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Euthanasia: The New Phase of Right to Die

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ABSTRACT

Euthanasia in simple term means mercy killing one of the most debated topics so far. Like every coin has two face euthanasia also have pros & cons in it. In this paper, we will try to understand both sides in-depth so that we can conclude that either euthanasia has to be allowed or not & if allowed then on what conditions, we have to understand that if anyone didn't want to live his life with non-curable disease or pain then, there has to be an option for him to die with dignity also while researching we will keep in our mind that what are the disadvantages of allowing euthanasia in India cause as we all know that animal euthanasia is allowed in India due to which doctor didn't even want to give a try on a patient, It is a very vast topic with many types one have to discuss about all & there affect to come on a conclusion that out of these what have to be allowed & in what manner because sometimes what may seem to good is not same in real life It was observed that for a lot of people living life on a life support is worse than death nobody knows about the pain & suffering he is going through but we also have to understand conditions to apply the same in a way that it dint become a tool for doctors & family to easily let go anybody.

Keywords: *Euthanasia, Active Euthanasia, Passive Euthanasia and Assisted suicide.*

I. INTRODUCTION

Everyone wants to live his life with dignity but there is special circumstances in which there is no other option than dying , euthanasia is one of them it is the condition in which person is on death bed waiting to die means to say that the person is bearing his life everyday with no chance to live in future the only thing that makes it different from suicide is that someone else is helping the deceased to die on his request & in suicide the man is taking his life by his own , euthanasia is one of the debated topic around the world letting someone die is considered as an act of immorality also its been observed that many countries are supporting the passive euthanasia but they are not considering active euthanasia as an option in this research paper we will try to observe origin of euthanasia in different world & the way of euthanasia that they are following.

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II. ORIGIN OF WORD EUTHANASIA

The idea of Euthanasia is not new it dates back to 1935 when the organized movement of legalizing of euthanasia started. C.Killick Millard was the one who founded the Voluntary Euthanasia Legalization society which was later known as the Euthanasia Society. A bill was introduced to Britain's House of lords in 1936 which would allow anyone who is over 21 years old , mentally competent and fatally ill or sick with incurable disease and suffering from immense pain to request voluntary euthanasia. The person who has requested voluntary euthanasia should have two witnesses and has to be examined by several doctors , and then apply to the Minister of Health who would then have to interview the dying person but the bill was defeated . In the United States the Euthanasia Society of America was founded in 1938.

In 1957, the Vatican a city in Europe proclaimed that passive euthanasia was acceptable. Passive euthanasia means an act to withhold life saving measures which Is a ventilator, knowing that it will result in Death , after this people started to focus on legalizing passive euthanasia .

IN 1994, Oregon became the first state to legalize aid in dying. But this was instantly challenged in the case of Lee V. State of Oregon and in February 1997 the Ninth Circuit Court of Appeals dismissed the lower court's ruling against the Oregon Death with Dignity Act. The Law came into force in 1997.

The first countries to legalize Euthanasia were Netherlands in 2001 and Belgium in 2002. In 2009 the Supreme Court of South Korea recognized right to die with dignity in its Judgment upon a request made by the family of a brain-dead woman that she be removed from life-support systems.

As medical technology is getting better day by day and it has helped to prolong the life of the people through technological means. For example one can say that once a heart attack could kill a person but by the help of technology one can bring the person back to life from death or Ventilators keep people breathing far beyond their body would have given up.

Mainly euthanasia has two types –

1. Active – Active euthanasia means to cause death to a person either by a physician or a private individual in response to a request from him , In order to fall any euthanasia under this category **action** is needed either by an individual or physician to cause death to a person on his request For example giving an overdose or lethal injections

2. Passive – Passive euthanasia is generally given by withholding or withdrawing the treatment of a person wanted to die. It is a type of an omission to cause death of a person For example – ceasing life support of patient

Point to be noted – The word **death to a person or person wanted to die** is used for a person who is on death bed and suffering from incurable disease.

Some other types of euthanasia –

- Voluntary- Where a person on a death bed in full conscious makes a decision of his death
- Non voluntary – Where patient is not in a situation to make decision of his death. Someone from his family or next best friend in a good faith take that decision for him.
- Involuntary – Where a death is caused to a person against his will.
- Physician assisted death – PAD is a process in which person on a death bed request the physician to assist him in recommending the easiest way to die.

III. LEGALITY OF EUTHANASIA OF THE WORLD

We will try to discuss about the countries where practicing euthanasia is legal also we will discuss that what type of euthanasia is legal in different country & on what condition –

(A) Japan

There is no statutory law regarding the legality of euthanasia in Japan. The word euthanasia is discussed by lower courts of Japan Yokohama district court in case of TOKIA UNIVERSITY HOSPITAL EUTHANASIA CASE 1995 & KAWASAKI KYODO HOSPITAL CASE the first one was related to active while latter was related to passive euthanasia these cases led to major disturbance in Japan due to which the court tries to set the guidelines for active and passive by which only in those cases doctors are allowed to euthanize a person, let us discuss about guidelines of euthanasia in brief-

Passive euthanasia –

- The patient must be suffering from an incurable disease one of the basic and the main necessities to be euthanized.
- There must be express consent given by the patient which has to be recorded & preserved prior to his death. In case he was not in full conscious than family member consent is sufficient.
- Death must be through passive way.

Active euthanasia –

- The patient must be suffering from unbearable pain.
- There must be express consent given by patient only, any consent by other person will not entertained .
- The physician must have use every possible option that could possibly help the patient.

There is both supporting & against views in japan regarding the euthanasia many people want it to become the law so that person do not have to suffer unbearable pain without any chance of surviving other do not want it because they don't have a trust on officials as we all know that corruption is a major problem in every country the money can or may become key to do anything no matter whether it is legal or illegal.

(B) Luxemburg

In 2008 by majority of votes Luxemburg became third European country to have euthanasia legal. The way Luxemburg want it that anyone who is suffering from the inevitable pain by the help of two doctors may end his life through euthanasia. The only thing that people wanted from the court & govt is to make euthanasia legal but with some guidelines because it is obvious that if there is no mandatory regulation regarding the same it will lead to serious massacre.

(C) USA

Active euthanasia the term which is ban around the US there is some parts of USA that give recognition to assisted suicide as legal but they don't want active euthanasia to be part of their state . The only thing which is allowed in whole USA Is passive euthanasia which means that if person wanted to die he has only one option to withhold or withdraw his treatment & wait for the death to come . They don't support active as they referred is as a immoral act to give death to someone.

(D) Australia

In Australia euthanasia laws were passed in 2017. To get euthanasia one has to fulfil some conditions like you have to be an adult with decision making capacity, the person should be a resident of Victoria and is suffering from illness which gives you a life expectancy of less than six months or twelve months if suffering from a neurodegenerative illness. In Australia the idea of dying has to come from the patient not the doctor. You have to make three requests to the scheme and one has to be in writing then two doctors will examine you and one has to be a specialist to determine that you should be permitted to euthanasia or not. If you are eligible then you will be prescribed drugs which you have to keep it in the locked box until the time you have chosen, if you are unable to administer drugs yourself then the doctor can administer

a lethal injection.

(E) Switzerland

Switzerland allows assisted suicide without minimum age requirement, diagnosis or symptom state. But assisted suicide is considered illegal if the motivations are “selfish”

(F) Belgium

Belgium allows euthanasia and assisted suicide for those who have unbearable suffering and no sign of improvement. But if a patient is not terminally ill then there is a one-month waiting period before euthanasia can be performed. Belgium does not lay down any age limit for seeking euthanasia and assisted suicide but the condition is that they must have a terminal illness to meet the criteria for approval.

(G) Netherlands

Both euthanasia and assisted suicide are legal in the Netherlands. In cases where a person is experiencing unbearable suffering and there is no prospect of improvement euthanasia and assisted suicide can be granted. In Netherlands there is no requirement to be terminally ill, and no mandatory waiting period required for getting euthanasia and assisted suicide.

Children as age of twelve can request assisted dying, but the condition is that parental consent is required for those children who are under age of sixteen.

But before granting assisted dying lots of checks have to be taken before it can be approved. Doctors before allowing assisted dying must consult with at least one other independent doctor to confirm whether the patient is qualifying the necessary criteria.

(H) Canada

Canada allows euthanasia and assisted suicide for adults who are suffering from grievous and irremediable conditions whose death is certain.

IV. EUTHANASIA & INDIA

India the place of religion morality & ethics you cannot imagine anything without related to religion , Now after understanding the moral & ethics in India for everything we can imagine that India is a place where it was very hard to implement something like this because It was believed to be a sin to kill someone either on his will or not Life is something which was given to us by the god & only God have the right to take our life from us on the other hand one didn't have to forget that there is mention of word “icha mrutyu” in our holy books which means whenever person wanted to die . So we can say that practice of euthanasia is very ancient in

India but it can be possible only after certain conditions like we see in lot of religious plays in which the person have to do a lot of sacrifice or tap to get this right (icha mrutyu) let us start understanding the present scenario of euthanasia & for the same we have to discuss By major cases which was .

(A) Aruna Ramchandra Shanbaug vs Union Of India & Ors on 7 March, 2011

Miss Aruna shanbagh was a junior nurse at King Edward memorial once she was molested by the ward boy & in mean time ward boy try to estrangled the lady with dog chain which led to serious brain damage due to which she was went in a stage known as persistent vegetative state where the person lost his awareness about the world around him , after some time she was abandoned by her family members but the nurse of KEM hospital take this duty .

In 2010 plea was received in the court by Pinki virani friend of Ms. aruna. The plea was related to not provide aruna food & let her die peacefully but court dismissed the plea on the ground that aruna was not brain dead she can easily breath without the ventilator she has a feeling so ending her life like this is not justified also the court discussed about active euthanasia according to the court imply something like this will lead to a serious increase in corruption however the court agrees with the passive euthanasia in which the doctors can withhold or withdraw the treatment on bonafide demand of relative or next best friend available .

The court also made recommendation to repeal section 309 IPC which makes practice of euthanasia illegal in India.

(B) Common cause vs UOI

The plea which was filed by the non-government organization for requesting the right to die with dignity to general public. The supreme court takes the plea in its cognizance & permit the citizen to have passive euthanasia with strict guidelines person have to make a will in full consciousness to choose the way in case he went to a situation like a coma or something also the court declared right to die with dignity as a integral part of fundamental rights with strict guidelines, Let us discuss about guidelines in brief

- The advance medical directive can only be executed by an adult who is of sound & healthy mind. It must be voluntary executed & without any coercion, consent of the patient must be in writing as to which type of medical treatment he didn't want or when his or her medical treatment has to be withhold.
- It should clearly indicate the circumstances in which one can withhold or withdraw the treatment.

- Also it have to be mention there that person has understood all the circumstances or consequences of this execution.
- If patient is not in a condition to give his consent name of guarding must be mention there.
- The guidelines clearly specified that document shall be recorded & preserve which have to be signed by executor in presence of tow attesting witness & countersigned by judicial magistrate of first class appointed by district .
- One copy of document would be preserved by JMFC in his office , in hard copy & digital form
- Another copy will be handed over to competent local government.
- Detailer pointers have to be set by the medical board formed by physicial or a hospital.
- In case permission is refused by medical board.
- The family members or even the treating doctor can approach the high court under article 226.

V. DIFFERENT COUNTRIES HAVE DIFFERENT APPROACH TOWARDS EUTHANASIA

From the various study it was believed that euthanasia is impacted by the surroundings of the country we are living in , different country have different approach towards the euthanasia it was believed that the country in which religion plays an important role physicians have a negative approach towards the euthanasia in that country also we can say that different physicians have the different way to interpret the same now why is euthanasia is such a big problem in most of the countries the reason behind it is that the most of the countries didn't have the proper legislation for the same some of the countries didn't have the court guidelines for it therefore it can be interpreted as the way they like For ex there is the country in which euthanasia is neither ban nor properly discussed now physicians have the proper right to interpret as the way they like everyone have the different perspective to look into the situation (For some it is stone for some it is god) this statement clearly matches with the situation we are dealing with in most of the countries euthanasia is a legal process but without any strict guidelines on the same from various study it was found that most of the people who are in support of euthanasia want it with strict guidelines now the question is that why these strict guidelines plays an important role just assume the situation where euthanasia is not illegal & it is lead upon the people to interpret it in a way that they want do you think that people will always use it in a wise way the answer is no it will surely come up with one of the white collar crime it will become the tool in the hands of powerful people to euthanize anyone in

consideration of some amount of money that's why everyone who wants euthanasia want it with proper guidelines so that it have some deterrence power in itself too .

VI. EUTHANASIA FROM POINT OF VIEW OF RELIGION

When we talk about the death it is the most crucial topic in any religion according to various religion death is something which is not accepted as a solution for any critical disease when we talk on the basis of religious point of view than roman catholic church plays an important role as an organization to oppose euthanasia.

Religions are opposed to euthanasia for number of reason in which some of them are that god has forbidden it in various scriptures it was mention that you must not kill , Human life is sacred in which it was written that human right have to be preserved and protected no matter what ending the life in any critical disease is not the solution in hinduism and budhhism ahimsa plays an important role and one must not harm anyone , it is the matter of fact basically in every religion that god gives people life so only he have the right to take it.

Now when we talk about the relation between euthanasia & hinduism most of the people get confused that the tern icha mrutu that was used in hinduism is related to euthanasia somehow but the matter of fact is that the term icha mrutu in hinduism is related to spirituality the hinduism shows its disagreement from the euthanasia by way of ahimsa ,

Now when we see the mindset of Episcopal Church, they passed a resolution against assisted suicide and other forms of active euthanasia and gave reason that it is immoral to take anyone's life. They believed that it is wrong to take life of their own too. But the Church also said that it is justified to stop the medical treatment if it is causing more burden rather than benefitting the person.

Islamic teachings oppose physician-assisted suicide and euthanasia. "Muslims believe that life is sacred and comes from God; therefore it is a sin to take life," says David Stephen Powers, a professor of Near Eastern studies at Cornell University in Ithaca, N.Y.

According to Jewish teachings, they believe that doctor should not do any act which hastens the life of a person but should try their best to keep the person alive.

Now from the discussion above we came to the point that religions scholars wanted It in a way that doctors try their best to keep the person alive even when there is one percent chances of a person to survive the euthanasia have to be given only in the cases where all the chances of the person to survive ends .

VII. PROS & CONS OF EUTHANASIA

(A) Pros of Euthanasia

1. **Person autonomy over his action** – Every human need control on his choices to live a life with dignity & happiness. If the person is well known to the consequence of the act that he or she is committing than we have to leave it on them to choose what is best for him the same thing goes with death also we have to leave it on the person to choose their way to die nobody have to order them to live there life as the sufferer of medical treatments.
2. **Decline in financial burden** – As we all known to the fact that to treat a person in a better way ones need a good amount of money. Nothing can be done without money in this modern world. Sometimes it becomes difficult for the family to bear the cost of medical treatment and management of the person so it is better to provide him with the option of euthanasia than to leave him in a neglected state .
3. **End of suffering** – Everyone fall ill in their life but what if that illness is permanent due to which one have to live his life with full of suffering , nobody knows about the suffering that he or she is bearing right now so it is better to leave that decision on a patient . We are only talking about the patients who didn't have any chances to survive with that disease.

(B) Cons of euthanasia

Despite the benefits of euthanasia, it has also some negative points as everything is not perfect and same goes with Euthanasia. So, the cons of euthanasia are listed below:

1. **Moral and religious concerns:** Many religious beliefs assume euthanasia as a form of murder and they say that life is given by God so God has only right to take it away. Suicide is also considered illegal in some religions. Moral argument is that euthanasia will loosen the respect for sanctity of life in the eyes of society.
2. **Corruption:** It is believed that euthanasia would give too much power in the hands of doctors and by this they can abuse this power.
3. **Doctor's role:** Medical professionals might be unwilling to perform their professional roles. They might not indulge their full concentration to save the patient, when the patient have an option to die.
4. **Chance of recovery:** Miracle happens very rarely, sometimes patient recovers against all odds and sometimes there is also a chance that diagnosis might be wrong.

5. **Slippery role:** People who oppose the idea of legalizing euthanasia says that if we legalize euthanasia it would be philosophical slippery slope to legalize murder.
6. **Guilt:** Patients may feel that they would be causing financial and emotional burden on their family and they might be psychologically pressured into consenting.

VIII. CONCLUSION

After closely interacting with all facts given above we came to conclusion that euthanasia didn't have to be allowed in an absolute sense the person when becoming part of the society have certain duties or certain relations that are interlinked with him allowing anyone the right to die is injustice with the people that are related to him not only in sociological aspect but when we will look it with the religious point of view than also it is not the best option to have the right to die as an integral part of any society, we are not against the euthanasia but we are against in implementing it in absolute sense there have to be some specific legislation which deal & explain the situation or procedure of euthanasia in a proper way in most of the countries the people who are in support of euthanasia wanted it to be in a way that it have some proper guidelines attached to it .

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