

medical malpractice, marginalisation of weaker groups and the role of the state.

Medical ethics is a much neglected subject. Medical students and many practising doctors clearly lack depth or dimension in the handling of these problems. In such a situation their views are purely personal and may be even idiosyncratic and erratic. This predisposes to loose interpretations of the law. If euthanasia is to be implemented, the state must provide unambiguous guidelines and help medical personnel in the management of their patients.

There is a need for immediate action since as of now the situation is completely muddled and patients are con-

demned to misery they would rather end. Doctors are torn between law and conscience and families are obliged to witness prolonged suffering by a loved one.

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Euthanasia

Eustace J. de Souza

Introduction

The euthanasia theme keeps coming back for public approval like a recurring decimal. Dr. Kannamma Raman has accurately put forward the pros and cons in the above essay. She has made a fair case of the positions taken by each side. However, when each side has a stand that is unable to accept the first principles or major axioms of the other, the polarisation is complete. It seems that all that is left is for the reader to accept the one and reject the other.

The purpose of this piece is not to force the issue, but rather to make a few points that may help to elaborate the stands taken to help in a better understanding of some points of view.

Death

Death has its terrors and is seen in different perspectives. Kubler Ross has outlined the various phases through which most pass when death stares them in the face. What comes after death is really the most worrisome and pertinent factor exemplified in Hamlet's deliberations.

'...To die - to sleep -
To sleep! perchance to dream; Ay there's the rub;
For in that sleep of death what dreams may come,
When we have shuffled off this mortal coil
Must give us pause: there's the respect
That makes calamity of so long life;
...'

The answers to questions on euthanasia are often shaped

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beliefs inculcated from childhood by culture and religious persuasion. In the euthanasia debate, terms are often used that confuse issues, generating more heat than light. Polls are conducted and results cited to indicate a majority claim. Yet, the actual questionnaires show that very often, the real tilting factor is a lack of clarity in the fundamentals, or ambiguity in the terms used.

'Euthanasia'

The term 'euthanasia' itself, clouds the issue. Looked at from its Greek derivative, meaning 'good death', who can deny that it is indeed an object worthy of any sane person's desire?

In the early part of this century it has been used by some as an omnibus term to signify a good or painless death. In fact it is a deliberate euphemism, replacing 'mercy killing'. With the latter term, one is made aware of the fact of a direct killing. The motivating factor of mercy only makes the plea for compassion to reduce the culpability of the action.

If we are to make it clear, 'euthanasia', in common usage means an act of omission or commission which directly causes the death in a painless manner. It implies the procuring of an individual's death, so as to avoid or end pain and suffering, especially of individuals who have some chronic and incurable disease.

It thus eliminates or even preempts those factors or conditions that are held to militate against the 'good' of the person. This 'good' is an extremely subjective factor. Those favouring euthanasia, elaborate on the various parameters and safeguards that can be put up to avoid

misuse. Hence, of course, there is the justification for the dangers of the 'slippery slope'.

Euthanasia enthusiasts read even more into the term. They include rights, needs and other qualifications. They insist on including **in the fundamental right to life, a fundamental and absolute autonomy, granting to each human person the ethic of an absolute authority over his or her life.** The only proviso is that no harm should accrue to another. They raise this right as a banner with **the slogan 'I am the Master of my fate', adding too, the next line, 'and the Captain of my soul'.**

Here lies the real polemic. Whence comes such an absolute right? Can I hold my life **such an absolute creation when I came into existence not by my own doing?** Can I confer this right on myself? Just because I do not owe this right to anyone can I arrogate it to myself alone **and absolutely?** How can I then profess a social ethic? Is it only on the basis of social equality? Are we equal only **because I, as a human individual, will not bow to any other?** Is not the appropriation of an absolute right by any one individual a denial of a social ethic? How can I be absolute and equal to **another** at the same time?

An outside force

Must I not then postulate an outside force, or power which enables me to possess rights. Is it then not necessary to postulate an outside agency so that two persons claiming equal and at times opposing rights can approach in appeal?

The protagonists for euthanasia deny this logical extension. They would rather say - we have only the empirical fact of existence. Why go into the next step of postulating a Creator or creative force?

From rights to values, is but a step and introspection will show that they are co-dependent. Still, even if one denies an outside force, power or person (on which account we hold our lives in stewardship), no one can put aside the ethic of an absolute value for human life.

No action therefore, should denigrate the **inestimable** value of even a single member of the species ***homo sapiens***. It does not matter how compassionate the reasons or expedient the outcome. Inestimable value cannot be denied or made relative on the basis of social worth, status or usefulness of that individual to society. The motives may be good, and in the interest of society; but the denial of this right to even one of the species, denigrates the species as a whole. No end, however good, can be an excuse to justify any means. If ever, this intrinsic and inestimable value is denied to any one human being, then the whole species is debased. If any person, or even an objective board, made legally competent by society, were to deny this value to another human being, then that society stands condemned by its own hand.

If situations, circumstances or handicap were to be cited as conditioning the intrinsic and inestimable value of a **human** being, we have consented to the debasement of that very value which members of the species, ***homo sapiens***, treasure most. **Truly, the use** of outcome, or externals, to permit the limitation of intrinsic and inestimable value puts, as it were, a price on human worth. Euthanasia then becomes a cheap way out.

Without making a plea for capital punishment, the only -argument for it with some merit, is that where one individual willfully and with full knowledge, destroys another of the **same** species, ***homo sapiens***, he forfeits his own individual right, thus abrogating his own value.

Ethics and the law

Much is often made of the law as a vital force to fashion, guide and order human destiny. It is a common mistake to assume that merely because an action is not illegal, it is naturally right. The law is only a tool whereby society can ensure order and discipline and a non-chaotic way of life. It is the only way for society to empower itself and ensure harmony, so that individuals who would trample upon another's rights are prevented from **doing so**. Consequently, there has to be a penal code for offenders. Society **thus** asserts and ensures the equally inestimable value of its members.

The law does not decide or assign fundamental rights and values. It only defines and protects them. It is not the law that makes an action good or bad. It only lays down the parameters to punish those who cross the borders. It is morality that decides what is good or bad. A law that does not have its roots in morality is poor law indeed.

It may happen that laws are made for expediency. This is often taken to mean that it is viewed in the larger context of the greater 'good' of the larger number in society. This 'good' is as perceived by the lawmakers. It is not a numbers game and should not be made into one. In the matter of legal precedent, it is important **to note** the exact **circumstances** under which a judgment is made. A skilled advocate can slant circumstances to make his point. This vital factor must be considered in any matter of legal precedent. Dr. Kannamma Raman has indicated this factor where she points to nebulous conditions under which legal systems operate, especially in terms of punishment meted out to persons who participate in euthanasia. Obviously, compassion must be used to understand what swayed the perpetrator. This must be seriously considered in meting out punishment.

When there is an anomaly between the law as it exists and the punishment to be meted out there seems to be merit in the demand to change the law. This has happened in the Netherlands, in some American states and at least one state in Australia. Polls have been conducted to show the willingness on the part of doctors to

perform euthanasia. These (particularly the law in the Netherlands) are cited to indicate a reluctance to penalise or even prosecute doctors who participate in measures that painlessly end the lives of their suffering patients. Obviously; a law that cannot be enforced needs a remedy. In the Netherlands they chose to resolve the anomaly by legalising the action with the expected provisos and safeguards to plug loop holes or afford a measure of protection against abuse.

In our country, when the Supreme Court ruled against the decision to penalise an attempted suicide there were many who hailed this as being in favour of legislation to permit voluntary euthanasia. What they did not highlight was that it only struck down Section 309 of the Indian Penal Code. Their Lordships felt that this only piled more misery on a person already so burdened by misery that he took the extreme step of ending it all! They clearly indicated the need to bring compassion in deducing culpability. This is made clearer by the fact that they pointed out that another section of the penal code still prohibits the aiding of attempts at suicide.

'The right to die'

Much is made of the right to die as being part and parcel of the right to dignity. This is seen in the plea for a right to die with dignity. At first glance it seems only reasonable to combine the two. However, does it really mean that one can actually procure a death so as to avoid an impending indignity? What then is dignity? Hamlet articulated this in his soliloquy.

'Whether 'tis nobler in the mind to suffer
The slings and arrows of outrageous fortune,
Or to take up arms against a sea of troubles,
And by opposing, end them? - To die, to sleep
... 'Tis a consummation
Devoutly to be wished.'

-In the final analysis, a great deal of introspection, debate and individual soul searching is needed to answer the questions we must ask ourselves.-

Who am I? What is the purpose of my life? Is death the final end or a new beginning?

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understanding voluntary euthanasia: a personal perspective

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Definition

The phenomenal advances in medical science and technology have not been without a significant impact on society. They have brought into relief issues which are altering the pattern of human living and societal values. *Pari passu* with these changes is the upsurge of affirmation of human rights, autonomy and freedom of choice. These issues compel us to re-evaluate our concepts of societal and medical ethics and value systems.

Amongst these issues, one which has assumed global dimensions, is the 'right to a dignified death' and the

lated matter of 'voluntary euthanasia'. The word 'euthanasia' (derived from the Greek - 'eu' meaning 'good' and 'Thanatos' meaning 'death') raises strong emotions and has become controversial as it involves termination of human life which has been unjustifiably equated with 'killing'. Taken singularly the term euthanasia has no practical meaning, and has been qualified by 'voluntary', 'involuntary' 'non-voluntary' and other prefixes. This presentation will concern itself only with some facets of 'voluntary euthanasia'.

The conceptual definition of voluntary euthanasia is based on -a philosophy which embraces humanism and compassion, and one which recognises the autonomy of the individual and his freedom of choice, along with rec-

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