patients to lead their painful life with strength which should be moral as well as physical.

2. Euthanasia is seen a result of mental depression – From a mental health perspective, professional psychiatric and psychological training reinforces the view that suicide should be prevented at all costs. Several studies have supported this connection between mental disorder (e.g., depression) and interest in physician assisted suicide (PAS),

<sup>21</sup> Quill TE. Death and Dignity: Making choices and taking Charge. New York: WW Norton; 1993. pp. 156-7

<sup>22</sup> Holland JC. Psychological aspects of cancer. In: Holland JF, Frei E III, editors. Cancer Medicine. 2nd ed. Philadelphia, PA: Lea and Febiger; 1982.

suggesting that suicidal ideation in terminally ill patients is a manifestation of undiagnosed, untreated mental illness.<sup>23</sup> Consequently, physician compliance with a suffering patient's stated wish for PAS may circumvent the provision of appropriate psychiatric care.

3. Euthanasia is often a result of external pressures - The decision to ask for euthanasia is not made solely by the patient. Even the relatives of the patient play an important role in doing that. Hence, it is probable that the patient comes under pressure and takes such a drastic step of ending his life. Of course in such cases the pressure is not physical, it is rather moral and psychological which proves to be much stronger. The patient himself starts to feel that he is a burden on the relatives when they take such a decision for him and finally he also succumbs to it.

4. Euthanasia can become a means of health care cost containment - Perhaps one of the most important developments in recent years is the increasing emphasis placed on health care providers to contain costs. In such a climate, euthanasia certainly could become a means of cost containment. In our country, people have no medical insurances; poor people are not given access to available health care facilities. There is a frightening possibility that physicians or other health care providers might recommend PAS as an option because the alternative - providing adequate palliative care - is too expensive or difficult to obtain. Many doctors are at financial risk when they provide treatment for their patients. Thus legalized euthanasia raises the potential for a profoundly dangerous situation in which doctors could find themselves far better off financially if a seriously ill or disabled person "chooses" to die rather than receive long-term care. Savings to the government may also become a consideration. This could take place if governments cut back on paying for treatment and care and replace them with the "treatment" of death. Family members may subtly suggest that death, since inevitable, would be preferable if it occurred sooner rather than later because of the social and financial burdens involved in caring for terminally ill family members.

5. Euthanasia has a slippery slope effect - It has a slippery slope effect, for example once it is legalised for terminally ill people, later on laws can be changed and then it may allow for non- voluntary or involuntary. Opponents suggest that the legal and medical communities will eventually end up on a "slippery slope," where euthanasia is ultimately legalized as an acceptable practice for a wider patient population, including non-terminal, non voluntary patients.<sup>24</sup> For example, in 1994, the Dutch Supreme Court accepted the argument that a chronic disease is an acceptable basis for euthanasia, even if not terminal, and more recent cases have extended this "right" even to patients without a physical illness.

6. Euthanasia devalues human lives - The human life is gift of God and taking life is wrong and immoral. Human beings cannot be given the right to play the part of God. Thus euthanasia devalues human life. Miracles do happen in our society especially when it is a matter of life and death, there are examples of patients coming out of coma after years and we should not forget human life is all about hope.

## **Conclusion**

There has been extensive public debate in India on the issue of euthanasia. In India, euthanasia and assisted suicide are illegal. A close perusal of the arguments that have been summarized indicate about the sanctity of life notwithstanding, opposition to euthanasia breeds from the fear of misuse of the right if it is permitted. Though mercy killing appears justifiable in cases of incurable diseases, doctors should be doubly careful since they run the risk of attracting punishment for murder under the Indian Penal Code Act - even if the relatives insist. It is feared that placing the discretion in the hands of the doctor would be placing too much power in his hands and he may misuse such power. In spite of clean legal mandates, passive euthanasia although sporadic, is prevalent in India. A point which is often raised against the supporters of euthanasia is that if such right will be granted to the terminally ill patients then there will be chances of abusing it. But the supporters argue that every right involves a risk of being abused but that doesn't mean that the right itself should be denied to the people. We should rather look at the brighter side of it than thinking of it being abused.

There can be no conclusive case for or against euthanasia, where every instance can be accounted for, transparency expected while executing the act or more importantly the intention behind the decision made to let a person die. The discussion can at the most make clear the understanding of euthanasia as an act but clearly there is nothing to suggest that will lead to a conclusion on its moral efficacy.

<sup>23</sup> Nadeau R. Gentles, *Euthanasia and Assisted Suicide: The Current Debate*. Toronto: Stoddart Publishing Co. Limited; 1995. Charting the Legal Trends; p. 727.

<sup>24</sup> Hendin H, Rutenfrans C, Zyllicz Z. Physician-assisted suicide in the Netherlands: Lessons from the Dutch. *JAMA*. 1997;277:1720-2.