

Article

Euthanasia – A dignified end of life!

Vaibhav Goel

Faculty of Law Addis Ababa University Addis Ababa Ethiopia. E-mail: vaibhav_hnlu@yahoo.co.in.

Accepted 27, October 2021

Survival is undoubtedly valuable but some time and in certain condition life becomes painful and impossible or unbearable, in that stage surveillance seems, like a curse or abuse. Euthanasia – a new word for masses become common about four years back in the month of December 2004 because of Venkatesh plea for granting him right to die. Euthanasia is nothing else but a permit or license to the medical professional for ending the life of a person in question. No doubt if it will be permitted in laws, may be the biggest threat to the creature. In fact the concept is debatable; here the key question is “What should be the ingredients of law which would legalize Euthanasia?” Hence the purpose of writing this paper is to examine the questions pertaining to Euthanasia, especially in the light of traditional perspective besides legal dimensions of MTP and to suggest legal aspects of the same to make life with dignity even at the time of end. In addition the second key question may be that if it permitted whether it will be on the recommendation of the doctors or in the consent of the relative of the Patient?

Keywords: Euthanasia, PAS, Suicide, Religions on Suicide Right to Die, Mercy Killing, MTP

INTRODUCTION

Antipathy is not a word but it is the position or it is a feeling because of which Jurisprudence has been generated. No doubt, father of Jurisprudence, Bentham, not only describe antipathy as the deciding factor of law and legislation but also as an exercise which cause a power-ful influence over the morals of man. As Bentham defined antipathy in six distinct parts as repugnance of sense, wounded pride, individual resistance and power, confi-dence in future, desire of unanimity and last but not the least envy. Bentham describes it as a cause that gives rise to the feeling of sympathy in the society.

The theory of pleasure and pain is described as a test through which sanctions may be formed. Undoubtedly pleasure and pains are corresponding to each other but sometimes the pain is too severe to explain not only to a particular but also for their near and dear along with the attached part of society, this type of pain is really questionable that whether it can be perfectly cured by any law by the end of subject matter or to left the subject matter in its position to fight with its pain. In fact pain and sufferings in the way of dying is a more terrible lord of mankind than even death itself. Here, it can be said “It is not death one fears to face, but dying”. It means that one does not fear to face the darkness of death but fears to go through the sufferings in dying when everyone knows the result- that is, ultimately the end of subject matter.

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

Euthanasia is the intentional killing by act or omission of a dependant human being for his or her alleged benefit [www.euthanasia.com (visited on March 24, 2008)]. Some how the meaning of Euthanasia is explained in light of suicide while suicide is, many agree, considered as murder except that it is the victim who is the author himself. 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 (<http://www.euthanasia/index/html/definitions>, last visited February 25, 2008) . When it is a doctor who helps another person to kill themselves it is called "physician assisted suicide."

As per Canadian Law Reforms Report (See Canadian Law reforms, ILI LIB. 343.611/614(71) (047); further see www.cbc.ca/on_eutha.htm, visited on February 25, 2008).

“The word “euthanasia” is some what ambiguous and has several possible meaning. Hence it is appropriate to explain what we mean by the term whenever it is used. For the purpose of this Report, euthanasia will mean 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 (The Concise Oxford Dictionary of Current English, 2004, Ed. By R. E. Allen 403). The word Euthanasia comes from the Greek – “Euthanatos” derived from the words ‘eu’ meaning good and ‘thanatos’ meaning death. It has been defined as – mercy killing of the hopelessly ill, injured or incapacitated (J. Podgers (1992) ‘Matters of life and Death: Debate Grows over Euthanasia’ American Bar Association Journal 60) or the ending as painlessly as possible of the life of the person who is fatally ill and suffering pains (Ralls, 1997, The Doctor’s Dilemma: Relieve Suffering or prolong life?’ South African Law Journal 1-40). That is, euthanasia may be conducted with consent (voluntary euthanasia) or without consent (non-voluntary euthanasia) (Melvin I. Urofsky, Philip E. Urofsky, The Right to Die, 1996, p. 823) 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 (Ibid).

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. 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.

Classification

There are many different types of euthanasia which all have distinct definitions (Omayer Hashmi, 2003; The Issue of Euthanasia, p. 07). Euthanasia may be classified as (Shailender Kaur (ADJ) 2005 March, DJA Journal; 4 (1): 85-86).

Passive Euthanasia

It is defined 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 (Baume et al., 1995: “Professed Religious Affilia-

tion and the practice of Euthanasia”, Journal of Medical Ethics 21: 49-54). These procedures are performed on terminally ill, suffering persons so that natural death will occur sooner.

Active Euthanasia

This involves causing the death of a person through a direct action, in response to a request from that person.

Physician Assisted Suicide (PAS)

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” (VAE) is becoming commonly used.

Involuntary Euthanasia

This term 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?”

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" [The Hindu (April 21, 2002) editorially observes].

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 (www.cbc.ca/on_eutha.htm).

"If I cannot give consent to my own death, whose body

is this? Who owns my life?" she said (Ibid).

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 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 (Gyan kaur V. State of Punjab, 1996 2 SSC 648/A; Chandra (2004) Right to Dignified Death -How far is it fundamental. Mewer Law Journal p. 6). 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 (Rao, 1998: Euthanasia – A licence to kill, ILI report on global health conferences at p. 7). 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 309IPC.

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 [(1992) 12 B.M.L.R. 38] 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 [(1993) 2 W.L.R. 316], 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 infection.

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 (Law India 1993, 2(4); 10.

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" ("Dr. Death: 'No law is needed on euthanasia," *USA Today*, October 28, 1992, p. 6A. 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) 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" ("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),.

In India supreme Court, though not called upon to examine the issue directly but in the case of Venkatesh, on 17 December, 2004 (Times of India dt.18 December 2004) (BBC News 15th December 2004, South Asia) 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 [(1994) 3SCC 394] and in Gyan Kaur Vs UOI [(1996) 2 SCC 648]. 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 [(1994) 3 SCC p. 410 Para 35]. 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 (Groller Encyclopedia, 1954).

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 (Thakur L. History of Suicide in India, 1986) . 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 syas 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 cho-sen 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 percep-tion-for instance jilted in love, poor performance in exami-nation, unemployment, bad debts and painful sufferings-require counseling and care. Instead, the law punishes those who attempt to commit suicide, and this only aggra-vates 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 (Khan (1997) Right to Die or Not to Die: A Note on the Supreme Court Judgment, SCJ 1: 34-44.) 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 candid attack against the Christian attitude on suicide was made by Voltaire [Encyclopedia of Philosophy, 1967 (On Suicide)]. He wondered why suicide was made a crime while war which cause "much more harmful to the human race than self-murder" (Ibid) 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."

Misgivings

Euthanasia is in debate from state highlighted its positive

feature but its negative aspects or MTS giving can also not be ignored at all like.

- i.) It will be checked 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 slippery 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 (¹ J. Lynn, Terminally ill, Forgoing.... Care, Dartmouth, *Boston Globe*, May 21, 1994. Also see

http://www.lifeissues.org/Euthanasia/why_cant_we_love_them_both_25.asp.htm Visited on February 25, 2008).

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 (Colbum D., Biscupic, May 15, 1994, "Patient has Right to commit Suicide" *The Guardian Weekly*).

MTP and Euthanasia

A Distinction may be made between Euthanasia and abortion. Abortion is a waste of start of human life. Death intervenes before life in earnest has even begun. In Euthanasia people make decision about death at the other end of life, after in earnest has ended (Dworkin, 1993- "Life's Dominion", Alfred A. Knopf New York 233-234).

Under Medical Termination of Pregnancy Act 1971, all abortions carried out require the consent of women and all abortions after twenty weeks are illegal. The Act Spe-

cifies the situations when pregnancy may be terminated by registered medical practitioners (Section 3, Medical Termination of Pregnancy Act, 1971):

- i.) Not with standing contained in the Indian Penal Code, a registered medical practitioner shall not be guilty of any offence under the code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provision of this Act.
- ii.) Subject to the provision of Sub section (4) a pregnancy may be terminated by a registered medical practitioner. a. Where the length of the pregnancy does not exceed twelve weeks, if such medical practitioners, or b. Where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than registered medical practitioners are of opinion, formed in good faith that –
- iii.) The continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or
- iv.) There is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation 1

Where pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant women.

Explanation 2

Where any pregnancy occur as a result of failure of any device or method used by any married women or her husband for the purpose or limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

The MTP Act emphasizes that legally, a pregnant woman can abort whether she is married, single or widowed. The abortion can be performed at government hospitals, Primary Health Centers, authorized Nursing Homes and Hospitals (sec. 4 MTP Act 1971).

In India, abortion is legal with few exceptions but everyday illegal and unsafe abortions are performed due to lack of information about MTP Act and affordable services. A tenth of maternal deaths in our country are due to septic abortions that kill form 4 to 25% of the women that decide to have illegal abortions. The cost of an illegal abortion depends on the degree of the risk involved: the more advance the pregnancy the more expensive the abortion.

To terminate a pregnancy is permissible when the foetus is seriously abnormal – when a baby would be born

born with Tay-Sach disease or without a brain – then it becomes permissible to end the life of suffering patient who wants to die or a patient who is in the persistent vegetative situation (RDworkin, 1993– “Life’s Dominion”, Alfred A . Knopf New York pp. 233-234).

Is it not the Euthanasia? As the basic purpose behind MTP is provide a dignified life to mother and ensure a dignified life to the unborn after birth, definitely it is alike Euthanasia in its main objective and characteristic. Actually all type of the MTP as above are legalize in India then why not Euthanasia for the benefit of mankind?

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 from 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.

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" ("Dignity in Dying Bill 2001," South Australian Parliament, introduced on March 14, 2001 by Australian Democrats state deputy leader Sandra Kanck. Also available at http://www.democrats.org.au/sa/parlt/autumn2001/0314_e.htm on May 29, 2001).

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.

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." [Franklin G. Miller, Timothy E. Quill, Howard Brody et al., "Sounding Board: Regulating Physician-Assisted Death," 331 New England Journal of Medicine, 1994).

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." (http://biz.yahoo.com/prnews/981231/co_hemlock_1.html , visited on February 25, 2008).

Euthanasia law in India: In India Euthanasia is yet to be discussed. There are no special provisions regarding this either in law of legislation.

In India special legislations is needed: In India special legislation is at need. 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 [Encyclopedia of Philosophy, 1967 (On Suicide)].

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.

Conclusion

Euthanasia, too, is a controversial subject, not only because there are many different moral dilemmas associated with it, but also in what constitutes its definition. 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. After the detail study of various states legislations and the detail study of the Rati Ram' case and Gyan Kaur' case, still the matter is a question of debate that whether Euthanasia is a suicide or dignified end of life. Many state legalize Euthanasia but in the high profile state as well as in India Euthanasia is not permitted even after their broader verdict that right to life means dignified life and this right to life include dignified end of life too. On the one hand most of the countries are not legalizing the Euthanasia and on the other hand they are providing the legislation

for wish for death (for unborn living), no doubt MTP Act 1971 is one in India. As one of their major goals, euthanasia proponents seek to have euthanasia and assisted suicide considered "medical treatment." If one accepts the notion that euthanasia or assisted suicide is a good medical treatment, then, opponents say, it would not only be inappropriate, but discriminatory, to deny this good treatment to a person solely because that person is too young or mentally incapacitated to request it.

The real alternative to euthanasia is to provide loving, competent care for the dying. A new concept for the dying arose in England, where institutions called Hospices specialize in compassionate, skilled care of the dying. This concept has spread throughout the Western world. Once a patient feels welcome and not a burden to others, once his pain is controlled and other symptoms have been at least reduced to manageable proportions, then the cry for euthanasia disappears. Proper care is the alternative to it as soon as there is adequate instruction of medical students in a teaching hospital. Technically the concept of Euthanasia and right to die are not in themselves degrading concepts. Rather they develop the idea of contentment of human beings.

Oregon permits assisted suicide [Oregon's "Death with Dignity Act" (ORS 127: 800-897) passed in November 1994 and went into effect in 1997]. The Netherlands and Belgium permit both euthanasia and assisted suicide. Although euthanasia and assisted suicide are illegal in Switzerland, assisted suicide is penalized only if it is carried out "from selfish motives." Although both euthanasia and assisted suicide had been widely practiced in the Netherlands, they remained technically illegal until passage of a bill for the "Review of cases of termination of life on request and assistance with suicide" was approved in April 2001 (<http://www.internationaltaskforce/holland.htm>, last visited on February 23, 2008 Oregon "Death with Dignity Act" [ORS 127.800 §1.01 (12)]. Belgium's law was passed on May 16, 2002. Swiss law states, "Whoever, from selfish motives, induces another to commit suicide or assists him therein shall be punished, if the suicide was successful or attempted, by confinement in a penitentiary for not more than five years or by imprisonment" (Article 115 of the Penal Code).

Various theories of sociologist dealing with the social aspects of suicide leads to positive conclusions that examination and correction of social condition that directly or indirectly contributes towards the incidents of suicide is essential of a society and family don't take the trouble that the person is unhappy.

It is the duty of the family to see the social and psychological condition of the frustrated person. Our state India being a social welfare state is interested with the duty to take suitable steps. Providing punishment for an attempt to suicide and making it an offence in IPC is not only the solution of this problem. With this, some more is required to be done. As it is known as – death wish – mercy death

– painless killing of a patient suffering from incurable disease – irreversible coma, it can be permitted on following basis:

- i.) There should be clear cut spinier of a penal of the Doctors of the hospital that the person in question can not survive.
- ii.) The consent of the entire family member should be taken.
- iii.) If the patient is in a position that he can accord his consent, it must be obtained.
- iv.) There should be a judicial body at Dist-level to who, on the basis of grounds, plea of Euthanasia be pleaded and obtained.
- v.) In the cases of AIDS, irreversible coma and incurable diseases it may be granted by the judicial body as a matter of right.

To provide an ultimate healing touch for the dying, the logical, the common sense, the compassionate approach for Euthanasia can be legalized by the interference of law and legislation for the permissive Euthanasia society. And so far as the misuse is concern it is known that every boon possesses some curse, even Code of Medical Ethics (Sec. 33 of Indian Medical council Act 1956) may also be treated as a safeguard while legalize Euthanasia as a safeguard for the curse.

Thus this right to dignified end of life should be bestowed upon the individuals, family, physicians and the society at large with necessary dogmatic mechanism. A decision in time can avoid torment to the dying, can release recourses to save other retrievable lives and avert emotional and fiscal agony to the survivors.

REFERENCES

A Books and Acts

Constitution Law of India.
Indian Penal code
Code of Medical Ethics
Law of India-Volume -2- NO-4
Life's Dominion- By R.D Dworkin
MCI Act 1956
MTP act 1971

B Journals

1. American Journal of Law and Medicine.
2. The Guardian weekly- Columbia Journal
3. Delhi Judicial Academy Journal
4. Journal of Medical Ethics
5. American Bar Association Journal
6. Journals of Indian Law Institute
7. Excise Law Times
8. Supreme Court Journal
9. Canadian Law Reforms
10. Keown, D. Keown J., (1995) Killing Karma and caring Euthanasia in Buddhism and Christianity. Journal of Medical ethics.

Articles

- Melvin IU, Philip EU (1996) The Right to Die, P. 823
Ralls I (1997). The Doctor's Dilemma: Relieve Suffering or prolong life?' (South African Law Journal) pp.1-40.
Podgers J (1992). 'Matters of life and Death: Debate Grows over Euthanasia' American Bar Association Journal 60
Omayer H (2003). The Issue of Euthanasia, p.07
Shailender K (ADJ) (2005). March,DJA Journal; 4(1): 85-86
Peter B, Emma OM, Adrian B (1995). "Professed Religious Affiliation and the practice of Euthanasia", Journal of Medical Ethics. 21: 49-54
Chandra, Umesh (2004). Right to Dignified Death -How far is it fundamental. Mewar Law Journal p. 6
Thakur L (1986). History of Suicide in India, p. 200.
Sheeraz LAK (1997). Right to Die or Not to Die: A Note on the Supreme Court Judgment, SCJ 1: 34-44.
Dworkin R (1993) "Life's Dominion", Alfred A . Knopf New York pp. 233-234.
Franklin GM, Timothy EQ, Howard Brody (1994). "Sounding Board: Regulating Physician-Assisted Death," 331