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EUTHANASIA: A CRITICAL ANALYSIS- Prof. (Dr.) K.S. Gopalakrishnan¹**“No life that breathes with human breath has ever truly longed for death”****INTRODUCTION**

Euthanasia is the practice of intentionally ending a life to get free from pain and suffering. There are many euthanasia laws in each country. The British house of Lords selected committee on Medical Ethics defines euthanasia as "a deliberate intervention undertaken. In the Netherlands and Belgium, euthanasia is understood as "termination of life by a doctor at the request of a patient". The Dutch law however, does not use the term 'euthanasia' but includes it under the broader definition of "assisted suicide and termination of life on request". Euthanasia is categorized in different ways, which include voluntary, non-voluntary, or involuntary. Voluntary euthanasia is legal in some countries. Non-wilful killing (patient's assent inaccessible) is unlawful in all nations. Automatic killing (without asking assent or against the patient's will) is likewise unlawful in all nations and is typically considered murder. Starting at 2006, killing is the most dynamic range of research in contemporary bioethics. In a few nations there is a disruptive open contention over the good, moral, and lawful issues of wilful extermination. Aloof killing (known pulling the fitting) is legitimate under a few conditions in numerous nations. Dynamic wilful extermination however is lawful or true lawful in just a modest bunch of nations (ex. Belgium, Canada, Switzerland) and is restricted to particular conditions and the endorsement councillors and specialists or different experts. In a few nations, for example, Nigeria, Saudi Arabia and Pakistan, bolster for dynamic killing is nearly non-existent.

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MEANING

"Euthanasia is a long, smooth-sounding word, and it conceals its danger as long, smooth words do, but the danger is there, nevertheless. "... American author Pearl S. Buck."²

The term euthanasia comes from the Greek words “eu”-meaning good and “thanatos”-meaning death, which combined means well death. It refers to practice of ending life in a painless manner. It may be defined as intentionally killing by act or omission of a defendant human for his or her alleged benefit. The keyword here is “intentional” because if death is not intended then there is no act of euthanasia. Euthanasia, mercy killing may be referred to as murderous by some and merciful by others and hence it is always surrounded by controversy which arises from serious moral and legal issues involved in it.

Like different terms obtained from history, "wilful extermination" has had diverse implications relying upon use. The first apparent usage of the term "euthanasia" belongs to the historian Suetonius, who described how the Emperor Augustus, "dying quickly and without suffering in the arms of his wife, Livia, experienced the 'euthanasia' he had wished for."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." Bacon referred to an "outward euthanasia"—the term "outward" he used to distinguish from an otherworldly idea—the killing "which respects the readiness of the spirit."

In current use, killing has been characterized as the "easy incitement of a snappy demise". In any case, it is contended that this approach neglects to appropriately characterize killing, as it leaves open various conceivable activities which would meet the necessities of the definition, however would not be viewed as wilful extermination. Specifically, these incorporate circumstances where a man executes another, effortlessly, however for reasons unknown past that of individual pick up; or inadvertent passing's that are brisk and easy, yet not deliberate.

Euthanasia classifications:-

There are two main classifications of euthanasia:-

2 Derek Humphry, Final Exit, 76, Dell

* **Voluntary Euthanasia**:- This is euthanasia conducted with consent. Since 2009 voluntary euthanasia has been legal in Belgium, Luxembourg, The Netherlands, Switzerland, and the states of Oregon (USA) and Washington (USA).

***Involuntary Euthanasia**:- Euthanasia is conducted without consent. The decision is made by another person because the patient is incapable to doing so himself/herself.³

There are two procedural classifications of euthanasia:

•**Passive Euthanasia**- This is when life-sustaining treatments are withheld. The definition of passive euthanasia is often not clear cut. For example, if a doctor prescribes increasing doses of opioid analgesia (strong painkilling medications) which may eventually be toxic for the patient, some may argue whether passive euthanasia is taking place - in most cases, the doctor's measure is seen as a passive one. Many claim that the term is wrong, because euthanasia has not taken place, because there is no intention to take life.

•"A mode of ending life in which a physician is given an option not to prescribe futile treatments for the hopelessly ill patient."

•**Active Euthanasia**:- Lethal substances or forces are used to end the patient's life. It includes life-ending actions conducted by the patient or somebody else.

"A mode of ending life in which the intent is to cause the patient's death in a single act (also called mercy killing)."

VARIOUS PETITONS FILED FOR EUTHANASIA:-

•**Karen Ann Quinlan Case**- In this particular case Quinlan lost her consciousness while returning home from party. She had consumed diazepam, dextropropoxyphene, and alcohol. She was collapsed and stopped breathing twice for 15 minutes. She was hospitalized and eventually lapsed into a persistent vegetative state.

3 Mark Henry, Euthanasia and Assisted suicide, (November 3,2017 12:30:49), <https://www.nhs.uk/conditions/euthanasia-and-assisted-suicide/>

After few months, while being kept alive on a ventilator, her parents advised the hospital to discontinue active care, so that she could be allowed to die. The hospital refused, there were legal battles, and a case eventually ruled in her parent's favour. Quinlan was removed from the mechanical ventilation in 1976 - but she went on living in a persistent vegetative state until 1985, when she died of pneumonia. Even today, Quinlan's case most relevant in moral theology, bioethics, euthanasia, legal guardianship and civil rights. Health care professionals say her case has had an impact on medical and legal practice worldwide. Since Quinlan's case, formal ethics committees now exist in hospitals, nursing homes and hospitals. Many say the development of advance health directives occurred as a result of her case. In 1977, California legalized living wills, with other states soon following suit.⁴

Quinlan's case paved the way for legal remedy of voluntary passive euthanasia.

ARGUMENTS FOR LEGALISING EUTHANASIA

- **Choice**- Freedom of choice is the foundation of free market systems and liberal democracies. The sufferer should be given the option to make their own choice.
- **Quality of life**- Only the patient is really known of what it is like to practice intractable suffering; even with pain relievers. Those who have not adhere it cannot fully appreciate what effect it has on quality of life. Apart from physical pain, overcoming the emotional pain of losing independence is an secondary factor that only the patient comprehends fully.
- **Dignity**- Everyone should be given the ability to die with dignity.
- **Witnesses**- People who witness the slow death of others are especially convinced that the law should be changed so that assisted death be allowed.
- **Drain on resources**- In every country there is never enough hospital space. Channeling the resources of highly-skilled staff, equipment, hospital beds and medications towards life-saving treatments makes more sense; especially when these resources are currently spent on downright patients with intractable suffering who wish to die.

⁴"Karen Ann Quinlan dies after 10 years in a coma", *St. Petersburg (FL) Evening Independent*, June 12, 1985, p1

- Public opinion**- In all countries a notable higher dimension of people are for euthanasia than against it. In a democracy legislation should reflect the will of the people.
- Humane**- It is more humane to allow a person with awkward suffering to be allowed to choose to end that suffering.
- Loved ones**- It aid shorten the hardship and suffering of the patient's loved ones.
- We already do it**- If a loved pet has unmanageable suffering we put it down. It is seen as an act of kindness. Why should this kindness be denied to humans?
- Prolongation of dying**- If the dying process is disagreeable, the patient should have the right to reduce this unpleasantness. In medicine, the *prolongation of living* may sometimes turn into *the prolongation of dying*. Put simply - why should be a patient be forced to experience a slow death?

PRESENT LAW IN INDIA

In India, euthanasia is absolutely illegal. Since in cases of euthanasia or mercy killing there is a motive on the part of the doctor to kill the patient, such cases would clearly fall under clause first of section 300 of the Indian Penal Code, 1860. However, as in such incidents there is a valid consent of the deceased exception 5 to the said section would be allured and the doctor or mercy killer would be punishable under section 304 for culpable homicide not amounting to murder. But it is only cases of voluntary euthanasia that would attract exception 5 to section 300. Instances of non-deliberate and automatic killing would be smacked by stipulation one to section 92 of the IPC and hence be finished up unlawful.

The Indian Constitution says that the “Right to Die” is not a fundamental right under Article 21[8]. The inquiry whether the right to die is included in article 21 of constitution came for consideration for the first time before the Bombay High Court in The State Of Maharashtra v. Maruti Shripathi Dubal. The House of Court held that the right to life guaranteed by article 21 includes the right to die, and consequently the court struck down section 309 IPC, which

provides punishment for attempt to commit suicide as unconstitutional.⁵The judges felt that the desire to die is not unnatural but merely aberrant and uncommon. They listed several instances in which people may wish to end their lives, including disease, cruel or unbearable condition of life, and a sense of shame or bafflement with life. They held that everyone should have freedom to dispose of his life whenever he desires. The Supreme Court in *P. Rathinam v. Union of India*, upheld the Bombay High Court's decision but the same court in *Gian Kour v. State Of Punjab*, a five judge constitution bench of the court overruled the *P. Rathinam's* case and held that "Right to Life" under article 21 of the constitution does not include "Right to die" or "Right to be killed". The right to die is inherently as is death with life.

The court held that the right to life is a natural right which is in article 21, but suicide is an unnatural termination or extinction of life and incompatible and contrary with the concept of Right to Life. Referring to protagonists of euthanasia's view that existence in persistent vegetative state was not a benefit to the patient of terminal illness being unrelated to "principles of sanctity of life" or the "right to live with dignity". The court said that this argument was of no aid to determine the scope of article 21 of the constitution for deciding whether the guarantee of "right to life" therein includes the "right to die".

The court made it clear that "right to life" includes the right to live with human dignity would mean the existence of such a right up to the end of natural life. This likewise incorporates the privilege to a noble life up to the purpose of death including a honourable methodology of death. This may includes the right of a dying man to also die with dignity when his life is ebbing out. But the "right to die" with dignity at the end of life is not to be confused with the "right to die" an unnatural death curtailing the natural span of life. The court repeated that the contentions to help the perspectives of allowing the end of life in such cases by quickening the procedure of characteristic passing when it was sure and approaching was not accessible to decipher article 21 to incorporate in that the privilege to reduce the common traverse of life.

On the contrary the advocates of euthanasia contend that in cases of terminal illness the medical professionals do not prolong the life of the person: instead they prolong the death of that person.

5 Christian Nordqvist, Euthanasia and Assisted suicide,(November 3,2017 1:40:36)
<https://www.medicalnewstoday.com/articles/182951.php>

One cannot say that since the constitution of India says that article 21 is the right to life of an individual he must be kept alive through all the sufferings that he has to go throughout the period till death releases him from his ordeal. Sufferings can be physical, mental as well as monetary Euthanasia can be considered to be a solution to get rid of such sufferings but this would be possible only when the legal provisions provide for a fool-proof mechanism that shall save the abuse of the law legalizing Euthanasia.

WHY WE SHOULD SUPPORT THE LEGALISATION OF EUTHANASIA?

The Supreme Court of India has as of late opened the civil argument in regards to giving Euthanasia a legitimate endorse. Be that as it may, in India, where individuals are energetic positive thinkers, and devotees to supernatural occurrences, tolerating wilful extermination would be troublesome. People defending the right to life would censure it to the nail, trying to justify that taking away one's life is like overreaching one's power, similar to sinning against God, whose beautiful gift is life. But when this beautiful gift turns to be a burden, a prolonged misery, isn't it necessary to put an end to it rather than to continue the intense pain and suffering? Euthanasia should not be confused with suicide. It is strictly related to ending one's physical suffering. Euthanasia, in the easiest terms, is mercy killing for those patients for whom there is no end to their pain; it's a blessing for those who wish for a dignified death rather than prolonged suffering. Euthanasia in Greek means "good death". It is defined as the practice of knowingly ending a life in order to relieve pain and suffer.

Proxy euthanasia has been a pervasive practice since ages. In such cases, there is no scope of recovery, and the sufferer has nothing to do but to count his last breaths. Many a times people can't afford continue the treatment of terminally ill patients and dump them in the hospital, or request the doctor to take away the life support system. Is it safe to say that it isn't smarter to authorize this training instead of to proceed with it away from public scrutiny?

Euthanasia is not a new concept with respect to Indian culture. This practice was prevalent in older times, and references could be found in Mahabharat, wherein Bhishma has the blessing of "*iccha mrityu*". Sadhguru Jaggi Vasudev opines, "Passing isn't a sudden incident, yet an unavoidable end. In this culture, we generally arranged for a cognizant exit. Four degrees of life incorporated this. "Vanaprastha implied that when one feels they are finished with the reason

forever, they left into the woodland to relinquish the body. *One has the right to determine the course of life; one has the right to determine one's exit. The theory of Nirvana and Samadhi, too, forms a part of it.*"⁶

Stephen Hawking has depicted illegalizing Euthanasia as "Victimization the impaired, to deny them the privilege to slaughter themselves that healthy individuals have". Wilful extermination enable individuals to put a conclusion to their delayed misery. The acute suffering that one undergoes in dying, pin by pin, could be ended in a dignified way through euthanasia, where the patient has the option to choose his own death. 'Dr. Philip Nitscake', who has done several euthanasia deaths, narrates the story of one of his southern Australian patient who, before dying, had a hearty meal and shared some intimate moments with his wife. Euthanasia gives one the ability to free oneself with respect.

Legitimizing Euthanasia is a troublesome frame to stroll in, and to counter its manhandle, strictest measures should be taken. Legalizing Euthanasia would come as grace for people like Aruna Shanbaug, a rape survivor who has been there in persistent vegetative state for the past 37 years – or should we turn a blind eye to the problem of terminally ill patients and force them into the dungeon? We can take examples from countries like Switzerland, Albania and Belgium, where Euthanasia is already been legalized.

CONCLUSION

From the above discussion we can conclude that no such law could be guaranteed to be free of the possibility, if not the likelihood, of abuse, chiefly cantered on the lives of other sick persons who did not want their lives taken. An especially dangerous aspect is that such abuse may be easily made indefectible. Thus although mercy killing appears to be morally justifiable, its fool-proof practical applicability seems near to impossible.

The medical loopholes, listed above, alone justify the common findings of the inquiries, that legalization would be dangerous, rather than seek recourse to medical life-taking, all doctors with responsibility for the care of terminally ill patients should accept their duty to deliver this

6 Christian Nordqvist, Euthanasia and Assisted suicide,(November 3,2017 1:40:36)
<https://www.medicalnewstoday.com/articles/182951.php>

care at the known best standards, as they are legally obliged to do in other branches of medical practice. In this world of fast development and miracles, I staunchly believe that someday man would develop a mechanism to reduce pain to the minimum possible extent and make life less burdensome. The appropriate course of action would be to introduce proper care ethics ensuring a dignified existence rather than attempting to terminate one's life.

