

Euthanasia: Dilemma for Medical Practitioners or Panacea for a Dying Patient

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Abstract

Introduction: Doctors are synonymous of life. In recent pandemic Covid19, doctors were given novel appellation as “Devdoot”, who fought selflessly with the pandemic to save the civilization. During the pandemic, doctors could justify the medical oath which is taken at the time of passing out ceremony. But when the same doctors are requested by patients or their family members for peaceful death of the patient, it put the medical fraternity under dilemma, whether they should accept the request or continue fight with the disease till last.

Objectives: The article examines the different types of Euthanasia and medical practices prevailing in Europe and USA. It also explains the present status on Euthanasia in India. Authors also conducted a sample study to take the opinion of doctors in India.

Conclusion: Modern inventions in Information Technology (IT) have revolutionized the world. Now the geographical distances among the countries does not matter. The entire world has become a global village. An invention in one country becomes available to the entire world within nano seconds. It has been proved by the recent pandemic Covid19 which engrossed the entire world. No part of the world could be spared from covid causalities. Despite such various magnificent inventions in medical science, “man is still mortal” and Medical Science still struggling to conquer the human death. A large number diseases are still out of purview of doctors which are incurable and causes of unbearable pain and mental trauma for the victims as well as for their nearest and dearest, where ultimate death is certain. Medical Science could defer or delay the death but could not eliminate the death. Citizens of Western world are becoming more vocal for euthanasia, but Asian countries are still in discussion phase. India is still do not have any legal prescription on euthanasia. In general, doctors in India do not prescribe or administrate euthanasia directly or indirectly. Government should frame a law to protect the medical fraternity from any legal complications in this regard.

Keywords: Active Euthanasia, Passive Euthanasia, Physician Assisted Suicide (PAS), Permanent Vegetative Stage (PVS), Palliative Care Centre

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Doctors are synonymous of life. In recent pandemic Covid19, doctors were given novel appellation as “Devdoot”, who fought selflessly with the pandemic to save the civilization. During the pandemic, doctors could justify the medical oath which is taken at the time of passing out ceremony.

But when the same doctors are requested by patients or their family members for peaceful death of the patient, it put the medical fraternity under dilemma, whether they should accept the request or continue fight with the disease till last.

Modern inventions in Information Technology

(IT) have revolutionized the world. Now the geographical distances among the countries does not matter. The entire world has become a global village. An invention in one country becomes available to the entire world within nano seconds. It has been proved by the recent pandemic Covid19 which engrossed the entire world. No part of the world could be spared from covid causalities.

IT revolution with artificial intelligence has facilitated the enormous improvement in Medical Science. In last few decades, a large number of mysterious terminal diseases have been

demystified and accurate treatments are available for terminally dying patients. Now doctors may predict with at most accuracy the life expectancy of a patient who is suffering from terminal diseases.

Patients and their family are getting the best available treatment across the world through the help of internet technology. In large number of cases, patients are not required to visit a particular country for advanced medical treatment.

Despite such various magnificent inventions in medical science, “man is still mortal” and Medical Science still struggling to conquer the human death.

A large number diseases are still out of purview of doctors which are incurable and causes of unbearable pain and mental trauma for the victims as well as for their nearest and dearest, where ultimate death is certain. Medical Science could defer or delay the death but could not eliminate the death.

The deferment of death by Medical Science poses some serious challenges before the human society. Now the patient and his family have to decide how much delay they can afford. On the other hand, doctors who are synonym of life, may have to recommend the day and the time of death. Constitutional/ Legal framework of a country which is necessarily made for the welfare, protection and safety of the human society, may have to relax the norms for peaceful exile of the terminally ill patient. Voluntarily exit of life is known as Euthanasia or mercy killing.

This postponement of death in terminal disease starts the painful journey of the patient and mental trauma of family of patients. To terminate this painful journey of patient and his family, the idea of Euthanasia was coined.

Euthanasia

Euthanasia is a combination of two Greek words viz. Eu + Thanatos. Eu means good and Thanatos means death. “Good Death”. Euthanasia is the practice of willingly ending a life to get relief from pain and suffering.

Merriam-Webster's Law Dictionary [1] defines Euthanasia “the act or practice of killing or permitting the death of hopelessly sick or injured individuals (such as persons or domestic animals) in a relatively painless way for reasons of mercy”.

Oxford Learners Dictionaries [2] explain “the practice (illegal in most countries) of killing without pain a person who is suffering from a disease that cannot be cured” -synonym mercy killing

In simple words Euthanasia is process where medical science confirms that patients cannot be cured and death is inevitable and patient cannot lead an independent dignified life. Considering the facts to avoid the further pain and mental trauma to patient

or his family, doctors recommend good death and patient and his family give consent for mercy killing or good death.

Francis Bacon (1561-1626) [3], who was an English philosopher and statesman used the term Euthanasia first time in his essay Euthanasia medica. He used the word Euthanasia interior which means soul and Euthanasia exterior means outward circumstances and medical treatment. He was of the view that it was the responsibility of the doctors and physician to provide outward comfortable passage to inward soul for comfortable departure from body.

Euthanasia: A dilemma for medical fraternity

Hippocrates (born c. 460 BCE, island of Cos, Greece—died c. 375 BCE, Larissa, Thessaly) [4], ancient Greek physician is known as the father of medicine. He set the minimum ethical code for the people who are in medical profession. Hippocratic Oath, which every doctor takes at the time of passing out for medical practice, recommends that doctor will work to save the life. Doctor cannot suggest or assist the patient in their death/ killing.

Besides other commitments, the oath categorically includes “I will use treatment to help the sick according to my ability and judgment, but I will never use it to injure or wrong them. I will not give poison to anyone though asked to do so, nor will I suggest such a plan”.

Indian Medical Association (IMA) [5] has modified the modern as under:

I solemnly pledge myself to consecrate my life to service of humanity. Even under threat, I will not use my medical knowledge contrary to the laws of Humanity. I will maintain the utmost respect for human life from the time of conception. I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient. I will practice my profession with conscience and dignity. The health of my patient will be my first consideration. I will respect the secrets which are confined in me. I will give to my teachers the respect and gratitude which is their due. I will maintain by all means in my power, the honour and noble traditions of medical profession. I will treat my colleagues with all respect and dignity. I shall abide by the code of medical ethics as enunciated in the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002. I make these promises solemnly, freely and upon my honour. [6]

Advancement in medical treatment has put the medical fraternity in dilemma. Doctors are Devdoot, how they can become Yamdoot. The job of doctors to save the life and cure the soul. They make best efforts for the well-being of the patients.

IMA also enumerates a prayer which again reiterate that doctor's paramount job is to cure the patient

- May everybody be happy
- May everybody be healthy
- May everybody be free from pain
- May everybody be free from sorrow
- May we be the healing cure
- Beyond every greed & lure

Religion and Euthanasia

Indian is a country of diversified religions. Hindu and Muslim are two major religions in India. No evidences of Euthanasia were observed in ancient India. But Vedas permit for self-immersion with nature after passing through all four ashrams and fulfilment of life. It is the beliefs that after accomplishing all his tasks and living full life, Lord Ram entered voluntarily into the Sarayu River [7]. This divine event is described as the exile of Lord Rama. Similarly, Lord Krishna [8] laid down under a tree and went into Yoga Samadhi and a hunter named Jara mistakenly shot a lethal arrow which pierced into Krishna's feet and thereafter, Lord Krishna left the mortal world. The Pandav also left for Himalaya after enjoying their full life. Above act of heavenly bodies are not termed as suicide but willingly exile from corporal world after enjoying full cycle of life. Likewise, Islam considers the life as a gift from Allah (God). No one has authority to end the life. Islam forbids euthanasia.

According to Mehran Narimisa [9] briefs that holy Koran does not provide any freedom to a person to end his life. The Islamic arguments against euthanasia can be summarized in two main reasons:

- Life is sacred and euthanasia and suicide are not included among the reasons allowed for killing in Islam and,
- Allah decides how long each of us will live and two verses support this reason. According to Islamic teachings, life is a divine trust and can't be terminated by any form of active or passive voluntary intervention.

Dr A. Majid Katme, (MBBCH, DPM), Ex-President Islamic Medical Association [10] advocates that Muslim doctors and nurses should not be involved in Physician Assisted Suicide (PAS). He quotes from Holy Book: AL QUR'AN "DO NOT KILL YOURSELVES, FOR VERILY ALLAH/GOD HAS BEEN TO YOU MOST MERCIFUL" (chapter 4, verse 29). He also emphasized that prophet Muhammad prohibited all types/methods of suicide like taking poison/overdose, jumping from a mountain/high building or by using an iron instrument (gun/knife) Hence, all Islamic scholars are against the euthanasia

and regard it as Hiram.

Worldwide Euthanasia is common issue but different approach adopted across the world

As explained above, Islamic countries have not approved the idea of euthanasia but a good number of countries have amended their law in favor of euthanasia as shown in the table below:

Status of different countries on Euthanasia

| S. No | Name of Country | Any type of euthanasia accepted |
|-------|-----------------|---------------------------------|
| 01 | Netherlands | Yes |
| 02 | Luxembourg | Yes |
| 03 | Belgium | Yes |
| 04 | Switzerland | Yes |
| 05 | Norway | Yes |
| 06 | United Kingdom | Yes |
| 07 | Sweden | No |
| 08 | Spain | Yes |
| 09 | Slovenia | No |
| 10 | Slovakia | No |
| 11 | Romania | No |
| 12 | Portugal | Yes |
| 13 | Poland | No |
| 14 | Colombia | Yes |
| 15 | Lithuania | No |
| 16 | Canada | Yes |
| 17 | Italy | No |
| 18 | Ireland | No |
| 19 | Hungary | No |
| 20 | Greece | No |
| 21 | Germany | Yes |
| 22 | France | No |
| 23 | Finland | Yes |
| 24 | USA | Yes |
| 25 | Denmark | No |
| 26 | Czech Rep. | No |
| 27 | New Zealand | Yes |
| 28 | Croatia | No |
| 29 | Australia | Yes |
| 30 | Austria | Yes |
| 31 | India | Yes |

Source of the table: Raw data sourced from different countries websites and customized by authors

Medical practice on euthanasia in select countries

Western countries where democracy is very strong and people do not like any type of restrictions are becoming vocal in favor of euthanasia. They are of the opinion, that body and life is the personal property of an individual and if he/she is suffering from terminal illness, it is better to end the life. Some countries like Belgium/ Switzerland are promoting euthanasia tourism. A brief study of select countries on medical practice on euthanasia as follows:

Canada

Legal system of Canada permits for Physician-Assisted Dying in certain circumstances. Canada's new medical assistance in dying (MAID) [11] law was passed by parliament in March, 2021. Law stipulates minimum eligible criteria for dying are as under:

- Patient should be at least 18 years old Canadian and eligible for health services funded by state,
- He should be capable of making health care decisions for himself, and suffering from serious illness, disease or disability,
- He must be in an advanced state of decline that cannot be reversed and experience unbearable physical or mental suffering from his illness, disease, disability or state of decline that cannot be relieved under conditions

According to law physicians or nurses may provide MAID (euthanasia) and those who can help provide MAID include:

- Pharmacists and pharmacy technicians/ assistants,
- Family members or other people to help patient,
- Health care providers who help physicians or nurse practitioners

These people can assist in the process without being charged under criminal law. However, physicians, nurse practitioners and other people who are directly involved must follow the procedure prescribed in MAID.

Two types of medical assistance are available under MAID for dying Canadian:

- (i) Through an injection of a drug which known as clinician-administered medical assistance in dying, or
- (ii) Physician may provide or prescribe a drug that the eligible person takes themselves, in order to bring about their own death, which is known as self-administered medical assistance in dying.

Canada is the most recent country who has passed a detailed law on active euthanasia.

The Netherlands

"Euthanasia and physician-assisted-suicide" are not a punishable offence if the doctor is performing the

task in accordance with the "due care" in Netherlands.

As per the current practice of Dutch Law, Euthanasia is legally permitted for the terminally ill patients who are suffering from pain and there is no hope of survival. It is exclusively applicable only to the cases of serious terminally sufferings like that of the medical condition being severe pain, exhaustion and that of the asphyxia. There is a stringent procedure of scrutiny of the medical report submitted by a group of physicians for euthanasia. A review committee scrutinize the report submitted by physicians and gives approval.

United Kingdom (UK)

Active Euthanasia is not permitted. However, the doctors or the physicians may assist or prescribe their patients with the wishes of the latter that withholding the treatment and thereby alleviating the pain of the patient [12].

UK laws permits euthanasia very selectively in the best interest of patient. In order to determine the "best interest" of the patient, the case of F v. West Berkshire Health Authority [13]. House of Lords held that in the situations wherein the patient has been rendered unconscious by that of the accident or the illness, making him incapable of consenting to the treatment or care. In such cases, the doctor is under the duty to treat such a patient owing to the "best interest" of the patient.

Australia

Laws dealing with the concept of Euthanasia or assisted suicide fall under the jurisdictions of the state government in Australia. There are 6 states in Australia and except New South Wales, all states have legalized the euthanasia. Victoria is the first state to legalize the euthanasia in June 2019. This allowed the terminally- ill patients to end their lives by the administration of the lethal drug or medication [14]. As per the legal provisions, for the eligibility of the voluntary assisted dying, the following should be satisfied;

- The person should be aged 18 years or above that.
- Should be the Australian citizen or the permanent resident of Australia, residing for at least 12 months in the Western Australia.
- The person must have been diagnosed with at least one disease, illness or the medical condition that must have been advanced and progressive, as the same should be based on the probabilities dealt within a time period of six months.
- The decision must have been taken voluntarily and without coercion.

- The request for the access to voluntary assisted dying must have been an enduring one.
- The person making the request for the same must be assessed by that of the two independent doctors.

USA

Out of 50 states in United States of America, 40 states do not permit any type of euthanasia. States which have legalized the physician assisted suicide are Oregon, Washington, Vermont, California [15], Colorado, Hawaii, Montana, Columbia, New Jersey, and New Mexico. The common protocol for legal approval is as under:

- Completed the age of 18 years,
- Suffering from terminal disease means Death is expected within 6 months,
- Patient has requested two times in gap of 15 days and also one written request

Although 74% Americans are in favor of euthanasia but still only 10 states have legalized the euthanasia.

India

India is a land of diverse religions. Most of the religions are against the suicide and Euthanasia. Majority population in India is Hindus. Hinduism believes in Karma. All human being should perform good karma in this human life to get moksha and overcome from this life and death cycle. Bhagavad Gita describes that Soul is perpetual, no weapon can pierce it nor fire can burn it. Soul never dies only changes the body like human being changes the old cloths with new cloths. All human being should complete their karma in the best possible way to overcome from the life and death cycle

Euthanasia was not practiced in India and it was validated in different court cases. But in 2011 in case of Aruna Ramchandra Shanbaug v. Union of India & Others, where SC constitution bench gave the legal recognition to the passive Euthanasia in India with certain procedure.

Arun Ramchandra was a nurse in KEM hospital, Mumbai. An employee of the hospital attacked and raped Aruna Ramchandra on 27th November, 1973. As during the attack, supply of oxygen to brain stopped and brain got damaged. Next 37 years she was in coma or Permanent Vegetative Stage (PVS). Medical team of KEM hospital staff took care of her. One of her friends Ms. Pinky Virani filed the case after 37 years of the incident pleading for euthanasia to Arun.

The Supreme Court appointed a 3 doctors' team to assess the medical condition of the victim. On the basis of the findings of the doctors, the bench gave

the verdict that for passive euthanasia decision should be taken by near relatives next friends or doctors. To protect the interest, security and safety of the terminally ill patient and also to avoid the mischief by the relatives for the property of patient the bench prescribed the certain procedure as under:

- A petition should be filed in High Court and Chief Justice of the High Court should constitute a Bench comprising of two-Judges,
- This Bench should take decision on the basis of recommendation of a committee of three reputed doctors, the committee should preferably comprise of one physician, one psychiatrist, and a neurologist,
- This above committee of doctors nominated by the High Court Bench should observe and examine the patient and his/her circumstances very carefully. After going through all the reports and circumstances this committee should discuss all the issues with attending doctors and his family also,
- Thereafter, the committee should prepare an exhaustive report which should be submitted to the High Court Bench,
- The High Court should study the report/ recommendation of 3 doctors' committee and deliver its decision promptly at the earliest. Any delay in this matter, increase the stress and mental agony to the relatives and persons close to the patient.

Although Supreme Court has paved the way for passive euthanasia, but still medical fraternity is not in favor of euthanasia.

Author conducted a sample study in this regard by personal interaction with 12 doctors and 5 nurses (7 Oncologist and 5 Neurologist) experience ranging from 14 years to 37 years at Jaipur and Mumbai. They were assured not to be quoted anywhere.

All doctors confirmed that in their career they had never suggested/ prescribed or administered euthanasia to any of their patients directly or indirectly.

2 doctors refused to respond further, but remaining 10 doctors confirmed that they were aware of that now passive euthanasia is permissible, but they do not do much about it.

5 doctors who are treating cancers shared that sometimes when they observe that now hardly a few days are left and there is no hope of survival. Moreover, patients are not responding to medicines and patient also insists for home, then doctors suggest to continue treatment from home to avoid cost and providing psychological comfort to the patients

Conclusion

Euthanasia is a worldwide issue and medical fraternity across the world also have a varied view. Some countries like Belgium and Switzerland are so popular for active euthanasia that it provides euthanasia tourism to dying patients., but still a good number of countries are India is a very wide country and medical facilities are still concentrated at urban areas only. Government should expand the medical facilities at village level and every district must have a Palliative Care Centre for looking after the patients suffering from terminal disease. Government should also formulate a legal framework for the assistance of patient, family and medical fraternity.

References:

1. <https://www.merriam-webster.com/legal>
2. <https://www.oxfordlearnersdictionaries.com/definition/english/Euthanasia?>
3. Francis Bacon, "Euthanasia Medica"
4. <https://www.britannica.com/biography/Hippocrates>
5. http://www.ima-india.org/page.php?page_id=21
6. Copyright © 2013 Indian Medical Association. Developed by ITindustries.com
7. <https://www.speakingtree.in/allslides/end-of-satyuga-how-lord-rama-died>
8. <https://www.speakingtree.in/allslides/end-of-satyuga-how-lord-rama-died>
9. Mehran Narimisa, "EUTHANASIA IN ISLAMIC VIEWS", European Scientific Journal June 2014 /SPECIAL/ edition vol.2 ISSN: 1857–7881 (Print) e- ISSN 1857- 7431
10. Dr A.Majid Katme (MBBCH,DPM), Ex-President Islamic Medical Association "Assisted dying—time for a full and fair debate", UK; BMJ 2015;351:h4517
11. <https://www.justice.gc.ca/>
12. Bellaigue, De Christopher, 'Death on Demand: Has Euthanasia gone too far' The Guardian (UK, 18 January 2019)
13. F v. West Berkshire Health Authority [1989] 2 All ER 545: [1990] 2 AC 1
14. <https://www.dw.com/en/australian-state-legalizes-voluntary-Euthanasia/a-49258193>
15. <https://www.uslegalwills.com/Euthanasia>