



EUTHANASIA: IS IT A GOOD LAW?

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ABSTRACT

Euthanasia is the good death that the person seeks being on the death bed intentionally. It's the way of ending the life in an assisted manner through voluntary or involuntary basis in a protected manner. Through various countries, it may vary in different forms and there may be many complexities in the ethical, legal, religious, spiritual, social and cultural aspects which may put on retrospective and prospective glance in the field of Euthanasia. The outlook in the world may vary in different parts. Relatives and Acquaintances can't see their loved ones suffering on bed and hence, they get affected by heart. The third party intervention when it comes to the involving of a doctor is the showing up of the legal eye. Even if, the people who lose hope and want to die peacefully post progression of money spent on their health and injuries don't wish for the long survived vegetative state. The necessity is the merciful and secluded end to life which the doctors can succour. This should not be confused to abetment to death as it has been over the ongoing cases in the Indian Courts. The view from the Crime and Justice needs to be enhanced and the IPC needs to be refilled with the new sections and provisions of Euthanasia. The Indian Constitution although won't permit the Right to Die as against the Right to Life, but, the part of it can be sustained and needs to be focused upon. The precious present

state of people may not be affected and it can be a help and relief to many people in the family as well as the mind state of the conservative and reserved classes of people. The Living Will can be entertained as well and the legal validity of it should be accepted in a wide manner.

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“Death is not the opposite of Life, rather a part of it where it comes to talk about the meaningfulness of the survival.”

INTRODUCTION-

Euthanasia, as derived as the word comes from the Greek *euthanatos*, which means “easy death.” In English, *euthanasia* has been used in exactly this sense since the early seventeenth century, when Francis Bacon described the phenomenon as “after the fashion and semblance of a kindly & pleasant sleep.” Nowadays, the word usually refers to the means of attaining such a death.¹ The very term of Euthanasia is legally valid in some parts of the world when it comes to the various nations and guiding factors to it. One of the significant things that can help them out is the intention and motive behind the assisted death is fully fledged promotion by the family or the person ridden on the bed and no one else who can conduct the procedure itself alone. People argue upon some facts, circumstances and situations where one doesn't wish to stay with their current environment and thus, as an easy method to get rid of certain things, wish

¹Reference-<https://www.merriam-webster.com/dictionary/euthanasia>



to cut upon the thread and free themselves by ending up their lives. This method is very sarcastic when it comes to mature thoughts and mostly, today's younger generations are acquiring the lacunae how precious life is and how to make it shine in it's own way.

Taking back the case of practicability of the practice of an easy death, medical cases and emergency situations can be entertained with other precautions and practices like enhanced government support and palliative health care systems. Even if, compassionate health care communities can make the public aware of their exquisite lives and hence, control their nervous stimuli restricted to oneself for a longer life. Motivation and skills to create a good motive within the mind can make a person feel really special and confident about oneself. Hence, the person on death bed also can also be alive again if he gets an opportunity again to be mentally strong first. Organizations like EPCC in the North American countries like USA and Canada have already started such inspiring services and they focus on the purpose of Life.² Comparing to other scenario, grass is greener on the other side as well. People seriously want to give up their lives in serene but doltish manner not because of any medical reasons, but from such situations which strangulate them in day to day affairs.

2. HISTORICAL BACKGROUND-

Euthanasia was believed to have started long back in ancient Greece and Rome

around the fifth century B.C. Ancient Greeks and Romans tend to support euthanasia, they performed frequent abortions as well as both voluntary and involuntary mercy killings. Although the doctors were supposed to follow the Hippocratic Oath, prohibiting them from giving poison to the patient. This oath was strictly followed by them. During Middle Ages Christians and Jews have opposed suicide as it was contravening ones duty to one self and going against the Gods authority over life. During the 17th and 18th century the common law tradition had disapproved both the ideas of euthanasia and assisted suicide. But in the 18th century, a law was passed in Purssia that had reduced the punishment of a person who killed the patient with an incurable disease.

In 1828, for the very first time the American law the assisted suicide was declared as illegal, this was enacted in New York. But there were still many states in America who were still trying to get a law passed at state level. During the 1930s, the euthanasia had gained support both in USA and England. However when the World War Two broke out, to everyone's surprise that had changed euthanasia forever. Hitler and the Nazis killed thousands of people using euthanasia. They did this by gassing, drugs, and starving the people. By this the Americans grew less fond of euthanasia and put a halt on the euthanasia movement. The late 20th and early 21st century would be the time for euthanasia. Then the Netherlands had become the first country in the world to legalize

²Reference-<https://www.epcc.ca/about-us/purpose>



euthanasia, which was later followed by Belgium further Australia also allowed euthanasia for a brief time in the mid-90s. Then In 1998, some of the states of US also allowed euthanasia.

3. MORALITY OF EUTHANASIA-

Morality in real meaning says about the different intentions and the principles concerned about the good and bad behaviour. It shows two different pathways between what is right and what is wrong, of which a person has to choose one of them before conducting an act. This can witness the fairness of the situation and understand the situations and circumstances under which the action was undertaken and also, if the action suits the scenario at the very moment. The approach may be optimistic or pessimistic, but the mindset of the person enacting the action leads to another person speak about his morality. Morality guides the laws as well and sometimes, there is a need to take a brutal step to showcase the difference between right and wrong so as to provide absolute justice.

In order to connect, Morality and Death, one would turn from a healthy existing life to a posthumous non-existence where one can't return back to the normal life. It is assumed that death is painless and worst scenarios had led to the end of life and many more reasons may accustom this way en route death. In the medical scenario regarding Euthanasia, the question of morality lies because of a thin line of distinction between if it is better to let a person die and killing someone who is on the death bed undergoing sufferings

and severe pain. There is a need of the proper justification on row for debating the topic and stick to the roots of it of a question "WHY" a person is led to go for Passive Euthanasia and what factors led the doctor and the medico-legal committee approve of such an idea. The physical pain faced by the terminally ill patients lead them to mental suffrage and that increases further with time when the patients think there is no reason for their existence. Their existence is simply a havoc to the whole family and they are worth nothing. They think they are unnecessarily dependent upon their family members and they are the source of negative vibes for the whole family. Such feelings force them to think more about death and when, one person thinks more and more about death, the existence is belittled. Everything seems to be a challenge starting from dignity till peace.

4. LANDMARK CASES UNDER EUTHANASIA-

The soundness of permitting euthanasia is one of the debated issues in India. The euthanasia can be either active or passive. In India euthanasia is illegal and unless it is expressly permitted by law its seen as a crime. So the cases of mercy killing felt directly under the section 300 ,clause one of the Indian penal code,1860 and the doctor would be punished under the sec 304 of Indian penal code ,1860 which is for culpable homicide not amounting to murder and the exception to this is only applicable if it falls under voluntary euthanasia.



In the case of **Gian Kaur vs. State of Punjab**³, in this case the appellant along with her husband was convicted under sec 306 of Indian penal code, 1860 for abetting the commission of suicide by Kulwant Kaur. Here the trial court had sentenced to six years along with the fine of Rs.2000, whereas on the appeal to high court the conviction of both was kept the same only the sentence of Gian Kaur was reduced to three years. In this case the five constitutional bench held that both assisted suicide and euthanasia were unlawful in our country. It was also held that the right to life is inherently inconsistent with the right to die. The judgment of this case was overruling the judgment of **P. Rathinam vs. Union of India**⁴. This case also dealt with the right to die where the right to die was recognized and included under the right to life and liberty Article 21 of the constitution and along with that the legal validity of sec 306 and sec 309 of Indian penal code that is abetment of suicide and suicide was questioned. This case dealt with the difference between the euthanasia and suicide. Suicide is ending of the life in an abrupt manner when no terminal illness is known to have taken place whereas in the case of euthanasia or mercy killing the patient is suffering from incurable disease, this is the practice of intentionally ending the life to relieve pain and suffering.

ARUNA SHANBAUG CASE⁵- This case created a great impact and gave a new dimension to the euthanasia laws in our

country. The facts of the case stated that the petitioner Aruna Ramachandra Shanbaug was working as a staff Nurse in King Edward Memorial Hospital, Parel, Mumbai. On the evening of 27th November, 1973 she was attacked by a sweeper named Sohanlal Walmiki, who was working in the hospital. He wrapped a dog chain around her neck and tried to rape her but finding that she was menstruating, he sodomized her. In order to immobilize her during this act he twisted the chain around her neck. The next day, a cleaner found her in an unconscious condition lying on the floor with blood all over. It was alleged that due to strangulation by the dog chain the supply of oxygen to the brain stopped and the brain got damaged. Aruna Shanbaug continued to be in a vegetative state for 41 years and then she was diagnosed with pneumonia. In December 2010, Pinki Virani, who was the friend of Aruna and was also an activist-journalist filed a mercy killing petition in the Supreme Court which was later rejected in March 2007 but however the Supreme court legalized the passive euthanasia in our country.

In this case the court has explained the concept of euthanasia and its two types that is active and passive euthanasia. This classification was on the basis of the process in which it is carried out. Passive euthanasia is usually defined as withholding of medical treatment with deliberate intention of causing the patient's death. Here the doctors are not actively killing the patient rather they are simply not saving them by switching off the life-supporting machines, detaching the feeding tube and not carrying out any life extending operations nor providing the patient with any life extending

³REFERENCE - 1996 (2) SCC 648 : AIR 1996 SC 946

⁴REFERENCE-1994 AIR 1844, 1994 SCC (3) 394

⁵*Aruna Ramchandra Shanbaug v. Union of India*, 2011(3) SCALE 298; MANU/SC/0176/2011



drugs. Whereas in active euthanasia the medical professionals deliberately takes specific steps such as injecting the patient with poison to cause the his death . This is considered to be an intentional act in order to cause death of the patient so many moral questions were raised against it. A further classification of euthanasia is between voluntary euthanasia and non-voluntary euthanasia which is based upon the consent. □ In voluntary euthanasia a person makes a conscious decision to die and asks for help to do this so we can say that it is conducted on the consent of the patient. This is also known as assisted suicide whereas in case of non-voluntary euthanasia the consent of the patient is not available.

5. LEGALITY OF EUTHANASIA ACROSS THE WORLD-

It is humane and merciful as an idea when people aren't willing to stay for a longer period of time with inoperable and incurable situations being faced. Hopelessness is the last option of medical profession. It will sound inhumane and dangerous not to prohibit Euthanasia in different States, but, different states have different opinions and thoughts which may promote Active or Passive Euthanasia. A progressive society should limit its power over human beings instead of expanding it lest, it is gone out of control and people are in favour of a new medico-legal practice. Checks and Balances must be there to control the overuse and misuse of powers by the physicians. Otherwise, it would create psychological and technical situations beyond human endurance.

Recent studies have concluded the legality of Euthanasia in various states according to

the views of the people in the nation, on basis of relief of medical practice and the extent of deep thoughts by the nation towards the people who are suffering along with Constitution coming into play. The line of difference between active and passive Euthanasia has also come along to show the difference of mindset of various states.

Netherlands is the first country to legalise Euthanasia and assisted suicide in 2002. It was followed by Belgium and then, France in a disruptive manner where the president, François Hollande, promised to look at the "right to die with dignity" but has always denied any intention of legalising euthanasia or assisted suicide.⁶In European Union, it's alike in various countries as in Switzerland, Assisted Suicide is legal whereas Euthanasia isn't legal. So, they term these medical practices as very nearby to each other and respect the life and dignity of a human being. They focus on the maximum chances to save the life of a human being and help them to survive as long as they can. But, US has different laws varying across states within themselves and the glitch between various legislators to allow the euthanasia amongst various states is there on a trembling situation. Euthanasia is illegal in most of the states in the United States. The line of distinction separating euthanasia from assisted suicide is that, in cases of assisted suicide as per seen yet, an individual receives an assistance, but ultimately voluntarily causes their own death. It was concluded by the US Supreme Court that it's illegal for the doctors to assign lethal drugs to the dying patients.

⁶Source-

<https://www.theguardian.com/society/2014/jul/17/euthanasia-assisted-suicide-laws-world>



But, in case of Euthanasia, an individual does not directly end his own life, but another person acts to cause the individual's death with consent. But I greatly doubt upon the legalization of euthanasia until the gravity of the act won't turn into a criminal offence.

After Brexit, Euthanasia and Assisted Suicide are completely banned and is declared illegal in the UK. Previously also, assisted suicide was considered illegal under the terms of the Suicide Act of 1961 and because of evading laws, one can be punishable by up to 14 years' imprisonment mercilessly. Trying to kill yourself is not a criminal act. But, depending on the circumstances, euthanasia is regarded as either manslaughter or murder. The maximum penalty is life imprisonment. The subject of Euthanasia is a highly tendentious, emotive, cumbersome and a topic spread on labyrinthine, raising an array of perplexed principles, ethical merits, social tensions, philosophical imbalance, legal pitfalls and religious concerns which can bring many political issues in a State and it has also promoted the discussions and comparison of laws all across the world. But, in Canada, where suicide was decriminalized in 1972, the ideas of assisted suicide and voluntary euthanasia came into play in 2016. Being lenient, the loopholes of Euthanasia has recently shown increasing statistics of Parents wishing for Euthanasia for their sick kids. The motive and intention doesn't go hand in hand with the action which aggravates the situation of looking it from a criminal angle of Murder rather than a better work. This is where the system of checks and balances lack, people being criminal minded sway under the nose being

innocent and hence, sick kids sign off from life. Overlooking such issues, Russian Federation disagrees with passing the Bill of allowing Euthanasia to be legal in their nation. Similarly, it's completely banned and is illegal in Australia as well and also, the Islamic States in the Middle East where this is treated as a forbidden act and Allah has made a cure to every illness. Patience is what should be formulated instead of assisting someone for death and it seems more of a pessimistic approach.

6. CONCLUSION-

Euthanasia from the very starting has been a controversial subject because there are a number of different view points attached to it. There are some people who think euthanasia should be legalized because every person has the right to die in a dignified manner whereas as some people see it as a crime as it is against our morals and ethics. It came into lime light when the Supreme court passed the judgment on legalizing passive euthanasia in Aruna Ramchandra Shanbaug v. Union of India. Yet, there are many new and better laws like this to be passed.

According to our above discussions on the different aspects of euthanasia, what we believe is that voluntary euthanasia should be allowed in India and our legislature must make some special laws related to euthanasia keeping in mind the recommendations that were put forward by the Law commission of India in Aruna Shanbaug case. The law should be such where there is adequate safeguards in order to fight the loopholes and also to prevent the misuse of euthanasia. Peace is the ultimatum of everyone's life and all religions along



with communal parties will march definitely for this path. So, at the end it should be said that, medical practices like Euthanasia and Assisted Suicide may be promoted for self-satisfaction without any moral guilt but, it should be always placed under the ambit of law and order.

