Current Scenario of Euthanasia in India

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Abstract

Euthanasia is a recently talked topic now a days in India. Few societies like Jainism etc. practicing santhara/ salekhana/ ichhamaran as of now embodied in passive euthanasia permitted by Supreme Court of India on 3rd March, 2018 to a person who is above the age of 18 years. Various types of euthanasia are there but only Passive euthanasia will be permitted as per law to terminally ill patients who give advance medical directives to treating doctor to end his life in a dignified manner. Advance medical directions given by the patient should clearly mention under which circumstances passive euthanasia (removing life support from patient but palliative care may be continued) should be administered by following legal formalities.

Keywords: Euthanasia; current scenario; Passive euthanasia.

Introduction

Doctors usually treat terminally ill patients with advance cancerous stages and diseases which are chronically recurrent and painful to the patient and these conditions also put financial burden to the family as a whole (1). According to the recent law on Passive euthanasia in India, doctors have to deal with such cases in day to day practice which sometimes become crucial for them to decide on the issue. In India, it is a new concept, more and more patients will come for euthanasia one or the other way. Being doctors, we will have to decide the matter case by case and not by any general rule. While dealing with such patients, concerned Doctor has to consult with family physician and oncologist if required along with the advance directives of patient if available. When dealing with these cases, treating doctor/surgeon also has to confirm whether present case follows jurisdiction limits of that district.

Definition of Euthanasia

According to Black's Law Dictionary (8thedition) euthanasia means the act or practice of killing or bringing about the death of a person who suffers from an incurable disease or condition, esp. a painful one, for reasons of mercy **(**2) . Encyclopedia of 'Crime and Justice', explains euthanasia as an act of death which will provide a relief from a distressing or intolerable condition of living. Simply euthanasia is the practice of mercifully ending a person's life in order to release the person from an incurable disease, intolerable suffering, misery and pain of the life. The term euthanasia was derived from the Greek words "eu "and "thanatos "which means "good death" or "easy death ".It is also known as Mercy Killing (3) .

What is terminally ill patient (Protection of Patients and Medical Practitioners) Bill 2006 means?

(i) Such illness, injury or degeneration of physical or mental condition which is causing extreme pain and suffering to patients and according to reasonable medical opinion, will inevitably cause untimely death of the patient concerned or

(ii) Which has caused a 'persistent and irreversible vegetative' condition under which no meaningful existence of life is possible for the patient (4).

Types of Euthanasia

Euthanasia may be classified as follows:-
(1) Active or Positive
(2) Passive or negative (also known as letting-die)
(3) Voluntary
(4) Involuntary
(5) Non-Voluntary

Active or Positive: - Active euthanasia means painlessly putting individuals to death for merciful reasons e.g. when treating doctor gives lethal dose of medication to his patient.

Passive or negative: - In passive euthanasia, death is caused by withdrawing the life saving measures which are keeping patient alive e.g. withdrawing life saving measures from a serious patient resulting in death of patient. Doctor is not actively involved in killing the patient but passively removing the life support equipments.

Voluntary: - Occurs when patient request the doctor by giving a valid consent. In this, patient exercises voluntary euthanasia is primarily concerned with the right to choice of the terminally ill patient who decides to end his or her life.

Involuntary: - When the patient is killed without an expressed consent to this effect. In this case, patient is euthanized against his wishes to end life.

Non-Voluntary:-Life is ended of a terminally ill patient who is not able to give his consent for euthanasia especially in mentally ill patients. In this case, patient had not given any consent to end his life. Mostly in this, relative will give the consent (5).

There are various ways for euthanasia. The most popular methods include –
1. Lethal injection –Giving lethal dose of a drug in the form if injection like known poison, KCl, etc.
2. Asphyxiation –Gas used for asphyxia is Carbon monoxide (CO). Nerve gases like Sarin & Tabun etc. may also be added to ensure death in small quantities.

Present situation and the responsibility of Surgeons/doctor

Recent development in the field of science and technology in the last century, the concepts of life and death has fully changed (6). Now, a person who is in a persistent vegetative state and who will not respond to sensory stimuli are practically declared dead but kept alive by use of artificial means like ventilators and artificial nutrition for years. With these developments, the question arise whether this patient can be kept alive or euthanized or whether the doctor will be charged with murder or not? Withholding or withdrawing life support is today permitted in most countries including India. It is a patient who decides what is to be done to his body kept alive or killed. This is called the principle of self determination. As and when team of doctors had decided for euthanasia what alternatives other than invasive treatment available should be looked for betterment of patient condition.

Criteria Laid Down for Euthanasia in India ('Living Will' or 'Ichhamaran' or Advance Medical Directives)

Document executed by a competent person of sound mind, on his/her own volition & without coercion, about health care decisions to be followed in the event of person becoming incompetent to make crucial decisions.

Supreme court of India in March 09, 2018 allowed passive euthanasia of terminally ill patient, said right to live with dignity also include right to die with dignity.

'Living Will' may be in the nature of detailed instructions regarding health care decisions laid out by an individual or it may be a proxy directive whereby a durable power of attorney is delegated to someone else (surrogate decision maker)

Any person above the age of 18 years can execute 'Living Will'. It is presumed that a major has the capacity dispassionate thinking about his or her own good.

'Living Will', unlike a suicide note, is addressed specifically to the treating physician or next of kin. It documents dos & don'ts for physician in event of terminal illness so that suffering soul is not trapped in a tattered body.

'Living Will' should include detailed guidelines on situations under which the patient should not be resuscitated or the life prolonged endlessly. This helps in clearing any ambiguity and enhances compliance by the treating physician (7).

How "Living Will" recorded?

Witnesses & Judicial magistrate must record their satisfaction that document has been drawn up & executed voluntarily without any coercion.

One copy of 'living will' preserved in the office of judicial magistrate & one copy forwarded to registry of district court.

• Onus of informing immediate family members of 'living will' is on judicial magistrate.

• One copy also must be handed over to the municipal corporation for their record.

• One copy of the directive must be handed over to the family physician.

Under Which Circumstances 'Living Will' Implemented?

To ensure various checks & balances are put in place, certain criterion's needed to be met before the 'living will' can be executed.

When a person becomes terminally ill & despite treatment, there is no hope of recovery, treating general surgeon, when made aware about 'living will', has to ascertain the genuineness and authenticity of the document from the jurisdictional judicial magistrate before acting upon the same

Execution of 'living will' happens only if medical board grants permission.

In case a patient execute Living will then a medical board consists of head of treating department and at least three experts from the fields of general medicine, general surgeon, cardiology, neurology, nephrology, psychiatry or oncology with at least twenty years experience.

This board visit patient in presence of guardians/close relatives & form an opinion to certify, or not certify, the instructions in the living will.

This decision regarded as Preliminary Opinion.

- After hospital medical board certifies that instructions contained in 'living will' ought to be carried out, hospital has to inform jurisdictional collector about proposal.
- Collector shall constitute Another Medical Board comprising Chief District Medical Officer as chairman and three expert doctors from fields of general medicine, cardiology, neurology, nephrology, psychiatry or oncology.
- Chairman of medical board nominated by Collector, i.e. Chief District Medical Officer convey decision of board to jurisdictional judicial magistrate before withdrawing medical treatment to patient.
- Judicial magistrate shall visit patient at earliest & after examining all aspects, authorize implementation of decision of the Board
- In cases where medical board refuses to grant permission to execute living will, immediate recourse available to family is to approach High Court.
- Chief Justice of High Court will constitute a division bench to decide upon the case.

Safeguards for the Doctor

There are adequate safeguards built into Law to prevent any possible abuse of the provision.

Two witnesses are required to testify that the declaring has drawn up his will in sound mind & when in the full possession of decision making faculty.

Witnesses required to declare that they have no claim on any portion of estate of declaring upon his/her death.

Binding on treating Doctor

Law expects doctors to respect 'Living Will'. Attending doctor shall have the right not to comply with the directive if he feels it is against his moral principles.

A doctor who does not wish to comply is, however, required to make all possible attempts at transferring the care of the declaring to another doctor who will respect the 'Living will'.

Conclusion

Doctor should respect patient's choice for choosing between invasive treatments and ending his life. But he has to be bound by law. In view of availability of potent palliative care the topic of euthanasia becomes especially complicated. No law could be guaranteed to be free to the possibility, if not the likelihood, of abuse, chiefly centered on the lives of other sick persons who did not want their lives taken. An especially dangerous aspect is that such abuse may be easily made undetectable. Thus although mercy killing appears to be morally justifiable, its fool-proof practicability seems near to impossible.

- Doctors should not try to become heroic
- Overseas experience suggests legislative support for euthanasia erodes standards of end-of-life care.

- Euthanasia will be becomes available to a wider group than those with terminal illness
- Support for euthanasia fundamentally upsets the doctor-patient relationship

Euthanasia is legalized but doctor should be cautious with regard to litigation!

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