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

B. N. Colabawalla

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 related 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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ognition of his dignity as much in the process of dying as in that of living.

Voluntary euthanasia can then be defined as a means chosen by an individual making a request on the basis of a voluntary decision not to have his life prolonged under specific circumstances of ill-health. The operative principles are voluntarism and self-determinism.

There are nonetheless some qualifying clauses to the definition:

- The decision has to be made by a mature adult.
- He (or she) should be in full possession of his (her) decision making capacity.
- The decision should be made after careful consideration and due deliberation.
- There should be no element of duress or coercion.
- The conditions of ill-health must be such as to qualify as irreversible illness which is causing undue pain and suffering and where the terminal event of death is probable in a relatively short period of time.

Complexity of issues

The apparent simplicity of this definition does not however mean that the issues are simple. Albert Einstein once stated that 'everything should be made simple, but not simpler'.

Let us consider autonomy and freedom of choice. These are cardinal concepts in any society which professes to embrace liberalism and freedom. Amongst the rights evolved by such a society is the 'right to live and die with dignity'. Any right of the individual is however subject to the fact that they should not trample upon the rights of others or vitiate societal ethics and values. It is difficult to accept that an individual's decision affecting nobody else except himself, either violates anybody's rights or has an impact on societal values.

The freedom of choice though raises one issue - and that is the 'reasonableness' or 'unreasonableness' of the decision and request. In the context of voluntary euthanasia,. the 'reasonableness' of the request. may be questioned when an individual wishes to have his life terminated in the early stages of even an incurable disease when the quality of life and functional usefulness to the family and society are not severely compromised. One may have to draw a line between the decision made after considerable deliberation and that made on the spur of the moment under stress of acutely distressing circumstances.

Objectives

The primary objective of voluntary euthanasia is the relief of suffering, of which unmitigated pain is probably the most significant component. Pain is a subjective perception and is, at times, very difficult to assess objectively by any scale of measurement. Can we then make a moral judgement on the issue? It may become necessary to accept the patient's assessment, because it is only he who can make a judgement on acceptability or otherwise of his pain.

Pain is not the only factor in suffering. One has to take into account mental distress caused by other manifestations of the disease, such as loss of control over bodily functions or loss of cognitive existence, causing a sense of loss of dignity of life. The respect for life and duty to preserve it are concepts of value but they have to be taken in conjunction with the quality of life preserved. We have to differentiate between existence and living. When an individual is no longer able to contribute to his own physical, intellectual and spiritual well being, sustaining such a state is a perversion of the concept of respect for life. Tagore has stated - though in a different context - that we must be made 'conscious not of volume but the value of existence.' It is a negation of respect for life if mere physical life is maintained at the cost of unmitigated pain and suffering for the individual and the family.

The concept of voluntary euthanasia presupposes that death is inevitable in a relatively short period of time. This period of the process of dying can, now, be extended by technology almost to the point of absurdity. The question then will be how to judge the end point and who should make such judgements.

The above issues have been posed not to detract in any way from the primacy of the individual's autonomy. They pose some issues of philosophy and moral judgements. A discussion on them is necessary if the procedure of voluntary euthanasia is to be made transparent for general acceptance by society.

Reasons why people opt for voluntary euthanasia

- Most individuals fear the process of dying rather than the terminal event of death which they realise is an inevitable end of life.
- They fear the indignity of being hooked on to life support machines and other forms of treatment when all such treatment is futile and death is inevitable
- Under such circumstances they wish to exercise their right to die with dignity. When pain, mental anguish and suffering are only prolonged by such measures and all sensuous existence may have ceased with a loss of personhood.
- The desire not to subject the family to emotional and financial distress when all treatment may be futile.

The Living Will and voluntary euthanasia

In the context of voluntary euthanasia a document variously called the 'Living Will' or 'Advance Health Directive' as [illegible] significance

Some considerations pertaining to the document are mentioned below :

- The directive establishes the individual's legal rights to refusal of any form of treatment offered to him.
- The declaration outlines certain conditions under which he would not like life - or rather the process of dying - prolonged, when all treatment is deemed futile.
- The directive is applicable even when at the critical time, the individual may not have decision-making capacity. It specifies that under such circumstances the directive may be taken as the final expression of his wishes.
- The living will should preferably be made out when the individual is in fit state of health for future consumption.
- The family and personal physician should be made aware of the existence of the declaration.
- The individual has the right to withdraw the declaration at any time.

Two other points of significance may be noted. One is that it is always preferable to make out a durable Power of Attorney to two individuals who can then act in case of the individual not being in a competent state of mind. The other is that, unlike in many other countries, the Living Will has no legal sanction in India today. This does not detract from its value of establishing the individual's wishes and has a moral force when the decisions have to be made at critical time. In the absence of such a declaration, futile treatment may be continued by the family out of misplaced sense of duty and by the physician out of misplaced sense of ethics.

Medical profession vis-a-vis voluntary euthanasia

Medical practice today is oriented on the culture which considers that the prime function is to sustain life at whatsoever cost and irrespective of the quality of life. The physician treats death as an enemy and feels a sense of personal defeat when he fails to avert it. This 'monoculture' of the mind of fighting death, coupled with adherence to outmoded concepts of ethics has led to a mental and emotional block in most physicians towards voluntary euthanasia which is irrationally equated with 'killing' and hence with death. Perhaps the fear of the law and opportunism in society may be contributing to this attitude of mind.

Historically, societal an8 medical ethics have never been static. they have always been evolving to suit the needs of the time.

Medical science and technology have produced an impact which calls for re-evaluation of societal and medical ethics and value systetns. The prime duty of the medical professional is to relieve suffering and voluntary euthanasia should be viewed in that context. Indeed it is the duty of the physician to treat, heal and offer an acceptable quality of life to a patient. But above al.1 is the relief of suffering by all means available to him. An end point is often reached when death via the medium of voluntary euthanasia is the only 'good medicine'. The physician cannot and should not deny the patient this final wish for relief. The era where physicians knew what is best for patients has long passed. When dealing with irremedial diseases, the choice of the patient - even though it may be for euthanasia - has to be respected.

Some facets of medical ethics in the context of voluntary euthanasia

- A physician respecting the patient's right to refuse any treatment offered to him; or withholding or withdrawing any treatment considered as futile; or using pain killing drugs even in doses which may shorten life - is not transgressing any ethical bounds as it is not euthanasia.
- The patient's voluntary and informed consent to accept treatment forms the legal and ethical basis for offering any form of treatment to him.
- Contrariwise any treatment connected with euthanasia against his desires and consent is unequivocally unethical and immoral.
- As much as the patient has the right to refuse treatment, the physician has a right to refuse participation in the procedure of euthanasia if he has strong conscientious objections.
- A quote from the report of the Institute of Medical Ethics Working Party outlines the ethics of euthanasia. 'A doctor, acting in good conscience, is ethically justified in assisting death if the need to relieve intense and unnecessary pain or distress caused by an incurable illness greatly outweighs the benefit to the patient of further prolonging life. This conclusion applies to patients whose wishes on this matter are known to the doctor and should thus be respected as outweighing any contrary opinions expressed by others.'
- No immutable guidelines can be suggested as each individual case must be addressed on its own merits. Nonetheless the requirements as laid out in a ruling of the Nagoya High Court in Japan may be of some aid. They indicate what might be ethically acceptable:
  - The patient is suffering from unbearable pain.
  - The patient's condition must be terminal with no hope of recovery.
  - Euthanasia must be undertaken to relieve suffering.
  - It can only be undertaken at the expressed request of the patient.

– A doctor must carry out the procedure.
– The method must be ethically acceptable.

Role of the physician

The role of the physician in voluntary euthanasia is not only desirable but almost imperative as several vital decisions can only be made by him. This has been summarised by Muller and Hetcher:

'... involvement of physician at the request of a competent patient is desirable in order to ensure voluntariness of request, the incurability of the condition from which the patient is suffering, caring presence at the time of death and a swift painless death.'

Besides the above there is a very controversial area where the physician may be called upon to exercise some philosophical and moral judgement. This area is the one concerning 'means' used to terminate life. The ongoing debate is between the negative means of 'allowing death to occur' by withholding treatment and the positive means of 'causing death to occur.' The question posed is whether there is a moral difference between the two means. The borderline is certainly blurred when the patient has made a firm request for euthanasia and the terminal event is not far away. It is difficult to see the moral difference between the two when in both means the doctor has accepted moral responsibility for actions taken . As Preston puts it '... it is a delusion to believe we are not terminating life when we withdraw life supports.' Would it not be more humane and compassionate to bring about a rapid and forceful end by positive means such as suitable doses of narcotics, rather than prolong the process of dying?

The above also brings into relief the issue of 'double effect principle' which often provides a shield for physicians. Once again it is a delusion to believe that we administer drugs, perhaps in increasing doses to relieve pain and if death occurs thereby it was unintentional! The medical profession should forsake such hypocritical arguments. they must surely know that from times immemorial to our day, physicians have used narcotics with a view not only to relieve suffering but also to terminate life.

Attitudes of doctors towards voluntary euthanasia in India

This has not been analysed on a significant scale involving a large cross section of the profession. Extracts from a sample survey of 200 doctors carried out by the Society for the Right to Die with Dignity in Bombay, do offer some indications:

- 90% stated they had the topic in mind and were concerned.
- 78% argued that patients should have the right to choose in case of terminal illness.
- 74% believed that artificial life supports should not be extended when death is imminent; but only 65% stated that they would withdraw life supports.
- 41% argued that Living Will should be respected. 3 1% had reservations.
- Considerations involved ethics, morality, law and religion in that order of importance.
- More than 70% were apprehensive of the abuse of the law if one was enacted to legalise voluntary euthanasia.

Voluntary euthanasia and society

The issues of right to a dignified death and voluntary euthanasia are not the concern of the medical profession alone, and it should not be so if society has to keep a watch over abuse of the concepts. All sections of society must be vitally involved as the issues transcend any philosophical, moral, legal or theological considerations. It is an issue of humanism and compassion. Society will need to change its value systems in the context of the changing medical. scenario, of socio-economic environment, of increasing cost of medical services and their cost-effectiveness.

As Spring has stated: 'Will we use our knowledge and new power intelligently or will we just adhere to dogmas and beliefs that have no relevance for this age of biological revolution and spectacular medical skills?'

If we have to call ourselves a civilised society, we must understand death, respect it and civilise it, as much as we respect life.

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