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Divergence of Approaches on Euthanasia in India and Europe: An Empirical Study on Ethical Palatability among Indian Medical Practitioners

By

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Abstract

Euthanasia is referred as an act or practise of mercifully ending the lives of those who are afflicted with a physically debilitating illness, a painful and incurable sickness, or both by withholding treatment or removing mechanical life support. It is further categorized as either passive euthanasia or active euthanasia. Passive euthanasia involves withholding life-sustaining treatment, active euthanasia, on the other hand, entails the employment of deadly means of causing death (Chao et al., 2002). The legal & moral debate around euthanasia centres on the ethical questions of whether it should be morally permissible to end a person's life and whether it should be made legal for medical practitioners to assist in ending a person's life. Those who support euthanasia argue that it can alleviate suffering and provide individuals with the right to die with dignity. Nevertheless, the critics of euthanasia contends that wilfully ending a life is immoral and that doing so might result in abuse and a curtailment in the value of human life. In many countries, the legality of euthanasia remains a contentious issue, with some countries allowing it under certain circumstances and others completely prohibiting it. The debate continues to spark heated discussions and disagreements among both the public and political spheres. Lately, euthanasia is legal in the few of the countries such as Belgium, Canada, Luxembourg, Netherlands, Colombia, Oregon, Washington (U.S) (Cohen-Almagor, 2008). Whereas, In India, euthanasia is illegal and considered a criminal offense u/s 309 of the IPC 1860 i.e., Indian Penal Code. The Supreme Court of India has repeatedly ruled against allowing euthanasia, stating that it is against the country's tradition and values to intentionally end a life (Walia, 2010). However, there have been recent discussions about the need for a more compassionate approach towards patients with terminal illnesses and unbearable suffering, and thus, several practitioners have demanded that euthanasia be made legal under certain situations. Despite these debates, the legal status of euthanasia in India remains unchanged and it is still considered a criminal act. Therefore, considering the apparent discordant between the legal and practical admissibility of euthanasia, this paper intends to gather the prevalent opinion on euthanasia from its direct stakeholders. Accordingly, the paper shall summarizes the level of awareness and ethical palatability of active and passive euthanasia among the selected group of medical practitioners i.e., doctors, nursing staff and psychiatrists.

Keywords: Euthanasia, Passive Euthanasia, Ethical Acceptability, Social Morality

Introduction

The history of euthanasia dates back to ancient Rome and Greece, wherein euthanasia was sometimes executed in certain circumstances. The word "euthanasia" itself takes its origin from the Greek word "eu", which implies "good", & "thanatos" meaning "death" (Nissanka,

2022). During the outset of 19th century, the idea of "mercy killing" gained some popularity in Europe and North America, but it was also met with strong opposition. Towards the late 90s and during the early 20th century, several countries, including Germany and the United Kingdom, passed laws that made it illegal to assist in a suicide or to perform euthanasia. In the latter half of the 20th century, the issue of euthanasia re-emerged as medical advances made it possible to prolong life, sometimes at the cost of significant suffering (Livne, 2021). In the 1970s, a number of countries, including the Netherlands and Belgium, began to allow euthanasia under certain circumstances. the Oregon (USA) legalized physician-assisted suicide (PAS) in the late 90s and a number of other states have since considered similar measures. The debate over the legality and morality of euthanasia continues today, with different countries having adopted a range of approaches, from full legalization to complete prohibition (Youngner et al., 2016). The medical community, on the other hand, generally responds to euthanasia with a mix of opinions and approaches. Some members of the medical community support euthanasia as a way to alleviate suffering and provide individuals with the right to die with dignity. They argue that it can be an act of compassion and an expression of autonomy. On the other hand, many members of the medical community are opposed to euthanasia, seeing it as a violation of the Hippocratic Oath to "do no harm" and as conflicting with the traditional role of physicians as healers (Kuhse at el., 1988). While, Medical associations and organizations have also taken a variety of positions on euthanasia, with some supporting it and others opposing it. In some cases, medical associations have issued guidelines for physicians who may be asked to participate in euthanasia, outlining ethical considerations and the conditions under which it may be permissible (Scheur at el., 1998). Overall, the medical community seems to be divided on the issue of euthanasia, with different individuals and organizations holding varying views and approaches. The issue continues to be a subject of ongoing discussion and debate within the medical community.

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From the legal standpoint, IPC (Indian Penal Code) Section - 309, which criminalizes the individuals who attempt to commit a suicide, has been challenged on the grounds of constitutional validity several times in Indian courts. Some argue that Section 309 violates the fundamental right guaranteed under Article – 21 i.e., Right to life and personal liberty guaranteed by the Constitution of India, as well as the right to privacy and bodily autonomy. In an important case in 1994, the Indian Supreme Court upheld the constitutional validity of section 309, stating that the provision was aimed at preventing the taking of one's own life, which is considered an antisocial act (Awasthy, 1999). The court acknowledged that attempted suicide can often stem from a temporary emotional disturbance and held that the provision was intended to provide help and protection to individuals who may be in such a situation. However, the Supreme Court also stated that the provision should not be used to prosecute or punish individuals who have attempted suicide, and that appropriate measures should be taken to provide them with medical treatment and rehabilitation. The court also acknowledged that the provision could be reviewed and revised if needed, in light of changing social and economic circumstances. Since then, there have been calls for the decriminalization of attempted suicide in India, but section 309 remains in force and continues to be used to prosecute individuals who attempt suicide. The constitutional validity of the provision continues to be debated and the issue remains a subject of ongoing discussion in legal and policy circles (Mishara at el.,, 2016).

As a matter of fact, active euthanasia and passive euthanasia are two distinct forms of end-of-life care that involve distinct levels of medical intervention. As mentioned earlier, active

euthanasia refers to a situation where a physician or another person intentionally causes the death of a patient who is in vegetative state and has made the decision to end their life. This typically involves administering a lethal dose of medication to the patient, which causes death. On the contrary, passive euthanasia refers to a situation where life-sustaining treatments are withdrawn or not provided to a patient with a terminal illness, allowing death to occur naturally. This can include withholding or withdrawing medical treatment, such as artificial ventilation, or not providing life-saving medical interventions, such as antibiotics or surgery. The key distinction between these two approaches lies in the level of medical intervention involved to cause death of the patient. In an instance of active euthanasia, the physician or any authorized person is responsible for directly causing the patient's death, while in an instance of passive euthanasia, death occurs as a result of the withholding or withdrawal of life-sustaining treatment (Sahm, 2000). Accordingly, this paper shall also pay enough attention to the criticism of various laws governing active and passive euthanasia, which is an endless source of discussion for anybody who takes this issue seriously. Subsequently, the author has pursued a survey among Indian physicians on this subject in order to add to existing theoretical and practical concerns. Accordingly, The paper shall take an account of existing literature review on ethical aspects of euthanasia through scholarly debate, followed evidences of acceptability of Euthanasia in Clinical Practice in European Nations and the role of psychiatrist as Gatekeepers to Euthanasia and lastly, the elucidation of methodology, scope of study and outcome of the empirical study used to prove the established hypothesis of awareness and acceptability of active & passive euthanasia among the medical practitioners.

Scholarly Debate

One of the most important bioethical issues, euthanasia has grown increasingly difficult in tandem with medical development, biotechnology, intensive care units, and medical technology. It is impossible to deny the importance of science and technology in modern medicine for the people, which not only intends to aid in the diagnosis and successful treatment of illnesses but also enable accurate and effective identification of illnesses via therapy. Nevertheless, what raises the issue, though, is when euthanasia is viewed as a quick, painless, and less traumatic means to end the suffering that terminal people have endured. One of the compelling justifications for allowing westerners to execute euthanasia is compassion and their acceptability towards the concept of ‘right to die’. According to Robert M. Baird, the notion of euthanasia was firstly examined by the Greek (mentioned above) which implied ‘allude to dying in a kind and straightforward manner’. Whereas, under the framework of Islamic law, Qatlu al-rahmah was used to refer to euthanasia (Baird, 1985). According to Al-Qaradhawi, euthanasia is considered as an act of hastening the person's death while they are in pain and it leads out of compassion for others who are suffering, whether it be done directly or indirectly. Similarly, according to Hirbah Salim, qatlu al-rahmah is an honourable method of ending one's life without experiencing any pain, either at the patient's desire or with the assistance of others, and is not merely the death of peace (Aramesh, & Shadi, 2007).

The Dutch and Belgian legal frameworks, which acknowledge euthanasia via codification of law, including in doctorate medical and practical processes, are the first to do so. According to Professor Robert Pearlman's writing in the book Physician-Assisted Dying: The Case for palliative care and patient choice, depression, discontent, socioeconomic stress, and financial burdens are some of the common reasons that chronic cases have been used by patients to request euthanasia or physician assisted suicide due to insufficient treatment requirements for treating illnesses or another symptom (Back at el., 2002). Accordingly, two peculiar of provisions (i.e., Section - 293 and 294) of the Dutch Penal Code 1886 provides an

outline for it. The law makes a distinction between taking someone's life against their will and taking someone's life at their desire. In this context, the court explains the doctrine of force majuere as a concept & theory to exonerate the medical practitioners from being charged with any offences which may turn-in out of the execution of euthanasia. The court also has continuous legal support to state that euthanasia is also a physician's duty, referring to the Article 40 of the Dutch Penal Code (Belian, 1996). On the same lines, Belgium has also attempted to codify the euthanasia law in the year 2002 by legislating the Belgian Act 2002. In particular, Article 78 of Chapter (1): Section (2) of the mentioned act provides an endeavour to alleviate patients from enduring agony through the usage of medication to shorten their life and accelerate their death. Thus, the proposed legislation on the exclusion of euthanasia from any criminal prosecution has been passed by the Belgian Senate (Cohen-Almagor, 2008). However, the laws related to Euthanasia and its growth in the Netherlands and Belgium were condemned in the study titled Euthanasia, Ethics and Public Policy; An Argument Against Legislation by J. Keown. Wherein, physician aided suicide and volunteer assisted dying are criticised as being immoral (Keown, 2018). Similarly, In Understanding Medical Law, Brendan Greene explores the fundamentals of medical law in relation to the topic of human life, raising the issue of the two situations that exist between one's life and death (Greene, 2012). Further, it's been conveyed that the goal of the law is to deal with medical issues brought on by patients' refusals to receive treatment and responses to the growth in allegations of malpractice in the medical industry. These events have brought up a conflict between ethics and the law. Hence, it can be stated that these studies demonstrate that there is a disagreement over euthanasia not only between persons but also between the legal rules and the notion of the actual battle for an individual's right to live. These studies has acknowledged that there are various proclamations made to defend universal rights, but at the same time, actions are that repress and jeopardise the ability to live in freedom while still falling under the heading of "human needs," thus there is an apparent conflict.

Evidences of Acceptability of Euthanasia in Clinical Practice in Europe

Of late, several studies have been published which described the use of physician-assisted-suicide and euthanasia by medical practitioners. In 1995, an anonymous poll of Washington medical practitioners revealed that almost 1/4th of those who responded had received at least one request for physician assisted suicide, and two-thirds of those practitioners had approved such requests (Asch, 1996). Besides, a study of AIDS patients' medical practitioners in the San Francisco region revealed even more startling findings, where it was discovered that more 50% of all responding practitioners admitted to having approved the requests for physician aided suicide. Asch's study of critical care nurses was one of the most compelling studies to date on the use of euthanasia (Asch, 1996). Based on the findings of an anonymous poll, this study discovered that only 17% of the respondents said they had received at least one request for physician assisted suicide and more than 10% said they had granted one. Further, almost 5% of the nurses who responded admitted to requesting a doctor to expedite the patient's death without obtaining the consent from the patients or their family member. While, almost the same % of nurses i.e., 5 % of the sample reported hastening a patient's demise without the doctor's knowledge or consent. These respondents acknowledged to have decreased the oxygen supplies and increased the medicative doses to fasten the process of death. Yet, even if these statistics might not fully reflect the real incidence of euthanasia, requests for physician-assisted death are unquestionably common & doctors occasionally accede to such requests in defiance of statutory restrictions.

The Netherlands possesses substantial information on the frequency of requests for assistance in dying and the percentage of terminally ill people who were assisted to death through euthanasia, as its been consistently performed in Netherlands for more than 20 years (Rietjens at el., 2009). This data proponents as a proof that legalisation has not resulted in widespread abuse or overuse of euthanasia or physician assisted suicide. Few critics of this legislation contend that the 75% rise in fatalities using physician assisted suicide or euthanasia indicates a rising trend towards their more frequent usage and, consequently, a rise in the number of instances of euthanasia that may not be suitable social ecosystems (Rietjens at el., 2009). Similar worries are well expressed in a mid-90s ruling by the Dutch Supreme Court, which expanded the right to euthanasia to patients with chronic, non-terminal diseases, including mental illnesses like depression, so long as the condition is incurable and causes intolerable suffering (Battin, 2008).

Gatekeepers to Euthanasia

One main worry raised is that the terminally ill patient's desire for euthanasia could be influenced by despair (Chochinov, 2006). As a result, the involvement of the psychiatrist in diagnosing depression in these individuals is crucial. In certain countries, it is actually required by law that a patient undergo a mental evaluation before being given authorization to execute euthanasia. Supposedly, following the assignment of this weighty duty, psychiatrists would pretence as a gatekeepers in this hotly debated topic of Euthanasia (Bannink at el., 2000). Moreover, it has been suggested that because relatively few psychiatrists would be confident in their ability to identify depression in terminally ill patients, their mindset would influence their decision-making (First at el., 2004). A study conducted by Central Institute of Psychiatry, Ranchi revealed that More than 50% of the respondents (psychiatrist) favoured physician assisted suicide or euthanasia and believed that it should be legalized. whereas only few more than 25% opposed the idea (Kanniyakonil, 2018). The study also disclosed that deeply held moral principles, such as the notion that a doctor's primary responsibility is to save life, were among the key determinants of attitude (Kanniyakonil, 2018). This is a striking conclusion since it suggests that, in addition to professional expertise, moral beliefs and prior attitudes against euthanasia may affect psychiatrists' assessments if they ever serve as gatekeepers.

Methodology

The author has primarily utilised a quantitative method of research. For the purpose, a brief survey was especially circulated among the medical practitioners from 5 private healthcare facilities in National Capital Region of Delhi. The data was collected in the latter half of the year 2022. The author has examined the dataset segment that are relevant to the questions:

(a) Awareness of the legal framework embracing the concept of Euthanasia
(b) Whether Active Euthanasia is ethically acceptable.
(c) Whether Passive Euthanasia is ethically acceptable.

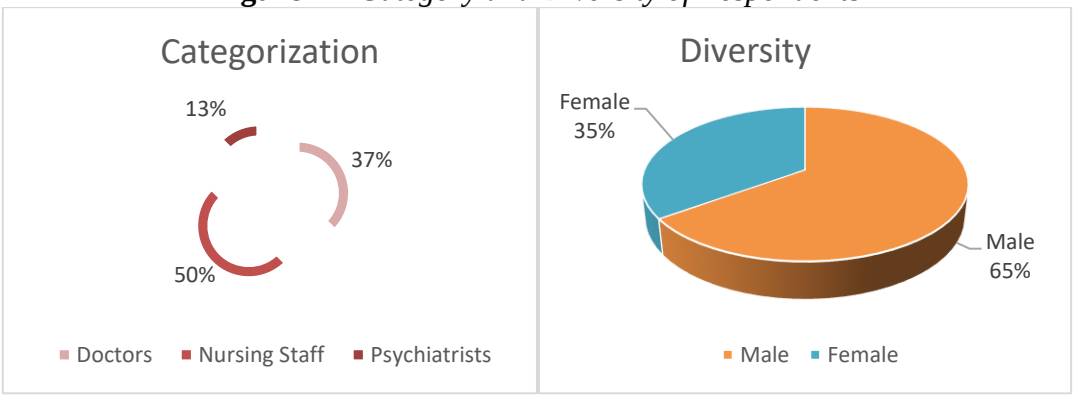
Scope of the study

The survey have an ability to more broadly generalise the results to the physician populations across the entire nation due to the size of the tested population, the gender makeup of the responders, and the variety of the health departments among participants. Out of the total

staff of the 5 healthcare facilities, 30 doctors, 40 Nursing staff and 10 psychiatrists has consented to be the participants

Thus, the final sample include 80 physicians : out of which 52 are male (i.e., 65% of the total respondents) & remaining 28 are female i.e., (i.e., 35% of the total respondents) (See Figure 1).

Figure 1 – *Category and Diversity of Respondents*



The initial hypothesis of the study were:

H1 – All the medical practitioners including Doctors, Nursing Staff, Psychiatrists are aware of the present legal framework on Euthanasia.
H2 – The Psychiatrists & the nursing staff are more ethically against the procedures of active or passive euthanasia as they are more expose to such cases. Whereas, the doctors have mixed opinions

Outcome

The online survey include responses from 80 medical practitioners who have opined their views of legal awareness and ethical acceptability of active or passive euthanasia. Table I (given below) consist the cumulative responses of all the 80 respondents on aspects awareness, acceptability or unacceptability of Euthanasia. While, Table II consists of bifurcated response from the doctors, nursing staff and psychiatrists.

Referring the mentioned outcome, it is apparent that majority of the direct stakeholder (Doctors, Nursing Staff and Psychiatrist) i.e., 90% are aware of the legal framework encompassing Euthanasia in India. Out of the remaining 10% unaware stakeholder, majority were the nursing staff. The low level of legal literacy of the nurses might be the reason.

Furthermore, it has been observed that 78.75% of the total respondents have declined the ethical acceptability of active euthanasia. Hence, out of the total 15% who have consented to the ethical palatability of active euthanasia, majority were the doctors (66.67%) followed by Nurses (25%) and only 1 psychiatrist has conveyed their consent.

On the other hand, out of the total 67.50% of the total respondents who have declined the acceptability of passive euthanasia, majority were the nurses followed by psychiatrist and then doctors. Conversely, majority of the doctors have acknowledged the ethical acceptability of the passive euthanasia.

Hence, from the above-mentioned outcome, it can be stated that both the hypothesis i.e., H1 and H2 have been positively proven i.e., All the medical practitioners including Doctors, Nursing Staff, Psychiatrists are aware of the present legal framework on Euthanasia and the Psychiatrists & the nursing staff are more ethically against the procedures of active or passive euthanasia as they are more expose to such cases. Whereas, the doctors have mixed opinions.

Table 1 – *Awareness and Ethical Acceptability of Active or Passive Euthanasia among all medical practitioners*

Questions	Yes	No	No Response	Total
Awareness of the legal framework related to Euthanasia	72 (90%)	8 (10%)	0	80
Active Euthanasia is ethically acceptable ?	12 (15%)	63 (78.75%)	5 (6.25%)	80
Passive Euthanasia is ethically acceptable ?	24 (30%)	54 (67.50%)	2 (2.5%)	80

Table 2 - *Awareness and Ethical Acceptability of Active or Passive Euthanasia (Categorised)*

Questions	Categorized								
	Doctors			Nursing Staff			Psychiatrists		
	Yes	No	No Response	Yes	No	No Response	Yes	No	No Response
Awareness of the legal framework related to Euthanasia	29	1	0	35	5	0	8	2	0
Active Euthanasia is ethically acceptable ?	8	19	3	3	37	0	1	7	2
Passive Euthanasia is ethically acceptable ?	17	12	1	5	35	0	2	7	1
Total	30			40			10		

Conclusion

Logically, majority of the western nations condemns and does not tolerate cruelty or murder in any form. Euthanasia, however, is viewed as "mercy" since it relieves the anguish that a person with a chronic condition must endure in order to live. Hence, euthanasia has become a medically viable option in some European nations by the virtues of their policy and its components are governed by the legislation as well as other variables like political goals. Contrary to this standpoint, the intervention of Supreme Court in India has upheld the constitutional validity of section 309 of Indian Penal Code, stating that the provision was aimed at preventing the taking of one's own life, which is considered an antisocial act. The awareness of this existing law and its contention is apparent in the general opinion of selected group of medical practitioners as they consider the active and passive euthanasia to be ethically unacceptable. Lastly, it is recommended that further empirical research should be administered with an extensive sample size to attain a better judgement of the perception among medical practitioners and other key stakeholders.

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