

An In-Depth Review on Legality and Relevance of Euthanasia

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Abstract. The word *euthanasia* Triggers a spate of Controversy worldwide as there are different forms of practicing *euthanasia*. When a person ends his life by his own act it is called “suicide” but to end life of a person by others though on the request of the deceased, is called “euthanasia” or “mercy killing”. This paper intends to discuss what *euthanasia* is and its possible application in three different occasions of a living person since very birth. In ancient world how the practice of self-destruction was a customary, what was the viewpoint towards the eradication of life of different religions like Hindu, Muslim, Christian, Jains, Buddha and Sikh. Though the purpose of suicide and *euthanasia* is self-destruction but there is clear difference between the two. *Euthanasia* may be classified in five categories and also there are various ways for its implementation. These apart the opinion of sociologists regarding *euthanasia*, its legal position in Indian Penal Code and other laws in vogue, so also the position of different countries of the world are all taken for consultation. Although the Supreme Court has already given its decision on this point but still some hesitation arise in our point which we need to examine carefully. Finally, arguments are put forward for and against legalizing *euthanasia* and this article has been ended with a definite remark in favour of legalizing passive *euthanasia* in India.

Key words: *Euthanasia, triggers, Mercy killing, Suicide, Voluntary euthanasia, Passive euthanasia.*

INTRODUCTION

Every human being is wishful to live and enjoy the fruits of life till he dies. But sometimes a human being is anxious to end his life by use of uncommon means. To end one's life in an unusual way is a sign of abnormality. When a person ends his life by his own act, we call it “suicide” but to end life of a person by others though on the request of the deceased, is called “euthanasia” or “mercy killing”.

Euthanasia is mainly connected with people with extreme illness or who have become paralyzed and don't want to go through the rest of their life suffering. A seriously handicapped or terminally ill person should have the right to choose to live or die. The right to choose to live or die should not be a right assigned for bodied individuals of sound mind but to all human beings. *Euthanasia* is a contentious issue which encompasses the morals, values and beliefs of our society.

Euthanasia has been a much discussed issue through out the world. The debate has become increasingly remarkable because of the recent development in Netherlands and England *euthanasia* has been permitted. As a result, many of the nations across the world are now vehemently debating whether or not to follow the Dutch example. Recently our Supreme Court in *Aruna Shanbaug case* has already given its decision on this point and allowed passive *euthanasia* in India.

The word euthanasia originated from the Greek language means a peaceful death. It also means the intentional termination of life at the explicit request of the person who dies. However, euthanasia includes different forms in practice which can be broadly categorized 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 entails painlessly putting individuals to death for merciful reasons, and when a doctor administers lethal dose of medication to a patient.

Passive or negative: - euthanasia is passive when death is caused because a treatment that is supporting the life of the patient is held off and the patient dies as a result thereof. For example, removing life supporting devices from a serious patient, extracting which, the patient dies. In "passive euthanasia" the doctors are not actively killing anyone; they are simply not saving him.

Voluntary: - It is voluntary when the euthanasia is practiced with the bidding and consent of the patient. Voluntary euthanasia is primarily concerned with the right to choice of the terminally ill patient who resolves to end his or her life, choice which serves his/her best interest and also that of everyone else.

Involuntary: - When the patient is killed without clear desire to his effect, it is a form of involuntary euthanasia. It refers to cases wherein a competent patient's life is brought to an end against the wishes that patient oppose euthanasia; and would clearly amount to murder.

Non-Voluntary: - It refers to ending the life of a person who is not intellectually competent to make an informed request to die, such as a comatose patient. In Non-Voluntary euthanasia the patient has left no such living will or given any advance directives, as he may not have had an opportunity to do so, or may not have expected any such accident or phenomenon. In cases of non-voluntary euthanasia, it is often the family members, who make the decision.

Objectives: The objective of discussing euthanasia is extremely important now-a-days because of the breakdown of family life the severe critical diseases, the improvement of medical technology and the importance attached to productivity of human life which comes into play. The whole thrust of this paper is-

- The proponents of physician-assisted suicide tell that an individual's right to autonomy automatically entitles him to choose a painless death.
- The opponents feel that a physician's role in the death of an individual violates the central tenet of the medical profession.
- To know about the conventions about Euthanasia,
- To study the legislation in some countries relating to euthanasia.

Methodology: This study employs a descriptive methodology, collecting secondary data from a range of sources including journals, articles, google and numerous publications. Following that the information is analysed in order to arrive at a reasonable conclusion and construct significant insights.

Arguments for Euthanasia:

- a) Euthanasia provides a way to relieve extreme pain.
- b) Euthanasia provides a way of relief when a person's quality of life is low.
- c) Euthanasia frees up medical funds to help other people.
- d) people should not be forced to live.

- e) Speedy termination of physical and emotional suffering.
- f) Relieve mental suffering for the patient and his relatives.
- g) Mercy killing in terminally ill patients provides an opportunity to advocate for organ donation.
- h) The right to refuse medical treatment is well recognized in law, including medical treatment that sustains or prolongs life.
- i) That people have a right to self-determination, and thus should be allowed to choose their life.
- j) Assisting a subject to die might be a better choice than requiring that they continue to suffer.

Arguments against Euthanasia:

- a. Euthanasia demeans and devalues the sanctity of human life.
- b. Euthanasia will become non-voluntary.
- c. Euthanasia would not only be for people who are terminally ill.
- d. It amounts to murder and it is only God who can take away human life.
- e. It discourages scientists who are looking for a cure for incurable ailments.
- f. Legalizing euthanasia will place society on a slippery slope, which will lead to unacceptable consequences.
- g. Euthanasia might not be in a person's best interests, for example, getting old-aged parents killed for property will.
- h. Allowing euthanasia undermines the commitment of doctors and nurses to save lives.
- i. Euthanasia may become a cost-effective way to treat the Terminally ill.
- j. Euthanasia gives too much power to doctors. Trends of euthanasia in different Countries:

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Australia

The Northern Territory of Australia became the first country to legitimize euthanasia by passing the Rights of the Terminally Ill Act, 1996. It was held to be legal in the case *Wake v. Northern Territory of Australia*¹² by the Supreme Court of Northern Territory of Australia. But later a successive legislation that was the Euthanasia Laws Act, 1997 made it again illegal by repealing the Northern Territory legislation.

Euthanasia in United States 1. Doctors are permitted to prescribe lethal doses of medicine to terminally ill patient in five US states. Euthanasia, however, is illegal. In recent years, the "aid in dying" movement has made incremental gains but the issue remains. Oregon was the first US state to legalize assisted suicide. The law took effect in 1997, and allows for terminally ill, mentally competent patients with less than six months to live to request a prescription for life-ending medication. More than a decade later, Washington State approved a measure that was modelled on Oregon's law. And last year, the Vermont legislature passed a similar law. Court decisions furnished the practice legal in Montana and most recently, in New Mexico.

Euthanasia in the Netherlands The Netherlands was one of the first countries to permit active euthanasia. Euthanasia became legal in the Netherlands with the April 12th 2001 law, entitled the "law for the Termination of life on Request and Assisted Suicide", which became effective on April 1st, 2002. The law stipulated five criteria for granting a euthanasia request: *The patient's request shall be voluntary and well considered. *The patient's suffering should be unbearable and hopeless. *The patient shall be informed about their situation and prospects. *There are no available reasonable alternatives. *Further, another physician should be consulted; and Euthanasia should be performed with due medical care and attention.

Belgium

The Belgian Parliament legislation 'Belgium Act on Euthanasia' was made euthanasia legal in May, 2002 which is quite similar to that passed in the Netherlands.

Canada

In Canada, patients have the right to refuse life sustaining treatments but they do not have the right to demand for euthanasia or assisted suicide. In Canada, physician assisted suicide is illegal as per section 241(b) of the Criminal Code of Canada. The Supreme Court of Canada in *Sue Rodriguez v. British Columbia (Attorney General)*", said that in the case of assisted suicide the interest of the state will prevail over individual's interest.

Switzerland

According to Article 115 of Swiss Penal Code, suicide is not a crime and assisting suicide is a crime if and only if the motive is selfish. It does not require the participation of physician nor is that the patient terminally ill. It only needs that the motive must be unselfish. Switzerland has an unusual position on assisted suicide; it is legally allowed and can be executed by non-physicians.

Euthanasia in India Since March 2018, passive euthanasia is legal in India under strict guidelines. patients must consent through a living will, and must be either terminally ill or in a vegetative state. on 9th March 2018, the supreme Court of India, passed a historic judgement law permitting passive euthanasia in the country. This judgment was passed in a wake of pinkie Virani's appeal to lust highest court in December 2009 under the constitutional provision of "Next Friend". It is a landmark law which places the power of choices in the hands of the individual, over government, medical or religious control which sees all suffering as "destiny", The supreme court specified two irreversible condition to permit passive Euthanasia law in its 2011 law: (i) the brain – dead for whom the ventilator can be switch off (ii) These persistent vegetative state (PVS) for whom the feed can be tapered out and pain – managing palliatives be added , according to laid – down international specifications . The same judgment – law also asked for the disposing of 309, the code which penalizes those who survive suicide-attempts. in December 2014, government of India declared it's intention to do so.

Aruna Shanbaug case Aruna Shanbaug was a nurse working at the King Edward Memorial Hospital, Parel, Mumbai. On 27 November 1973 she was throttled and sodomized by Sohanlal Walmiki, a sweeper. During the attack she was strangled with a chain, and the deprivation of oxygen has left her in a vegetative state ever since. She has been treated at KEM since the incident and is kept alive by feeding tube. On behalf of Aruna, her friend Pinki Virani, a social activist, filed a petition in the Supreme Court arguing that the "continued existence of Aruna is in violation of her right to live in dignity" The Supreme Court made its decision on 7th March 2011 (After 36 yrs of immobility, a fresh hope of death, 2009). The court rejected the plea to discontinue Aruna's life support but issued a set of broad guidelines legalising passive euthanasia in India. The Supreme Court's decision to reject the discontinuation of Aruna's life support was based on the fact that the hospital staff who treat and take care of her did not support euthanizing her. She died from pneumonia on 18th May2015, after being in a coma for a period of 42 years.

Conclusion Today there is ranging dispute all over the world as to its legal standing aside from the moral and ethical issues involved. Having seen that the law is not unprepared to re-examine former rigid viewpoint towards the sanctity of life those in favour of Euthanasia reveal some zeal in supporting their views. The opponents of Euthanasia state that there are moral, religious and ethical obligations which cannot be ignored. They argue that no one has right to take away the life of an individual not even individual him or herself. The concept of sacredness of life is unalterable and doctor having taken an oath (The Hippocratic oath) to preserve life at all cost cannot justify a patient to die or passive means Euthanasia may be good for the person who is really in a severe pain but at same side it may be threatening if advantage is taken in wrong way, so it is must necessary that it should be done in a supervision with the rules. However, the result of implication of euthanasia needs to be reconsidered again at regular intervals depending upon the growth of society with regard to providing health care to disabled and terminally ill patients. The survey results will help in forming

rules of euthanasia. I personally believe that passive euthanasia should be legalised and protected by law. However, the legalisation of euthanasia must be accompanied with a number of definite and specific restrictions, which must be well thought out after a consideration of its effect as a public policy as well as an individual right.

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