

**CRYONICS AND EUTHANASIA – DEBATING LAW AND ETHICS IN RIGHTS FRAMEWORK**

\*Mr. Chirag Balyan

\*\*Prof. (Dr.) L.K. Deb

**Abstract**

*The debate on the right of choice in cases of euthanasia and cryonics continues unabated. The Court's in USA, UK and India have discussed on these issues but, have not come up with concrete findings on the same. Both these issues involve questions of the choice of life & death. In the case of RE JS Disposal, the judge of the UK High Court (Family Division) has perhaps shown a way out by respecting the choice of a 14 years girl and allowing her body to be cryonically preserved. With regard to euthanasia the options given by the courts are often conflicting. While the choice of active euthanasia has not been accepted but, passive euthanasia has been permitted in Indian Supreme Court in the case of Aruna Shanbaug. As science and technology progresses questions related to euthanasia and cryonics will be raised again and again. There is need for concretization of the policy relating to respecting to choices made by people as to how their bodies ought to be treated during the life and after the death. . In this paper, paradox of truth of death as well as faith in life in the interplay of cryonics and euthanasia in the choices people make and the policies and law State adopts, has been examined, in the light of contemporary developments.*

**Key words:** CRYONICS, EUTHANASIA, RIGHT OVER BODY, RIGHT TO PRIVACY, RESPECT FOR AUTONOMY.

**1. Introduction**

Questions on the meaning and purpose of life and what happens to the body and soul after death, how should a man live, and can he choose to die, have been raised and discussed by philosophers since ancient times. There are continuous debates on the people's choice of eternal life on the one hand and release from the mortal body on the other. No final answers to either of them have come up. The former revolves around the cryonics movement and the latter on the ethical support for euthanasia.

---

\*Chirag Balyan is Assistant Professor of Law at Maharashtra National Law University Mumbai.

\*\*Prof. (Dr.) LK Deb is Head of Department at Maharashtra National Law University Mumbai.

Even medical science is at crossroads when it comes to the questions of life and death. New developments in science and technology bring hope to persons terminally ill, for being brought back to life again. Medical death has been challenged by the cryonics movement pioneered by Ettinger<sup>1</sup>, whose hypothesis is that even after the death of an individual, life can be restored if the body is preserved scientifically. This process he termed as cryonics<sup>2</sup>. Cryonics belies all the truths of mortality of mankind.<sup>3</sup>

There are also people who, when unable to lead a life of quality and to whom doctors can't promise a normal life, demand euthanasia. It is paradoxical that on one end medical science is optimistic about future technology and on the other, skeptical in promising a decent life to a person lying in a vegetative state<sup>4</sup>. The aim of this paper is not to go into the philosophical, ontological and religious aspects of life and death, but to examine this paradox of truth of death as well as faith in life in the interplay of cryonics and euthanasia in the choices people make and the policies and law adopted by the State.

## 2. The Journey of life and certainty of death

Human life begins in the womb and ends in the tomb. In between the two is a journey towards certain death. The quality of life and riches can't save one from inevitable death. Martin Heidegger, a German philosopher says that death is not something which happens to oneself; it is the integral part of an individual. He says there is persistent movement towards the death of an individual which is bound to happen.<sup>5</sup>

---

<sup>1</sup>ROBERT ETTINGER, THE PROSPECT OF IMMORTALITY 1 (1964)

<sup>2</sup>The term cryonics was first used in mid 1960's by Karl Werner. Cryonics has also been a subject of various fiction films like Vanilla Sky, Vanilla Sky and Futurama (an animated series).

<sup>3</sup>Chirag Balyan & LK Deb, *Life beyond Life ? Legal Implications of Cryonic preservation*, 5 BHARATI LAW REVIEW, 12-25, 12 (2017).

<sup>4</sup>The complete absence of behavioural evidence for self or environmental awareness. There is preserved capacity for spontaneous or stimulus-induced arousal, evidenced by sleep-wake cycles. .i.e. patients are awake, but have no awareness.

<sup>5</sup>*Internet Encyclopaedia of Philosophy, Martin Heidegger (1889—1976)*, (April 10, 2017, 10:00 AM), <http://www.iep.utm.edu/heidegge/>

However, people have been searching for immortality since ages. The epic of Gilgamesh, composed about 4000 years ago in Mesopotamia, depicts the story of a valiant king, Gilgamesh's journey seeking reality of life and death.<sup>6</sup> After witnessing death of his close friend, Gilgamesh was anxious to find a cure for death. In this journey, even though he was discouraged by everyone including animals, Gilgamesh was adamant on finding some solution to avoid death. He then met Utnapishtim (a Mesopotamian Noah who had achieved immortality).<sup>7</sup> Gilgamesh approached Utnapishtim for advice, but he was surprised when he saw the immortal itself ageing. Ultimately, Gilgamesh having failed in all efforts went back home depressed and disappointed.<sup>8</sup> Gilgamesh epic is cited often to illustrate inevitability of death and the desire of humans to become immortal. This urge to become immortal has often resulted in practicing weird things to conquer death like consumption of chemicals, holding of breath, intake of 250 nutritional supplements per day.<sup>9</sup>

One recent scientific endeavour in this regard is the possibility of success of cryonic suspension wherein a dead body is preserved at a very low temperature with a hope of revival through future advances in medical science.<sup>10</sup> The motivation which lies behind the cryonics movement is the human desire for life extension. As the trans-humanist Nick Bostrom claims, we all have an intrinsic desire to stay alive and healthy; "when presented with a real world choice, most would choose the path of prolonged life, health, and youthful vigour over the default route of aging, disease, and death".<sup>11</sup>

However, cryonics doesn't reject the idea of death. It also doesn't guarantee immortality to mankind. Cryonics just treats 'state of death' as a disease which can be cured in future. Till the cure is found, the body is preserved to avoid deterioration to tissues, organs, cells etc. On the other hand, Donaldson, a leading figure of the cryonics movement, states that legal death is a social construct, designed with the intention of justifying the termination of care of dying

---

<sup>6</sup>N.K. Sanders, *The Epic of Gilgamesh*, 3-27 (April 10, 2017, 10:00 AM), <http://www.aina.org/books/eog/eog.pdf>

<sup>7</sup>id

<sup>8</sup>id at p. 22

<sup>9</sup>*The Meaning of Life, From Great Issues in Philosophy* by James Fieser

(April 10, 2017, 10:00 AM), <https://www.utm.edu/staff/jfieser/class/120/1-meaning.htm>

<sup>10</sup> Chirag Balyan & L.K. Deb, *supra* note 3 at p. 13

<sup>11</sup>Rebekah Cron, *Is Cryonics an Ethical Means of Life Extension?*, 1-29, 3 (April 10, 2017, 10:00 AM),

<https://philpapers.org/archive/CROICA-2.pdf>

patients. He goes on to say in this way, the health care system fails the sick and the dying; it is simply a form of euthanasia whereby those most in need are abandoned.<sup>12</sup>

### 3. The Interplay of Cryonics and Euthanasia

Cryonics is the process of storing a dead body by freezing it until science has advanced to such a degree that it is able to bring that person back to life.<sup>13</sup> A body preserved in this manner is said to be in cryonic suspension. The hypothesis is that if a person has died due to a disease or an incurable condition, then the body of such person can be preserved and stored at either the temperature of liquid nitrogen or liquid helium until medical and scientific advances find a cure for such incurable illness that brought about death. The cryonically suspended body is then taken from the container/coffin, thawed, revived, repaired and given a new life.<sup>14</sup> Pioneer of cryonic movement, Robert Ettinger contends that, "If civilization endures, medical science should eventually be able to repair almost any damage to the human body, including freezing damage and senile debility or other causes of death."<sup>15</sup> The process of cryonics ideally begins within the first two minutes after the heart stops beating, and preferably within 15 minutes of death to prevent bodily damage.<sup>16</sup>

The timing is very much essential for the process of cryonics. Cryonics can only be administered to people who have been declared legally dead.<sup>17</sup> For effective cryonic suspension, control over the process is very essential. The essential part of this process is the legal declaration of death of an individual. In most of cases due to procedural formalities it takes sometime even after the death of an individual to declare a person legally dead. Therefore, very important time is lost by the doctors before the process of cryonics can be administered. This loss of time is fatal to the process of cryonics as the body starts degenerating. Several times demands have been raised that if a terminally ill and incurable person is allowed to take his or

---

<sup>12</sup>Thomas Donaldson, *Prospects of a cure for 'death'*, 1-29, 11, (April 10, 2017, 10:00 AM), <http://www.alcor.org/Library/html/ProspectsOfACureForDeath.html>

<sup>13</sup> *Cambridge Dictionary*, (April 10, 2017, 10:00 AM), <http://dictionary.cambridge.org/dictionary/english/cryonics>

<sup>14</sup>George P. Smith, *Intimations of Immortality: Clones, Cyrons and the Law*, 6 U. NEW S. WALES L. J. 119, 126 (1983).

<sup>15</sup>ROBERT ETTINGER, *Supra* Note 1 at p. 1

<sup>16</sup>*See, Stephanie Watson, How cryonics is performed?* (April 10, 2017, 10:00 AM), <http://science.howstuffworks.com/life/genetic/cryonics2.htm>

<sup>17</sup>*Frozen body: Can we return from the dead?*, (April 10, 2017, 10:00 AM), <http://www.bbc.co.uk/science/0/23695785>

life then it would be easy and beneficial for cryonic suspension. This process is called euthanasia. Euthanasia is the termination of a very sick person's life in order to relieve him from suffering. A person who undergoes euthanasia usually has an incurable condition. But there are other instances where some people want their life to be ended. In many cases, it is carried out at the person's request but there are times when they may be too ill and the decision is made by relatives, medics or, in some instances, the courts. The term is derived from the Greek word *euthanatos* which means easy death. Euthanasia is against the law in India where it is illegal to help anyone kill themselves.<sup>18</sup> However, recently in *Aruna Shanbaug case*, apex court has permitted 'passive euthanasia'. This simply means that life care support from terminally ill patient may be withdrawn in order to let such person die.<sup>19</sup>

Thus, the contention is that the cryonic preservation works better when the conditions of death are controlled. On the face of this contention, it is urged that to carry out the process of cryonics properly killing someone prematurely should be allowed. Under this condition, cryonic suspension could be carried out before natural death, leading to a heightened chance of preserving all the necessary neural and bodily information for revival.<sup>20</sup> In fact, some people may want cryopreservation to begin before any illness takes hold, especially in cases of mental illnesses such as dementia, where repair is likely to be difficult in the future.<sup>21</sup> Currently, cryonics centres can only preserve those who are already 'legally dead', as to do otherwise would amount to culpable homicide or an assisted suicide. Therefore, in light of cryonics, euthanasia shouldn't be seen as an act of killing someone but, a 'medico-legal pause' in life, which can be resumed once cure for the disease or condition is available. This has serious

---

<sup>18</sup> *Ethics of euthanasia – introduction*, (May 01, 2017, 11:00 AM), <http://www.bbc.co.uk/ethics/euthanasia/overview/introduction.shtml>

<sup>19</sup> Supreme Court of India held that non-voluntary passive euthanasia is permissible subject to conditions, safeguards and procedure laid down herein, while active euthanasia and assisted death continue to be illegal. Active euthanasia which involves administration of lethal dose to a patient, is a crime all over the world except where it is permitted by appropriate legislation. Passive euthanasia which involves withdrawal of life-saving measures, is permissible even

without any supporting legislation, provided certain conditions are met and safeguards observed, *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454

<sup>20</sup> *Rebekah Cron*, *Supra* Note 11 at p. 15

<sup>21</sup> *David Shaw*, *Cryoethics: Seeking Life after Death*, 23(9) *BIOETHICS* 515-521, 519 (2009)

implication in the manner how we define death.<sup>22</sup> The pro-cryonic argument advocates that meaning of the term death need to be revisited in light of scientific advancements wherein anything and everything is possible in future. According to Ettinger, biological death is the only one accepted by biologists and if this is so, we cannot truly call a cryonics patient dead;<sup>23</sup> because, “if we use extreme freezing to prevent deterioration, sooner or later ‘currently known means’ will be adequate, and the body will no longer be regarded as dead”<sup>24</sup> The cryonics patient is thus dead by today’s criteria, but has the potential to be alive again, much as “a drowning victim... may be helped by a respirator”<sup>25</sup> It is further suggested by cryonists that it is our moral duty not to bury or cremate dead. It is argued that if there is the potential of restoring life then we should not abandon people to certain death, just as doctors would attempt to revive someone who had had a cardiac arrest.<sup>26</sup> According to scholars, the cremation or burial of a person who could have been revived by future technology amounts to murder. Merkel pinpoints that, “A common misconception is that cryonics freezes the dead. As the definition of ‘death’ is ‘a permanent cessation of all vital functions’ the future ability to revive a patient preserved with today’s technology implies the patient wasn’t dead...present medical practice has erred in declaring a patient ‘dead’...a second opinion from a future physician – one with access to a fundamentally better medical technology based on a mature nanotechnology – lets us avoid the unpleasant risk that we might bury someone alive.”<sup>27</sup>

Ben Best give insights into the legal problems associated with the cryonics.<sup>28</sup> A case cited by him shows that death certificate may not be sufficient for cryopreservation. Members of the Cryonics Society of New York (CSNY) were served letter from the State of New York Department of Public Health. Health department asserted that,

...we do not consider these bodies to be decently buried as required by section 4200 of the Public Health Law... You should note that violation of the Public Health Law is a

---

<sup>22</sup>See, D. HENDIN, DEATH AS A FACT OF LIFE, 25 (1973); R. Ettinger, LASTING INDEFINITELY, 64 (1965).

<sup>23</sup>Rebekah Cron, *Supra* Note 11 at p. 11

<sup>24</sup>Robert Ettinger, *Supra* Note 1 at p. 93

<sup>25</sup>*id*

<sup>26</sup>Rebekah Cron, *Supra* Note 11 at p. 12

<sup>27</sup>Ralph C. Merkle, *Cryonics*, (May 01, 2017, 11:00 AM), <http://www.merkle.com/cryo/>

<sup>28</sup>Ben Best, *Cryonics, The Issues, Examples of Legal Problems*, (May 01, 2017, 11:00 AM), <https://www.benbest.com/cryonics/cryiss.html>

misdemeanour. In addition, the Commissioner of Health may assess a penalty of One Thousand Dollars a day for each day you fail to comply with section 4200.

Ultimately, the bodies of the three people were returned to their relatives, and CSNY ended its cryopreservation program.

Interesting outcomes can also be found in the *Case of Dora Kent*<sup>29</sup>. Dora Kent was the 83-year old mother of Saul Kent, a man who has done much to promote life-extension and cryonics. In December 1987 Saul Kent moved his mother to the Alcor facility in Riverside, California where a cryopreservation team froze her. The cryopreservation team included a medical doctor who was not present in the facility when Dora Kent's heartbeat and breathing stopped shortly after midnight. Although the physician signed the death certificate the next day, the cryopreservation team proceeded with the cryopreservation protocol immediately after Mrs. Kent's death. Because she was a neuro case, Dora's head was removed and cryopreserved. Two weeks later, on January 7, 1988, Coroner's Deputies entered the Alcor facility with a search warrant, looking for Dora Kent's head. When the deputies discovered that the head had been removed, they handcuffed 6 members of the cryopreservation team and took them to the Riverside County Jail. Although the team was released, 5 days later the Alcor facility was attacked by a SWAT team and by UCLA police, who ransacked for 30 hours, confiscating Alcor's records, \$5,000 worth of medicines and 8 computers as well as other equipment. Alcor had purchased items from the UCLA Surplus and Excess Property Department, and some of these items still had the letters UCLA on them. Alcor was able to obtain a Temporary Restraining Order to keep the patients from being thawed.<sup>30</sup> Judge Timlin wrote:

This court concludes that the Adherents, including Dora Kent, under Article I, section I of the California Constitution and the Fifth and Ninth Amendments to the United States Constitution have a privacy right to exercise control over his/her body and to determine whether to submit his/her body, or any portion thereof, including the brain, to pre-mortem

---

<sup>29</sup> In *Kent v. Trask*, 20-1022 (Super. Ct. Cal., Dec. 15, 1989).

<sup>30</sup> Ben Best, *Supra* Note 28

cryonic suspension. In ruling on the application, this court in no way comments directly or indirectly on the wisdom of such a choice.<sup>31</sup>

The *Case of Dick Clair Jones* relates to the Emmy Award-winning producer-writer of “The Facts of Life” and “Mama's Family”. When Jones was admitted to a Los Angeles-area hospital as a result of a life-threatening AIDS-related infection, the hospital declared that it would not co-operate with ALCOR, or release Jones' body to ALCOR after death. Moreover, the State of California Department of Health Services (DHS) took the position that “Alcor does not have the legal right to have or hold human remains”, holding that state law authorized only four methods of disposal of remains: (1) cremation, (2) burial, (3) shipment out-of-state, and (4) donation for scientific purposes. The DHS declared that anything not specifically legal must be illegal. Dick Jones and ALCOR filed suit against both the hospital and the DHS. A court order was obtained against the hospital, which cooperated with ALCOR when Jones was suspended upon his death in December, 1988. ALCOR fought the DHS in California courts, ultimately winning in June, 1992.<sup>32</sup>

The *Curious Case of Dr. Donaldson* is about one Dr. Donaldson, who needs to commit suicide before his brain tumour kills him. His desire to die does not stem from mental illness or depression, but from his belief in cryonics. He wants to end his life because he believes he has the chance to live again without the tumour. However, time is against him. He risks dying before he can take his own life and so needs to cryopreserve himself soon, because any chance of reanimation depends upon minimising the amount of damage to his brain by the tumour. Furthermore, he relies upon the staff at ALCOR to assist him, who would be breaking the law. In fact, they are likely to be charged with murder, or assisted suicide.<sup>33</sup> Moreover, in any case of suicide, the law states that an autopsy must be performed (which would destroy any prospect of successful cryonic suspension).<sup>34</sup> Donaldson had sought “judicial declaration that he has a

---

<sup>31</sup> Kent, *Supra* Note 29 at p. 11

<sup>32</sup> Ben Best, *Supra* Note 28

<sup>33</sup> John LaBouff, *He Wants To Do What? Cryonics: Issues in Questionable Medicine and Self-Determination*, 8(2) SANTA CLARA HIGH TECHNOLOGY LAW JOURNAL. 469 (1992).

<sup>34</sup> Perry, R. Michael, *Options for Elective Cryopreservation*, (Jan 02, 2017, 7:30 PM), <http://www.alcor.org/magazine/2012/02/17/options-forelective-cryopreservation/>

constitutional right to cryogenic suspension pre-mortem with the assistance of others.”<sup>35</sup> The court acknowledged that “to determine whether Donaldson has suffered a violation of his constitutional rights, we must balance his interests against any relevant state interests.” The court then listed the state’s relevant interests in “preserving human life, preventing suicide, protecting innocent third parties such as children, and maintaining the ethical integrity of the medical profession.” The court, however, refused to balance these interests, and hastily concluded that Donaldson had no right to assisted suicide. The Court’s didn’t decide the case by balancing the competing interests. Rather, courts distinguished between the passive euthanasia and the active euthanasia (assisted suicide) and ruled that, Donaldson does not have a constitutional right to assisted suicide.

This premature conclusion precluded the court from addressing Donaldson’s compelling reasons to seek cryonic suspension before his natural death. The court failed to consider Mr. Donaldson’s desire to be cryogenically preserved with the hopes of future reanimation. Assisted suicide for the purpose of absolute death, and assisted suicide for the purpose of seeking future medical treatment are vastly different, and the court should have focused on those differences. Although most states have determined that state interests outweigh the asserted right to assistance in committing suicide, balancing the particular interests involved in achieving pre-mortem cryopreservation would result in a different outcome.<sup>36</sup>

Ryan Sullivan argues that<sup>37</sup>, in the case of a terminally-ill brain cancer patient seeking pre-mortem cryopreservation, if the physician acts passively, and allows the cancer to consume the patient’s brain, absolute death will result. On the other hand, if the physician takes affirmative action to assist the patient in achieving clinical death before the cancer advances, the physician offers the patient a chance at future life. Thus, the active/passive distinction is a legal fiction, and should not be considered when determining whether a patient’s right to privacy conflicts with state interests in maintaining medical ethical integrity. Instead, the patient’s asserted right to privacy should be assessed on its merits, and balanced against the purpose of

---

<sup>35</sup> Donaldson v. Lungren, [4 Cal. Rptr. 2d 59, 60 (Cal. Ct. App. 1992)].

<sup>36</sup> RyanSullivan, *Pre-Mortem Cryopreservation: Recognizing a Patient’s Right to Die in Order to Live*, (2010). COLLEGE OF LAW, FACULTY PUBLICATIONS. PAPER 191. p. 76, (May 11, 2017, 5:30 PM), <http://digitalcommons.unl.edu/lawfacpub/191>

<sup>37</sup> *id* at p. 80

maintaining the physician's ethical integrity. The underlying goal of medicine is to preserve life. This goal runs in parallel with the theory of cryonics, not adversely to it. Legislatures and courts have drawn a distinction between the right to refuse treatment and the right to assisted suicide. A similar distinction should be drawn between the right to assisted suicide involving a patient seeking permanent death, and the right to assisted suicide involving a terminally-ill patient seeking to extend his life.<sup>38</sup>ALCOR on this case opined that under certain circumstances cryonic suspension may be permitted considering the contradictory rights of State and individual.<sup>39</sup>Donald's case is illustrative of the legal hurdles for the cryonics movement.

Dr. Donaldson's case is an extreme one. In allowing a person to commit suicide before he has any illness or disease with the hope of cryopreservation is problematic. The iota of success of cryonics is marginal. The pertinent question is should we then put at stake this present life in the hope that science will make the new life better? The argument as put in Donaldson is too futuristic and is barrier to living in the present. Even, cryonics doesn't guarantee a better future. Whenever a person's life is restored, he may not be fit for living in the future society. ALCOR themselves state; "Cryonics suspension patients are legally dead. Not alive, not in between, but DEAD. How we as cryonicists think of our patients has absolutely no influence on this label...it is merely a label, and labels can be changed. But until we can prove that cryonic suspension patients have a high likelihood of being revivable, we have to play the game"<sup>40</sup>

## 5. The Extent and Limits of Individual choice

The issues of both cryo-preservation and euthanasia revolve round the right of choice. They raise questions related to autonomy, right over body, right of choice (be it of life or death),<sup>41</sup> how law embodies such choice, and when should law facilitate such choice or obstruct

---

<sup>38</sup> *id*

<sup>39</sup> *The Thomas Donaldson Case*, 589-603, (Jan 02, 2017, 7:30 PM), <http://www.alcor.org/Library/html/Donaldson-VanDeKampAbstract.html>

<sup>40</sup> *Stephen Bridge, The Legal Status of Cryonics Patients: An Introduction*, (Jan 02, 2017, 7:30 PM), <http://www.alcor.org/Library/html/legalstatus.html>

<sup>41</sup>While right to life debate opens up the flood gate for right to abortion; right to die debate takes us to ethical and legal debate of validity of euthanasia. See, Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC; Saumya Rai & Sajid Sheikh, India's Abortion Laws Need to Change and in the Pro-Choice Direction, *The Wire* (May 11, 2017, 5:30 PM), <https://thewire.in/134182/abortion-pregnancy-law-india/>.

such choice? Here, the choice relates to that of an individual made before death. The status of a frozen body is uncertain.

If the frozen body could speak it would reiterate the basic metaphysical questions asked since the days of the early Greek philosophers. Who am I? A block of ice. Who am I? A living, comatose patient or a dormant, static body with the possibility of reverter. Why am I? A new human being now endowed with immortality through the triumph of life over death founded on man's current faith in the God called Technology.<sup>42</sup> Finding answers to these questions are important because be it cryonics or euthanasia, it is about exercising a pivotal right in respect of a body.

Almost all justice philosophies have kept individual at the central core. Autonomy and rationality of an individual is seen as the moral force behind justification of actions and the sanctions. Locke in the *Second Treatise of Government* (1689) argues that each individual is the proprietor of his or her (divinely endowed) physical and mental talents, abilities, and energies. The individual thus constitutes the basic unit of social and political analysis for Locke.<sup>43</sup> Immanuel Kant suggests that individuals are rationale beings and that's why they shouldn't be treated as means but an end in themselves. John Stuart Mill, the English philosopher has advocated the maximum liberty to person, subject to the 'harm principle'. Now, the point that requires analysis is that, do these individual centric philosophies suggest that an individual can decide the questions of life and death? Whether, State should have any say in it?

There is an ongoing debate that whether a person has a right over his or her body? Recent arguments made by the Attorney General of India Mr. Mukul Rohatgi in a case concerning right to privacy have made many raise their eyebrows. He argued before the apex court that individuals don't have an absolute right over their body.<sup>44</sup> If this particular argument of Attorney General is accepted than it may have far reaching consequence on the cryonics movement as

---

<sup>42</sup> George P. Smith, *The Ice person Cometh: Cyronics, Law and Medicine*, 1 *HEALTH MATRIX* 23-35 (1983)

<sup>43</sup> Locke is considered as proponent of the doctrine of "possessive individualism" par excellence. See, *Individualism - Liberalism And Individualism - Liberty, Hobbes, Natural, and Locke - JRank Articles*, (May 05, 2017, 09:00 PM), <http://science.jrank.org/pages/9785/Individualism-Liberalism-Individualism.html#ixzz4grFHh1H1>

<sup>44</sup> *Aadhaar case: Mukul Rohatgi is wrong. 'Bodily integrity' is sacrosanct*, (May 05, 2017, 09:00 PM), <http://www.hindustantimes.com/editorials/aadhaar-case-mukul-rohatgi-is-wrong-bodily-integrity-is-sacrosanct/story-EghyEtXCUDkaw3RQ9TJ9qO.html>

well as pro-euthanasia argument. It is submitted that, the argument advanced by Attorney General is regressive. In *Union Pacific R. Co. v. Botsford*, an US case it was rightly held that “No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law.”<sup>45</sup>

Rousseau contended that man is born free and everywhere he is in chains.<sup>46</sup> Individual body is the center of rights. Some rights are surrendered to what Hobbes would term as Leviathan.<sup>47</sup> Hence right over the body during the life and after the death remains with an individual. Robert Nozick’s idea of the minimalist State also advocates for the least interference with the individual liberty.<sup>48</sup> The philosophers of ancient Greek were of the opinion that quintessential for living a good life is the control over manner and method by which one die. The possibility of cryonics or euthanasia depends much on the legal and regulatory framework of the State. For, to choose either of them an individual must have a right to choice. A person when in a vegetative state should be able to choose if he wants to die. A person should be able to choose that what should happen to his or her body after their death. The relatives or guardian or in some cases doctor should also have this right to choose or to enforce such right because in many cases a person himself may not be able to choose or enforce his or her wishes. It is in this rights framework that the justifiability of the cryonics and euthanasia should be determined.

In *Re JS (Disposal of Body)*, United Kingdom High Court of Justice, Family Division rendered a path breaking judgment by allowing a 14-year-old minor girl, suffering from cancer, to be cryogenically preserved, as per her wish, after death.<sup>49</sup>

The cases of obstruction generally would be public health grounds, ethical and policy questions which have bearing on society at large.

## 6. Conclusion

---

<sup>45</sup> *Union Pac. R.R. v. Botsford*, [141 U.S. 250, 251 (1891)].

<sup>46</sup> *Jean-Jacques Rousseau (1712-1788)*, (May 05, 2017, 09:00 PM), <http://www.rjgeib.com/thoughts/rousseau/rousseau.html>

<sup>47</sup> THOMAS HOBBS, *LEVIATHAN*, (1651).

<sup>48</sup> ROBERT NOZICK, *ANARCHY, STATE & UTOPIA*, (2013)

<sup>49</sup> *JS v. M and F*, High Court of Justice, Family Division, [2016] EWHC 2859 (Fam)], Judgment dated 10th November 2016.

Cryonics and Euthanasia are not necessarily antithesis or even complementing each other. Those choosing cryonics repose hope and trust on medical science for future revival. Euthanasia emphasizes the motive of benefiting the person who is assisted to die because well-being is a key value in relation to the morality of euthanasia. The common link between the two is respecting the choice made with regard to one's life and body. Further, procryonists has always advocated cause of euthanasia as a means to cryopreservation, as the former helps in better control over the process of cryonics. As discussed earlier, this viewpoint appears to be legally and morally questionable.

As science and technology progresses and more people opt to be cryonically preserved the question of choice will be raised again and again. The decision of the judge of the UK High Court in *Re JS (Disposal of Body)* reflects that respecting the choice of a person is a good option. However, any decision to allow a choice either for euthanasia or cryonics should take into consideration the four cardinal principles of biomedical ethics viz. Respect for autonomy, non-maleficance, Beneficence and Justice.<sup>50</sup>

---

<sup>50</sup> TOM L. BEAUCHAMP AND JAMES F. CHILDRESS, PRINCIPLES OF BIOMEDICAL ETHICS (OUP, 2009).