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EUTHANASIA: THE RIGHT TO DIE WITH DIGNITY AND THE LEGAL DILEMMA

G.A.C. Sajeevi
Department of Commerce, Faculty of Management Studies and Commerce, University of Sri Jayewardenepura
chathusajeevi@gmail.com

"How can it be lawful to allow a patient to die slowly, though painlessly, over a period of weeks from lack of food but unlawful to produce his immediate death by a lethal injection, thereby saving his family from yet another ordeal to add to the tragedy that has already struck them?"
- *Lord Brown-Wilkinson in Airedale N.H.S. Trust v. Bland (1993) AC 789.*

Debate over Euthanasia has been a constant phenomenon over the past few decades all over the world. The term 'euthanasia' literally means 'an easeful death', the practice of bringing about death in a manner that causes less suffering to a patient. The public opinion, judicial decisions, ethical considerations and legal and medical approaches taken by various states towards the concept have been conflicting. The crux of the debate concerns one's right to life recognized and guaranteed by domestic and international instruments. The question whether one's right to life include right to die is highly debated, but no answer has been arrived at.

The research aims to provide a critical analysis of the legal debate that arises regarding the life ending decisions of people. A greater emphasis is placed on the analysis of the human rights specifically the right to life and freedom from torture, inhuman or degrading treatment. The potential criminal liabilities that arise with murder and assisted suicide and the causation issues that arise with the difference between acts and omissions are also discussed with a brief background on the basis of criminal law. The research approach is a desk study using domestic, regional and international instruments, case laws, and a range published works and internet sources.

Right to life is a right recognized and guaranteed by Article 3 of UDHR and Article 29 of the ICCPR. Although 1978 constitution of Sri Lanka does not expressly provide for the 'right to life', in a series of judicial decisions including *Wewalage Rani Fernando v. OIC, Minor Offences, Seeduwa Police Station* it has been recognized that right to life is implied through the provisions of fundamental rights in Article 13 (4) and 11. A careful examination of the legal provisions suggests that right to die with dignity can be assumed from the protected rights of right to life and freedom from torture and specifically in Sri Lanka Article 13(4) and 11 can be interpreted to accommodate euthanasia. However, the question that arises next is 'is it the right to die or the right to kill?' Law facilitates one to commit suicide which is a single tragic act, but euthanasia is not a private act and it's about letting one person to facilitate the death of another. On the other hand the question is 'should people be forced to stay alive?' Neither

the law nor the medical ethics require that “everything be done” to keep a person alive. As was decided in *Re F* and *Bolam v. Friern Hospital Management Committee*, the consideration here is the “best interest” of the patient.

The responses to euthanasia worldwide vary and most countries including Sri Lanka, are responding in an inadequate manner to the evolving attitude and the demand for euthanasia. While, this paper emphasizes vital role played by human rights in the legal debate of euthanasia and the need of attention of both the legislature and the judiciary, it also highlights the real reason to reject euthanasia is the fear of possible abuse of a sche me for euthanasia. In the words of *R. Dworkin*, an advocate of euthanasia, “A state may not curtail liberty, in order to protect an intrinsic value, when the effect on one group of citizens would be special and grave..”

Keywords: Euthanasia, right to life, right to die with dignity, crime, best interest of the patient