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The Right To Die : A Legal And Ethical Dilemma

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Abstract : Right to Die, also known as the right to death, raises questions about sanctity of life, individual autonomy and the role of the state in determining the fate of its citizens. Arguments in favour of the right to Die often centre on the principles of individual autonomy and bodily integrity whereas opponents of the right to die often argue that it is morally wrong to intentionally end a human life, regardless of the circumstances. The terminology surrounding this right is diverse, including physician assisted suicide, euthanasia, medical aid in dying, and death with dignity, each with specific legal and ethical implications. This research paper examines the ethical and legal complexities surrounding the “right to Die”, specifically focussing on the concept of individual autonomy and the extent to which individuals should have the right to make end-of-life decisions, including physician assisted suicide and voluntary Euthanasia. It explores the arguments for and against these practices. It also analysis the legal and societal implications of recognizing a right to Die.

Key words : Right to Die, Individual Autonomy, Euthanasia, Physician-Assisted Suicide, Medical Aid in Dying, Death with Dignity

Introduction: The “right to die”, is closely related to health freedom and the fundamental autonomy of individuals to make decisions about their own existence. The debate about this right often comes up when people face terminal illness or unbearable pain and ending life is seen as a way to control suffering and maintain dignity. This right is based on the belief that individuals have the autonomy to make fundamental decisions about their lives. This includes the choice to end their lives, especially when facing terminal illness. The debate often involves a tension between the individual freedom and the legal restrictions on ending one’s own life. Ethical considerations about personal dignity and the desire for relief from suffering are a big part of this debate. Legally, the focus is on whether assisted suicide and euthanasia are permissible, and a “right” in this context is defined and understood.

The legal status of the right to die varies significantly from country to country. In some countries, such as the Netherlands, Belgium and Switzerland, euthanasia and assisted suicide are legal under certain conditions. In other countries, such as the United States and India, they are illegal or highly restricted.

Several key questions and controversies permeate the discussion. One central question revolves around the compatibility of “right to die” with fundamental “right to life”, and whether the former should be a universal entitlement or limited to specific circumstances. The remarkable advancements in medical technology have introduced complexities in defining the quality of life and the boundary of self – determination. The role of an individual’s rationality and mental competence in making the profound decision to end their life also remains critical and debated point.

A historical journey of the right to die : In ancient Greece and Rome support for euthanasia was not uncommon. The death of Socrates by hemlock in 399 BCE serves as a poignant historical example, prompting enduring questions about the nature of euthanasia and suicide.

The ascent Of major religions, including Christianity, Islam and Judaism brought a strong historical opposition to both euthanasia and suicide. These faiths generally consider life as a sacred trust from a divine power. In the 13th century, Saint Thomas Aquinas, prominent Christian theologian, formally condemned suicide, further solidifying the religious stance against it. The very term “euthanasia” Underwent an evolution in meaning. While initially signifying a “good death” in ancient Greek, it’s usage shifted in 19th century Britain and America to denote the medical act of intentionally ending the lives of patients deemed to have no hope of recovery. Early legislative attempts to legalise euthanasia such as Ohio bill of 1906, Ultimately failed. The 20th century brought about significant fluctuations in public opinion regarding euthanasia. The supports on increase during the economic hardships of the Great Depression in the 1930s. However, This support sharply declined in the aftermath of World War II largely due to the association of euthanasia with the horrific involuntary programs enacted by the Nazi regime in the Germany.

The passage of the patient self -determination act in the United states in 1991 was a significant legislative step, permitting elderly patients to prepare advance directives outlining their wishes regarding life extending treatment. The 21st century has witnessed a continued expansion of the legalisation of medical aid in dying across the globe. In 2001, the Netherlands became the first country in the world to legalise euthanasia, Belgium followed suit in 2002. Within the United states, the 21st century has seen a growing number of states in acting laws to legalise physician assisted suicide, reflecting a gradual but discernible shift in legal and societal perspectives.

India’s legal position of Euthanasia: The history of the legality of right to die in India starts from the case of state V. Sanjay Kumar Bhatia Wear the daily High Court criticised section 309 of IPC as an anachronism End of paradox and then is followed by varied views of different high courts on section 309 of IPC.

In case of Naresh Marotrao sakhre V. Union of India The court observed the difference between euthanasia and suicide.

In P. Rathinam V. Union of India the court, giving relief to the Misers attempting suicide , Section 309 was held to be irrational and deserves to be effaced from the statute book to humanise our penal laws.

Soon this was also over ruled in the case of Gian Kaur v state of Punjab And it was held that right to life does not include right to die or the right to be killed. it was also held that right to life was a natural right embodied in

article 21, but suicide was unnatural termination or extinction of life and therefore, incompatible and inconsistent with the concept of the right to life.

Thus, Any form involving unnatural termination of life has been held to be illegal until the case of Aruna shanbaug and the recent case filed by the NGO common cause where the legality of the issue was re-discuss and on 9th March 2018 in the case of common cause (a registered society) V. Union of India a 5 judge bench of the Supreme Court recognised and gave sanction to passive euthanasia and living will/ advanced directive. The implication of this is that from now right to die with dignity is a fundamental right.

Legal position of right to die in other countries: It is legal in Netherlands since 2001, Belgium(2002), Ireland, colombia and assisted suicide is legal in Switzerland, Germany, Japan, Canada, Albania and some parts of USA.

The regulations governing euthanasia and physician-assisted suicide exhibit Considerable variation across the jurisdictions where they are legal. A common thread In eligibility criteria often includes the requirement of a terminal illness, typically defined as a prognosis of six months or less to live, coupled with the patient being mentally competent and making a voluntary request.

Many jurisdictions mandate multiple requests from the patient, both oral and written, separated by specific waiting periods, along with confirmation of the diagnosis and the patient's competence by more than one physician, which may include a consulting physician.

And, in some cases, a mental health specialist to mitigate the risk of misuse and to protect vulnerable individuals, various safeguards are typically implemented. These can include residency requirements (although some are facing legal challenges and being struck down), minimum age restrictions (usually set at 18 years or older), and the stipulation that the patient must have the capacity to self-administer the lethal medication.

A key distinction between euthanasia and PAS lies in the act of administering the life-ending substance; euthanasia generally involves the physician directly administering it, whereas PAS requires the patient to self-administer the prescribed medication.

Some jurisdictions, such as Canada, have broadened the eligibility criteria beyond terminal illness to encompass individuals with grievous and irremediable medical conditions that cause suffering deemed intolerable to the individual.

Ethical Crossroads: Arguments For and Against the "Right to Die"

Proponents of the "right to die" often ground their arguments in the principle that individuals possess a fundamental moral right to make free choices about their own lives, and this right extends to decisions about when and how their lives should end, particularly in the face of terminal illness and unbearable suffering. This perspective aligns with the widely accepted principle of respect for persons and the inherent right to self-determination in making healthcare decisions.

Another significant ethical argument in favor of the "right to die" centers on the principle of relief from suffering. Proponents argue that compassion dictates that individuals facing unbearable pain and the prospect of a prolonged and undignified death should have the option to seek a peaceful and merciful end to their suffering.

This argument often invokes the concept of a dignified death, suggesting that it is inhumane to prolong a life filled with unrelenting pain and suffering when a peaceful alternative is available.

Conversely, strong ethical arguments are also presented against the "right to die." A central argument revolves around the sanctity of life, which posits that human life possesses intrinsic value and dignity, irrespective of an individual's circumstances or perceived quality of life, and that intentionally ending a life is therefore morally wrong.

This principle is often deeply rooted in religious beliefs that consider life a sacred gift from a divine creator.

Opponents argue that legalizing the "right to die" would undermine this fundamental principle, potentially devaluing certain lives based on perceived quality or utility.

A significant concern raised by opponents is the potential for abuse and coercion.

They argue that legalizing the "right to die" could create opportunities for vulnerable individuals, such as the elderly, those with disabilities, or individuals struggling with mental health issues, to be pressured or even coerced into ending their lives. There are also fears that the legalization of assisted dying could become a means of cost containment within healthcare systems, leading to subtle or overt pressures on individuals to choose this option.

At its core, the "right to die" is rooted in the belief that individuals possess the autonomy to make fundamental decisions about their lives, including the choice to end them, particularly when confronted with terminal illness or unrelieved suffering the ensuing debate often grapples with the inherent tension between this individual freedom and the societal or legal restrictions placed on the act of ending one's own life.

Ethical considerations surrounding self-determination, personal dignity, and the desire for relief from suffering form a significant part of this debate, while legal aspects focus on the permissibility of assisted suicide and euthanasia, and the very definition and scope of a "right" in this context.

Philosophical perspectives on the "right to die" also vary considerably, reflecting different ethical frameworks and values. Utilitarianism, with its focus on maximizing overall well-being, might argue in favor of the right to die if it is deemed to produce the greatest good for the greatest number, potentially considering the relief of suffering for the individual and their loved ones. Deontology, which emphasizes duty and adherence to moral rules, might oppose euthanasia and assisted suicide if they are seen as violating fundamental moral prohibitions against killing or the inherent duty to preserve life. Existentialism, with its emphasis on individual freedom and responsibility, could support the right to die as a fundamental aspect of personal autonomy and the right to make choices about one's own existence, including its termination. Natural Law Theory often presents arguments against euthanasia and suicide, viewing them as contrary to the natural inclination towards self-preservation and the intrinsic value of human life. Secular Humanism, grounded in reason, ethics, and human-centered values, generally emphasizes individual autonomy and dignity, potentially leading to support for the right to die as a matter of personal choice and self-determination. Finally, some philosophers, drawing from antinatalist perspectives, argue that since individuals have no power over their birth, they should possess the authority to decide whether to continue living or to end their lives.

The involvement of medical professionals in facilitating death is another significant ethical concern for opponents. They argue that physician-assisted suicide and euthanasia are fundamentally incompatible with the traditional role of a physician as a healer, potentially undermining the trust that patients place in their doctors and the integrity of the medical profession as a whole.

Conclusion and the way forward : The “right to die” stands as a deeply complex and ethically charged issue, eliciting a Wide range of perspectives across legal, ethical, historical, religious, and philosophical Domains. It should be kept in mind that a dying man has the right to pass away with dignity when his life is on the verge of ending. The supreme court’s reconsideration of the issue is a welcome step because if a person suffers from an incurable disease, it would be inhumane to compel him to live a painful life. On the other hand Medical science is progressing in India as in the rest of the world, and hence currently we have techniques that can prolong life by artificial means. This may indirectly prolong terminal suffering and may also prove to be very costly for the families of the subject in question. Hence, end of life issues are becoming major ethical considerations in the modern – day medical science in India.

Haruki Murakami, the late Japanese author Said, death is not the antithesis of life; it is a part of it.

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