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Palliative Care and Euthanasia Conundrum

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Abstract:

The word 'Euthanasia' is not new in the legal landscape and there is a kind of familiarity associated with the word, but as far as the word 'palliative care' goes, it is not the same. While, euthanasia has its origin in Greece around 1st-2nd century CE, and is commonly understood in both social and legal context meaning "a good death"[2], but the word palliative care in its form can be traced back to 4th century CE[3] commonly referred to as hospices,[4] a place where care is given to people who are dying or on the verge of dying. Here death is conceived as spiritual journey rather than a medical failure and is addressed with humanitarian perspective.[5] Unlike, the contemporary times, it was not confined to medical and health experts but to religious institutions in form of hospital (hospices) to help out people from harsh realities of death through care and support instead of aggressive medication. It developed as a technique/process in 1967, and is largely attributed to the work of Dame Cicely Saunders,[6] but the word was coined by Dr Balfour Mount in 1975.[7] Since, easing out pain and suffering of poor and weak was associated with hospices, it was perceived negatively. And it was due to this negative connotation that it was later changed to palliative care service. However, the basic difference lies in the meaning of the two terms. Where 'hospices' is confined only to terminally ill patients who have very short life left, the palliative care does not confine itself to end phase of terminally ill patient but starts much earlier at the stage of diagnosis itself.[8] In palliative care, the comfort and care are applied as techniques along with aggressively pursued medical treatments like chemotherapy in disease like cancer.[9] Both aims at easing out the pain but the time frame, techniques applied and the very purpose vary significantly. As far as the word euthanasia is concerned, it works on the principle of ending the patient's life intentionally to relieve pain and sufferings, but the term palliative healthcare on other hand

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[2] A Spinthouraki, SN Michales *et. al*., "Historical Review of Euthanasia From Ancient Times until Before Modern Times" *Maedica A Journal of Clinical Medicine* (March,2025) *available at*: https://pmc.ncbi.nlm.nih.gov/articles/PMC12123498/?hl=en-IN (last visited on 1st March, 2026)
[3] Hannah M Redwine, Latha Ganti, "Dame Cicely Saunders: Pioneering Palliative Care and the Evolution of Hospice Services" *Cures* (Dec. 5, 2024) *available at* https://pmc.ncbi.nlm.nih.gov/articles/PMC11700540/?hl=en-IN (last visited on December 10th, 2025).
[4] *Ibid.*
[5] Maxxine Rattner, "Total Pain': Reverence and Reconsideration" 8 (2023) *available at https://www.frontiersin.org/journals/sociology/articles/10.3389/fsoc.2023.1286208/full?hl=en-IN* (last visited on 20th December, 2025).
[6] Supra Note 3.
[7] Mount, B.M., The Problem of caring for the Dying in a general Hospital: The Palliative Care Unit as a Possible Solution" Canadian Medical Association journal 115 (2) 119- 121 (1976) *available at* https://pmc.ncbi.nlm.nih.gov/articles/PMC1878558/ (last visited on 25th March, 2025).
[8] Supra Note 5.
[9] *Ibid.*

works on easing out the pain and sufferings systematically of people suffering from serious diseases like cancer or any other deadly disease.[10] Beside working on medical treatment, it also focuses on psychological, spiritual and social techniques by incorporating family and support system in the process of elevating human health.[11] The main difference lies in the approach, in euthanasia the process reflects the practical ways of dealing with terminally ill patient where doctors have lost hope of recovery, therefore, ending the life remains as the only option but palliative healthcare does not contemplate on hastening death rather extends support at multilevel to protect and ease out the suffering of the patient. The reason for juxtaposing the euthanasia with palliative healthcare is to unleash the fundamental difference in the approach between the two and how it intersects with social, ethical and legal perspective on life and health. The paper delineates the context and legal framework in contemporary times and compare it with situation in India. It aims to elucidate the efficacy of process employed in two and suggest what is legally and ethically more sound.

I. Introduction

There are always two sides to the coin and in case of euthanasia things are not much different. From its origin to its contemporary conception, the concept has undergone a complete shift.[12] Francis Bacon, a famous philosopher and historian used the term euthanasia in its present context in 1605 in one of his essays[13] stating that duty of doctor cannot be confined to realm of curing patient but also easing the pain that one faces while meeting his end. However, it was in 1870's that it took a shift and came to be associated with how we understand it today, that is 'intentional causing death to ease the pain/suffering of terminally ill patient who according to doctor has no chance of recuperating.'[14] Practically, it can be classified on the basis of procedure applied, where doctors perform it by administering lethal inoculation to cause death (active euthanasia) and where consent of patients and his family is sought to make process look voluntary by withdrawing treatment and in some cases life support systems (passive euthanasia). The underlying justification is always best interests of patient. The debate on euthanasia has traversed through moral, medical, economic and legal landscape. However, the ethical framework provides a substantial backing to the ongoing debate on euthanasia. The idea put forth by John Finnis and Luke Gormally that ending life of mentally incompetent patient through euthanasia is not less than murder has raised several debates.

[10] 'Palliative Care' *available at*: https://www.cancer.gov/publications/dictionaries/cancer-terms/def/palliative-care. (Last visited on 1st May, 2026).
[11] *Ibid.*
[12] Dr. Kathleen Cooney, "What's in the Name; How Euthanasia Became Euthanasia" *CAETA*, July 15, 2022 available at https://caetainternational.com/whats-in-the-name-how-euthanasia-became-euthanasia/?hl=en-IN (Last visited on 5th March,2026).
[13] *Ibid.*
[14] Brian Vickers (ed.), *The Major Works by Francis Bacon* 630 (Oxford University Press, UK, 2002).

Furthermore, it is fueled by the question that can euthanasia be justified only on ethical consideration of best interests' test. Dispute is not at a single level but when juxtaposed with rapid technological and medical proliferation it has increased the need for using euthanasia. The value attached to human life and underlying expenditure of life prolonging care and treatment deserves a deeper understanding. Therefore, parallel emphasis on palliative health care with euthanasia has long been discussed as a solution. Where one comes at onset the other is resorted as last measure. The underlying question is can last measure be tried at the onset and if yes then what value do we attach to human life. This is the most profound question in contemporary medicine and ethics. In this context the primary objective must be taken into discussion. Like palliative health care, euthanasia too aims at ending the suffering, the variation lies in approach, where former does it without prolonging or shortening human life, the latter clearly does it by intentionally ending the life. The philosophy embedded in the palliative care takes death as natural outcome and is often mistaken as giving up on life. On the contrary it facilitates death without hastening it whereas the euthanasia is seen as the only measure to ease out pain in the cases of terminally ill patient or patient in persistent vegetative state where doctor believes that there is no coming back to life.

II. Contextual Aspects

The article delves into the ethical and legal considerations involved between two concepts and the wide gap that exist in context of how they approach to life. Where one contemplates on minimizing sufferings by working on symptoms while other involves active and passive ways of ending human life. Euthanasia is generally executed where doctors believes that there exists no other way to relieve the sufferings of patient except by hastening his death. The word 'conundrum' has been suffixed in the title to highlight the divergence or convergence between two terms/concept i.e., euthanasia and palliative health care if put together. It primarily focuses on answering the question that what needs to be done when caught with situation where one has to opt one between the two? Can they substitute each other? To be more precise, what is important, to end the life or working on treatments to ease out pain. The basic ethical issue is that whether palliative health care is seen as a mean where euthanasia is an end. The pivotal question here is that if the life ending decisions are addressed from very onset by offering good palliative care can it substitute euthanasia. The article points out whether the gap or inability that exist in offering palliative care can justify or push the process of accelerating the death. Some still believe that existence of palliative health care can delay but not really rule out the ending life decision. And in some cases, euthanasia can still be a preferred choice to relieve the suffering. The context lies in finding out that whether euthanasia supplement the palliative health care or substitute it. The real dichotomy lies in finding a health care system

that works on both things simultaneously that is, offering good palliative care and euthanasia together. In fact, it is was demonstrated through a clinical trial that integrating palliative care can ensure and enhance survival of the patients beyond and let alone with aggressive medical treatment.[15]

III. Legal Framework and Judicial Approach in India

The active euthanasia continues to be illegal under Indian legal framework. Doing it may invite a liability of causing homicide but the passive euthanasia now stands recognized by virtue of judgement accorded by Supreme Court of India. In 2018, the Apex court legalized the Advanced Medical directives popularly known as living wills which empowers such patient to specify that they do not want to continue to live on artificial life sustenance and in persistent vegetative state. But owing to practical difficulties, the process has become very complicated, therefore, in 2023 the Supreme Court identified the complexities and resolved and replaced 2018 guidelines by a more workable mechanism. The contemporary system like earlier one does not involve verification by Judicial officer as envisaged under 2018 guidelines. It can now only be done through the attestation of gazetted/notary officer. 2018 guidelines also involved formulation of primary and secondary medical Board to put across findings and consideration for giving a green flag for executing euthanasia. There was the need for constant approval of the High Court of State, but now it has been replaced with simple intimation to respective Judicial Magistrate in whose jurisdiction the hospital is so situated. The whole jurisprudence has evolved over the years largely due the decisions of the Supreme Court. There is plethora of cases where this fundamental question has been posed before the Supreme Court. The landmark cases being *Aruna Shanbaugh v. Union of India,*[16] *Common cause v. Union of India*,[17] and most recently *Harish Rana v. Union of India*.[18] The debate on legalizing euthanasia emanates from the Article 21 providing the most fundamental right i.e. right to life. The question that was for consideration was whether right to life involves right to die? This issue was redressed by Apex court in *Gian Kaur v. State of Punjab* [19] A five judge bench held that right to die is not is not contained in right to life. The court went on to delineating distinction between natural death and accelerating death and declared euthanasia as a whole illegal. The Apex court again faced the case on validity of euthanasia almost 15 years later in *Aruna Shanbaugh v. Union of India* case. In the landmark decision the court recognized passive euthanasia but with umpteen caution. The team of three-member medical board were to provide consideration on case-to-

[15] The study was published in a paper by Temel, J.S., Greer, J.A., Muzikansky, A., et. Al., "Early Palliative Care for Patients with Metastatic Non-Small -Cell Lung cancer" *New England Journal of Medicine*, 368(8) 733-742 (2010).
[16] (2011) 4 SCC 454.
[17] (2017) 9 SCC 499.
[18] 2026 INSC 222.
[19] (1996) 2 SCC 648

case basis to be approved by different High Courts of the respective State. But it was Common Cause case where Supreme Court held that right to life imbibes right to die with dignity. The life ending decisions are divisive both legally and ethically. There is no approach that can completely justify the implications. However, the apex court in India has to a great extent justified its approach in balancing the debate on 'sanctity of life' vis-à-vis 'right to die with dignity' on case-to-case basis.

IV. Framework in Netherlands, USA and Canada

To understand the existing approach to the concept of euthanasia and palliative care three countries emerge significantly whose framework provide most diversified outlook on human life, autonomy and medical ethics. The Netherland being the first country to have legalized both forms of euthanasia. The foundation of this approach is based on pragmatism that where there is no scope of improvement prolong sufferings are not justified. However, the sheer pragmatism is underlined by safeguards to maintain the sanctity of life. The medical conditions are fundamental in allowing euthanasia such as long severe condition coupled with treatment refusal by patients if patient's decision-making capacity is still intact. The due care should be only factor where doctors administer death through inoculation considering the case of patient completely hopeless. It is further subjected to five tests such as one voluntary request of patient, second unbearable suffering, third no future recovery chances and lastly in the context palliative care has failed to provide relief. The decision cannot be taken by doctor alone it must be simultaneously referred to senior physician. The procedural safeguard requires it to be performed with caution and appropriate manner. The approval of court is not required but a committee called Regional Euthanasia Review scrutinizes whether due care was taken. As far as situation in Canada is concerned it is often referred as a two track frame work. Passive euthanasia was recognized way back in 2016 but active euthanasia emanated from Bill C-7 in 2021. Active euthanasia is monitored and designed for only terminally ill patient but the process required to be approved by two independent physicians. The second method adopted does involve waiting period of ninety days assessment and can be done in cases of acute illness and non-reversible diseases. The cases of mental illness despite being pushed strongly stays out of purview of euthanasia. The majority of person capable of giving consent can seek life end mechanism. The USA like India does not confer any legal recognition to active euthanasia and is punishable with homicide in all the states of USA. An Act known as Medical Aid in Dying (MAiD) i.e. doctor assisted death is recognized, but only in 14 states. The underlying philosophy on euthanasia in America is based on the choice exercised by patient to swallow or take drugs themselves. The role of physician is only to prescribe lethal medicine and rest is in the domain of patient. This confines passive euthanasia only to mentally capable patients. At the same time, it is restricted only to terminally ill

patient diagnosed so over 6 months observation period. There are further safeguards such as requirement of two doctors one attending and other consulting. Both must independently suggest or there is concurrence with regard to deteriorating health conditions of patients. The waiting period was put in view to provide cooling off period to reflect upon decisions.

V. Comparative Analysis

Unlike Canada, USA does not proactively support euthanasia. In Canada physician can initiate MAiD but in USA and waiting period is to be observed mandatorily. As far as Netherland is concerned the situation is different. Comparative analysis has been done on the basis of legal framework, health condition requirement, psychiatric condition and age limits being prime consideration. However, there is no denial that primary focus is to relieve the pain and suffering despite best palliative care. The Netherlands, is most flexible but highly regulated when it comes to euthanasia. In order to check the reasonability and requirement of decision there is post review mechanism is allowed and cases where there is unbearable suffering qualify to protect the decision of physician. It is open for all ages unlike USA, Canada and India where it has been confined to majors i.e. is only 18 and above. In Canada like Netherlands both kind of euthanasia is allowed but there is necessity of independent clinical assessments of decision which is different in USA where strict adherence to a period of 6 months before executing passive euthanasia is mandatory. One of the most distinguishable features is unlike India in USA only self - administered passive euthanasia is allowed whereas in India there is withdrawal of medication and life support system.

VI. Conclusion & Recommendations

The whole idea revolves around the practical considerations of availability of palliative care vis-à-vis easy way out in form of euthanasia. The ever- rising population coupled with poor doctor-patient and hospital bed- patient ratio has further worsened the situation. The current approach in India is more focused on creating a balance between the quality of life and autonomy of patient or family. Passive euthanasia continues to be legal but active euthanasia stands completed banned and illegal. The Supreme Court has time and again puts health as most fundamental right and emphasized on better medical facilities and procedures to be vetted out to patient but it has remained a lofty dream in current realities. The movies like 'Waiting'[20] puts across the underlying complexities of human relations and when juxtaposed with practical consideration of hospitals to secure beds for the needy and some time for more wealthy especially in private

[20] A 2015 movie 'Waiting' starring Naseeruddin Shah and Kalki Koechlin explores the struggle of two couples nursing their comatose spouses. The movie depicts the struggle of male protagonist against hospital against the removal of life sustaining machine.

set up. In fact, when we put the two things simultaneously, we can see that there is no divergence in the two concepts. Palliative healthcare should begin at the very onset i.e., diagnosis and should continue with medical treatment. Concept like palliative care envisages the preservation of human life, easing out sufferings and pain of terminally ill patient with warmth, care and mental assurances along with medicines and treatment. It should be given priority over before turning to mechanism such as euthanasia to hasten death of such patient.