

**A STUDY OF EUTHANASIA FROM SOCIO-LEGAL, ETHICAL AND MORAL
PERSPECTIVE**

Miss Chintu Jain, Ph.D Scholar, G.D Goenka University-Sohna Road, Gurugram, Haryana,
Priyajain1782@gmail.com

Dr Azimkhan B. Pathan, Professor of Law and Head of the Department, School of Law, GD
Goenka University, Sohna Road,(Gurugram), Haryana : azimkhan.pathan@gdgu.org

Abstract

Euthanasia, according to the Oxford English Dictionary is defined as, “the practice (illegal in most countries) of killing without pain a person who is suffering from a disease that cannot be cured.” In essence, the rationale behind euthanasia is to relieve a patient, mostly a terminally ill patient, of their pain and suffering by ending their life. The reason is that the patients are in such a condition that living will cause more suffering than a painless death. The process of Euthanasia and whether it should be held legal is seen in two ways. One way of looking at it is it being a humane step to relieve a patient of suffering. However, the dominant way it is looked is that of the killing of a human being and that life should always be preserved wherever possible. Indeed, that is why the subject of euthanasia draws hot debate about whether it should be legalized or not. Bills dealing with the subject of euthanasia are not easy to pass and come under immense parliamentary debate and even more public scrutiny and criticisms. Physicians and doctors face the living nightmare of having to make these difficult decisions as often patients are in no condition to speak for themselves. Most countries are against the legality of euthanasia and do not recognize the ‘right to die’ so as to speak. India, until 2018, was among the many countries which did not recognize euthanasia. This was changed after the historic Aruna Shanbaug case wherein the Supreme Court of India, while rejecting the petition to allow a nurse in a vegetative state to be taken off life support, did recognize passive euthanasia in law. Hence, even in this present day, India only partially recognizes the validity of euthanasia. The present paper aims to study the social, legal and ethical aspect related to euthanasia.

INTRODUCTION

One of the most controversial and debated topics is the concept of life and death. Life is a sacred thing which is given by god and can be taken by the god only, human interference can be allowed only at the limited level. There have been enough efforts made to justify the meaning of life and establish that life is not only an animal existence, but that the dignity of life is prime and paramount. The attention has now switched to issues of death. Death is not the total opposite of life; rather, it is a necessary part of it. However, it is true that society's attitude toward death has changed in recent years. Modern medicinal technologies have advanced at a rapid speed, substantially altering the whole course of death. Previously, death was something that normally happened that was accepted by all of us. With the development of high-quality life-sustaining measures such as ventilators, the ability to exercise control over the dying process has greatly grown. These life-supporting machines were designed to treat patients who could be cured, not those who had no possibility of recovery. This raises moral, ethical, social, and emotional dilemmas for medical professionals and family and relatives, such as how much effort should be put into treating an incurable terminally ill patient who is in severe pain and suffering. Many patients nowadays wish to die in a peaceful, dignified, and controlled manner. They look into passive euthanasia as a way of achieving a peaceful and quiet death by withdrawal or withholding life-saving treatment.

The various Socio-legals, ethical and moral Perspective related to euthanasia are:-

SANCTITY OF LIFE

"Sanctity of life" can be understood as a foundational and fundamental principle which lies at the core of the euthanasia discussion. Unfortunately, there has been a lot of disagreement over what that

principle actually implies. It is apparent that judges and commentators have taken it to mean quite different things.

Euthanasia opponents are adamant that every human life is sacred and should be valued. It is stated that all forms of human life are fundamentally valuable and cannot be taken away except via death.¹ Even if it is impaired by disability or disease, life is valuable, and taking it away in an unnatural way diminishes that value.

As per philosopher John Keown, all forms of human life are sacred, and the existence of any innocent human life should not be harmed by any act or omission.² A specific disease or disability does not diminish the value of life and should not be used as a standard for valuing one's life. As a result, it is argued that simply because a person has a certain disability or illness, his or her life should not be regarded worthless or less valuable.³ Keown further claims that what constitutes autonomous decision or self-determination is ambiguous, and that there is no clear moral principle as to why autonomy should be permitted to destroy one's or another's life.⁴

The various orthodox communities and religious groups are of the perspective that life has been accorded to the individuals as a gift from humanity and that god has been provided with the ability and the duty for taking away the gift of life.⁵ Individuals should not be permitted to have control over life and death, since this would be equivalent to overthrowing God's great power to give birth and grant death to each person.⁶ Given society's diversified nature and people's freedom to believe or disbelieve in a variety of things, arguments based only on religious feelings cannot be used to control law and policy.⁷

Human Life has been considered as the gift of God and he has complete control over all of his creations. Having a conscious life is better than not having one. Human power over the giving and taking of life is not meant to be controlled by them but God is always in charge.⁸ God prohibits us all from rushing others or ourselves into the next life.

It suggested that permitting euthanasia and physician-assisted suicide creates a class divide where a specific class of lives, namely those of persons with terminal diseases, are regarded as worthless and their intrinsic value of life is minimised. All patients' lives are equally valued in the eyes of medical science, and treatment for all patients should be provided. As a result, it is argued that allowing death by euthanasia or physician-assisted suicide goes against medical science's core values.

The aforementioned reasons made by supporters of euthanasia are countered by the notion that euthanasia or assisted death is only given in a select circumstance where the patient is in severe and everlasting pain and agony. Euthanasia has been evolved from the self-autonomy of the patient and the right to live the life as he or she desires. Individuals should not be compelled to endure a life of suffering, dependency, or indignity; instead, they should be able to choose whether they want to live with the pain or die in peace.⁹

¹Luke Gormally, 'Euthanasia and Assisted Suicide: 7 Reasons Why They Should Not be Legalized' in Donna Dickenson, Malcolm Johnson, and Jeanne Samson Katz (eds.), *Death, Dying and Bereavement*, (2nd edn, London, Sage Publishers, 2000)

²John Keown, *The Law and Ethics of Medicine: Essays on the Inviolability of Human Life*, (Oxford, Oxford University Press, 2012)

³*Id.* at 5

⁴*Id.* at 18

⁵Jackson and Keown (n 165) 37

⁶Jackson (n 157) 917

⁷Margaret Otlowski (n 163) 16

⁸Ian S. Markham, *Do Morals Matter? A Guide to Contemporary Religious Ethics*, 132 (2007).

⁹

Various other philosophers have raised contention to the essential that the term sanctity of life need not necessarily imply that life has to be protected and continued for as long as possible, regardless of the quality of life. Sushila Rao says that while the sanctity of life entails intentional taking of life should be prohibited, it does not require that life should be extended at all times.¹⁰ In reality, the concept of sanctity of life entails the withdrawal of life-saving procedures if the patient's life is unlikely to return to normal.¹¹ Other writers have agreed, stating that when a person's life is such that, even after getting all possible treatment, the patient's condition is unlikely to improve, continuing treatment is meaningless.¹²

According to John Locke, suicide is a sort of theft or embezzlement since a human life is God's property, not the tenant who lives it. Euthanasia may therefore be seen as a denigration of God's gift of life. According to the Bible, a person should use their body to glorify God, yet nowadays, many people prefer to say, "I can do anything I want with my body."¹³

No one can control the wind to hold it back, and no one can control the day of his death, according to Ecclesiastes. God is the creator of suffering which is a gift for the benefit of our souls, and we must not resist God's purpose. As a result, any creature that refuses to consent to such decisions must be guilty, simply because he cannot understand the hidden principles of that impartial justice that defines every decision of God.

The issue of sanctity of life has been in contention for a long time and one that cannot be ignored. The 'sanctity of life' argument should be understood in such a way that it applies equally to both believers and non-believers in God. This means that the value of life must not be judged by theological claims, but also by the value that life gives to the person.¹⁴ When life simply brings pain and suffering, with little possibility of recovery, the value of such sort of life is practically non-existent when compared to a healthy and competent life, in the view of the human being.

MORAL DILEMMA WITH EUTHANASIA

Some people believe that some or all forms of euthanasia are morally objectionable. This perspective has intimated an implication stating that euthanasia is any form of murder and collaterally voluntary euthanasia is any form of suicide. However, in both the cases, the question of morality is a highly debated one.¹⁵

- **BURDEN ON PATIENT TO DIE**

When it comes to pressure from those who stand to profit from one's death, it's always possible that some dishonest person will try to get around the law and persuade an elderly or dying person to receive euthanasia. Questions arise when it comes to euthanasia to be used on a dying person. Issues like: is there anything wrong with a person who is in an irreversible condition and has become a burden to his family and friends as well as himself desiring his family to be spared the possible bad effects of caring for him or paying for his care over a substantial amount of time? Should it be considered wrong if he is helpless and totally depends on others and should it be denied if he asks for his death to be accelerated partially in order to make his body's organs available for transplantation?

- **Moral Aspect**

Opponents of every proposed new social legislation try to scare people into believing that it would have terrible effects. However, if the legislation is well drafted, the safeguards are sufficient but not

¹⁰

¹¹

¹²

¹³Supra note 1 at 195. "A Position Paper of the Church of the Lutheran Brethren of America on Euthanasia and Assisted Suicide, at 5

¹⁴ James Rachels, End of Life: Euthanasia and Morality, Oxford University Press, Oxford, 1986.

¹⁵O. RUTH RUSSELL, FREEDOM TO DIE: MORAL & LEGAL ASPECTS OF EUTHANASIA 227(1997).

excessive, and the law's aim is to fulfil a humanitarian need, there is no reason to be concerned, as long as the safeguards are implemented. Hence, with a perspective or a reason for believing that legalisation of euthanasia would help in the strengthening of the faith in the capacity of the man, which would also be acting in compliance with the noble acts of compassion rather than a weakened set of moral principles. The present practice of encouraging illegal actions in the name of compassion is unjustifiable. The present practice of encouraging illegal actions in the name of compassion is unjustifiable.

Criticizing human beings to meaningless suffering or a worthless life is likewise morally incorrect. In today's society, we need a legal change that reflects human instincts. Without such a reform, our issues will worsen to the point where they are intolerable.

THE ETHICAL DILEMENA OF DOCTORS

The doctors have played a most vital and significant role in terms of providing assistance through euthanasia and also in the determination of the condition of a patient and as a result, their importance is undeniably important. So, one of the biggest challenges in legalizing passive euthanasia is from the doctor's side as they have medical as well as moral ethics towards patient

- **THE HIPPOCRATIC OATH AGAINST EUTHANASIA**

The Hippocratic Oath is often believed to bind doctors to employ any methods at their disposal to save life at all costs, however this is not specified in the oath. Doctors who accept it feel obligated to save lives as well as ease pain, and these obligations can occasionally lead to doctor's dilemma. In many instances, if he extends the patient's life, he also extends the patient's pain. The only method to reduce pain is to either end the patient's life or make him unconscious.

- **WRONG DIAGNOSES**

One of the challenges which arise after the legalisation of euthanasia is that it really is a possibility of misdiagnoses in advance terminal illness as no one is perfect. Even if there is some uncertainty in some situations, the likelihood of major error is minimal when diagnosis is given by two or more doctors through such open collaboration as should normally be required under a good euthanasia law.

- **PATIENT'S CONFIDENCE**

Legalisation of euthanasia would destroy the patient's confidence with doctor as doctor is always a god for patient. This argument is commonly used by opponents to scare people into rejecting any euthanasia law, regardless of how good the safeguards are. Any loss of life that is not in accordance with the person's wishes is still considered murder and is prosecuted as such. Only merciful action at the request of the patient if he is conscious, or at the request of his next of kin or guardian if he is irreversibly non compos mentis, would be allowed under the law.

For many people, knowing that their physician could legally carry out their intentions if they become permanently disabled and wish to die would inspire confidence and reduce stress instead of giving them more fear.

EUTHANASIA FROM SOCIAL PRESPECTIVE

The social issue of euthanasia needs to be considered before discussing its legalization as it has an impact on political, economic, and cultural facets. It illustrates how free a society we live in. Socially the individuals have some fixed values and norms which one needs to be follow and the individuals have to follow those morals in a society. Both the dying individual and the patient's family are expected to adhere to particular societal standards and ideals. Despite the patient's agonizing illness and grief, his or her family members must take societal conventions into account. There are some ideas about an individual's life that cannot be disproved in any community. Euthanasia would become legal in this case, which would cause social unrest. The family members will find it terrible to witness their loved one's suffering and misery, but the legal justification does not considered these social dilemena. There are various social justifications as well as problems which reflect the reason

for its legalisation or not. The following are the few which reflect social issues with euthanasia.

- **ABUSE OF EUTHANASIA**

The legalisation of euthanasia might lead to misuse in a variety of ways. Reasons for such abuse that are given by the opponents of euthanasia are mentioned below:

- a. Personal gain**—Many people could misuse euthanasia in order to gain something from the death of the terminally ill patient. Their motives can also be brought into question and sometimes undue benefit can also be taken by such ill-intentioned people.
- b. Elderly becomes a burden on the family**—The elderly and ill would be made to feel like a burden on the family, causing difficulty to all family members, and therefore pushed to choose euthanasia, even if they actually want to live.¹⁶Old age would be regarded as a liability.
- c. Economic consideration**—Economic considerations are another reason that might lead to misuse. The expense of continuing treatment or palliative care for a terminally ill patient would be extremely expensive, putting pressure on the patient to choose euthanasia rather than burdening family members with the obligation of continuing treatment.
- d. Family member of the patient can have vested interest such as inheritance so there is likelihood of abuse**—It is also believed that in some situations, family may pressurise the terminally ill patient to have their interests met. Euthanasia could be misused as earlier one had to kill someone to gain from their death and now the same could be done lawfully.

Justice Katju in the Aruna Shanbhaug case,¹⁷ emphasised that family members with the doctors can wrongfully declare the person as terminally ill for their personal benefit. This would result in premature end the life of a patient who was not terminally ill and recovery was possible. The court pointed out the low ethical standards that prevails in India and observed that it is also likely that doctors will abuse the confidence put in them by the patient and his or her family members for financial benefit, such as selling organs.

- **ADVERSE EFFECT ON DOCTOR-PATIENT RELATIONSHIP**

The principle of fundamentality in terms of medical science is that all lives are valuable, and it is the doctor's obligation to employ all available resources to extend the patient's life.¹⁸ If over served from the other side of the coin, this legalisation of euthanasia can also result in the negative phenomenon thereby affecting the relationship of a patient and a doctor. A terminally ill patient can be worried that his or her doctor would advise that the patient be killed. This not only weakens the patient-doctor relationship, but also causes mental distress to the patient.¹⁹In terms of doctors, the option of ending the patient's life also goes against medical ethics, which requires doctors to work for the patient's health.

There is also a perspective of the public which is of the belief that doctors do not murder their patients. Legalization flips this approach and casts doubt on the entire Hippocratic Oath philosophy, according to which a doctor is required to use all methods needed to preserve life and not to take advantage of the patient's faith and confidence in him or her.²⁰Thus, it is suggested that in order to

¹⁶LUKE GORMALLY, EUTHANASIA AND ASSISTED SUICIDE: 7 REASONS WHY THEY SHOULD NOT BE LEGALIZED 285 (2nded. 2000).

¹⁷Aruna Ramchandra Shanbaug v. Union of India, (2011) 4 SCC 454.

¹⁸JACKSON AND KEOWN 38.

¹⁹Brian Simpson, *Euthanasia for Sale?*, 84 MICHIGAN LAW REVIEW 807 (1986); WWW.PARLIAMENT.UK, https://publications.parliament.uk/pa/ld200405/ldselect/ldasdy/86/8602.html (last visited Nov. 06, 2019).

²⁰KASS LUND.

protect the sanctity of the doctor-patient relationship, it is essential that the doctor's role be maintained in the traditional sense, i.e., doctors are not permitted to perform the killing of any patient and must always act to preserve the patient's health.

UNNECESSARY LEGALIZATION

It is claimed that the entire argument over euthanasia legalisation is false and unnecessary. The primary objective of euthanasia is to relieve patients' pain and suffering. However, providing high-quality palliative care might help to relieve pain and suffering. If all patients receive appropriate and adequate palliative care, there will be no need for euthanasia, and legalisation will not be necessary.²¹

It is also said that if euthanasia is permitted, society may regard euthanasia to be a more convenient alternative than palliative care. In the long run, there would be less demand for palliative care, resulting in a lack of research and development into palliative care and techniques to reduce intense pain.²²

Research conducted in select states like Oregon as well as Washington, where physician-assisted suicide has been recognized legally, revealed that selecting euthanasia was not primarily driven by suffering.²³ The loss of personal autonomy was the major reason to prefer death over continued treatment in both states. Since the patients were unable to do even simple bodily movements, they felt helpless and dependent. Another factor was that patients believed they had lost their dignity by being in a constant state of dependency and inability to perform basic functions.²⁴ Even though euthanasia would relieve pain, it is not the sole reason why the argument over its legality has stretched on for so long.

SLIPPERY SLOPE

Arguments concerning slippery slopes may be found in a variety of fields, including biomedicine, law, and philosophy. The slippery slope argument is frequently used in objection to euthanasia legalisation. The basic principle of the slippery slope argument is that if a certain activity is authorised for a specific category with the best of intentions and regulations, the practise will develop over time and be employed in areas where it was not originally intended.

The proponents of this argument also argue that if voluntary euthanasia for terminally ill patients is allowed, there will be situations when people who are not terminally ill but are in extreme pain and suffering will be allowed to die. Similarly, once euthanasia for adults is legalised, if a minor suffers from a terminal illness and is in terrible pain, there would be little reason to deny euthanasia, leading to the subsequent legalisation of euthanasia for minors.

NATURE OF COST-BENEFIT ANALYSIS

The philosophers and others have contended that the movement of 'right to die' would believe that the decriminalisation of euthanasia in a voluntary form would be amounting to the adoption of a cost-benefit analysis, thereby further lead to the deprivation of medical care to other individuals in society who may need it due to old age or severe illness.

The use of a cost-benefit analysis may de-personalise death decisions, allowing institutions rather than morally minded individuals to define and objectify those who need medical care, replacing human compassion and individual freedom with a governmental equation that determines whether a person is entitled to live or die.

²¹JACKSON.

²²GORMALLY.

²³OREGON PUBLIC HEALTH DIVISION, <https://www.deathwithdignity.org/oregon-death-with-dignity-act-annual-reports.html> (last visited Nov. 06, 2019).

²⁴

CONCLUSION

After analysing euthanasia from social, moral, legal and ethical perspectives it is very hard to say that whether euthanasia should be allowed or not as it all have both pros and cons. Even after analysing the above social, moral, legal and ethical issues which are related to euthanasia, it can be concluded that it is not practical decision as well as very difficult to bring systematic universal practice or law on the acceptance to the concept of passive euthanasia in the Indian society. But on the other hand now the time come where practical solution need to be give way as now a day's dying people asking their right to die without giving much importance to moral one but on the same time social value cannot be ignored. To deal with all this it is necessary to have a detailed law on this with proper justification. As the legalisation of euthanasia in reality leads to conflict of interest, misuse of power and more corruption so proper law if made than most of the above issues can be tackled. To deal with so many social, moral issue there in the absence of the proper legal framework there is the denial of Right to live and Right to die guaranteed by the Indian Constitution