

# Practice of Euthanasia in India

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*Abstract: The article discusses the practice of euthanasia and the contradictory views surrounding it. The article gives the historical perspective of the concept in the form of the views of various thinkers of the ancient times and the practices followed by various religions. The relevant case laws of the Indian judiciary have also been discussed before concluding with the clashing views of the societies and how India allows only passive euthanasia.*

*Keywords: Euthanasia, Indian Judiciary, Active euthanasia, Passive Euthanasia, Guidelines.*

## INTRODUCTION

Euthanasia could be seen to be a problem who has had a troubling impact on culture in the modern period. The position of the definition regarding its legality and ethical implications is rather doubtful and now the views on euthanasia are held by groups in different positions [1]. One group of individuals see it in a flattering perspective and more as an opportunity for the ailing soul to no longer exist in the hands of the ailing person, whereas the other set of individuals see it as an unethical act and think life too important to ever be given up on and can see the act as insulting. Such a problem needs a specific explanation and laws that would address the confusion surrounding the notion.

Euthanasia can be seen as a responsible way of ending the discomfort of a person when, because of his injury or sickness, struggles day and night. Euthanasia may also be demanded by patients if they suffer from a condition that is likely to cause cognitive problems or inability and move [2]. The controversy mostly in views of euthanasia stems from the fact that this just attacks the most important concepts of morality, which is that, in any way and in any manner, killing is wrong. Euthanasia is murder, seen from a typical Judeo-Christian view point, and a gross breach of the patriarchal order "that one should not kill."

"Derived from ancient Greek, the word "euthanasia" means "healthy death." Thus, for the intention of ending physical suffering, euthanasia is described as the elimination of human life by pleasant means [3]. Euthanasia is also often defined as killing the person rather than ending the life of a person who suffers from some terminal condition, often referred to as killing or dying mercy." Euthanasia is also described as "putting to death a person what cannot have a meaningful life because of illness or extreme old age or perpetual frustration or subject to rapid acute or chronic disintegration."

An act that ends the life of a person who seems to be terminally ill or suffering from an autoimmune disorder may also be described. This act of ending life may be achieved either by a fatal procedure or by suspending life support. In terminally ill patients, euthanasia is commonly referred to, although the word 'terminally ill' is very vague and involves people who suffer from life-threatening illnesses, including those who are in a chronic vegetative condition, within its scope [4][5].

Euthanasia can still be traced to the case of Karen Ann Quinlan, which continues as follows: in 1975, Karen went to a party where she drank some alcohol tranquilizers and fell into yet another involuntary coma because she was reluctant breathe without either a respirator and wanted to eat just one feeding tube. Her parents begged her to disconnect her from the respirator, but the physicians objected. This led to the Supreme Court case in New Jersey that brought the case to just the public eye. The dust mask was permitted to be disabled in 1976 by the Supreme Court. The case was a precedent which gave rise to the right of the patient to refuse unnecessary medical care. This case was followed in 1990 by the case of Nancy Cruzan, who had been living from an irreversible coma after a car accident in 1983. She was assisted by a computer that provided fluid intake and nutrition for her. Her mother allowed the elimination of this machine as the found it to be the dismissal of unnecessary care. The state of Missouri argued that this would mean starving her then killing them as a response. The US Supreme Court ruled that the provision of food and water administered deliberately is a care that patients can legally decline, even if it

leads to death. These cases allowed a policy to be adopted that acknowledges that lifesaving care is not always the correct thing to go and requires the termination of those procedures, which should be a passive type of euthanasia [6].

## PRACTICE OF EUTHANASIA

### *Historical background:*

The historian NDA Kemp states euthanasia to have originated in 1870. It was earlier practiced in Greece and Rome. Hemlock was the way to kill in such cases in the island of Kea, in Marseilles and in Athens. Socrates and Plato supported the practice of taking one's life if the conditions called for the same, though Hippocrates took his against the practice. He did not support advising any person to take his own life. The practice was also greatly opposed in Judeo Christian tradition [7]. Thomas Aquinas was of the opinion that "the practice of euthanasia contradicted our natural human instinct of survival. By describing the case of Diane in 1991 mostly in New England Journal of Medicine, Timothy E. Quill, a physician, presented the idea of a more aggressive type of euthanasia by presenting the case of Diane, a forensic psychologist of his who had been sick from acute leukaemia. Diane asked Timothy for either a way to make it possible for her life to end. In order to stop her life, he prescribed her sleeping pills and asked her the amount of them that needed to be taken. After 4 months, Diane committed herself."

The activity was expressly forbidden during the time of liberalism and under Protestantism. Suicide has never been seen as a sin in Japan, however, because euthanasia is not seen as the wrong in the region [8]. Hitler is not in opposition to the practise because the Nazi ideology was based on the principle of 'survival of the fittest,' and the euthanasia project was an intrinsic part of the Nazi extermination policy which eventually ended in the destruction of approximately six million Jews in Germany's gas chambers. "Although Nazi euthanasia was not based on compassionate or any compassionate cause, it was based on economic policy that "life unworthy of life" must be destroyed because its cumbersome existence hampers the growth and economic development of the country." In the early 19th century, the practise began to be seen as speeding up the dyeing process and ending pointless lives.

In ancient Hindu philosophy, the concept is also morally right as ready and able death. According to Hindu mythology, Lord Rama entered Jal Samadhi on the Sarayu River and Lord Buddha and Lord Mahavir chose similar ways. Mahatma Gandhi also embraced the concept of wilful death. It can therefore be said that the practise has been in existence till earlier times. Christianity has almost always assumed that it is.

### *Indian legal framework*

In India, attempting to face death is a crime. "Anyone who attempts to commit suicide and performs any act in order to commit such an offence shall be punished by simple minimum sentence of up to one year [or with a fine or both]." It was held in Queen Emperor v. Ramakka that under this clause a person could never be held guilty also because entity is in a state of planning and did not constitute an act that could be regarded as the beginning of the act [9].

It has been debated that Section 309 of the IPC violates the fundamental right provided for in Articles 21 and 14 of the Indian Constitution. In P., a division high court noted. "A division bench of the Apex court has found that section 309 of its code deserves to be removed from the state law book in order to humanise our penal laws," Rathinam V. Union of India said. It is a cruel law that makes a person suffer badly already and it is not in healthy relationships to suffer again through the IPC's prescribed punishment. Until Section 309 is not repealed as they contradict each other, the legalisation of euthanasia cannot come into force in India [10]. The same could be said about Section 306, which calls for suicide to be punished. To make the practise of euthanasia permissible, the marginalisation of certain laws is appropriate.

### *Constitution of India*

"Except in accordance with the regulation by law, no depriving a person of his life or personal liberty." This right has become one of the basic rights under India's constitution. This right, as it contains the right

to live, the right not to live, and indeed the right to have not been required to stay, is a positive prerogative given to students. Therefore, it requires the right to die or to be ready to end one's life. One should be willing to do as he wants to his body and that the thought of killing oneself does not interfere with or present a danger to just the peace and unity of society.”

The question as to whether Article 21 holds within itself the right to die or not was first considered in the case of *Maruti Sripati Dubal V. State of Maharashtra*.

*Case laws:*

In the case of *Maruti Sripati Dubal v. State of Maharashtra*, the debate over whether or not Article 21 has in itself the right to die was also considered. The Bombay High Court ruled that the right to life, including the right to die, was signed into law and Section 309 of the IPC was found to be illegitimate and in violation of Articles 14 and 21 of the Constitution of India. The high court stated that those who attempt suicide because of mental illnesses require psychiatric treatment and not confinement in prison cells where their condition is found to worsen and those who do so on "accounts of acute physical illnesses, including illnesses, torture or decrepit physical condition caused by old age or disability need to raise homes and not to prisons.

*Gian Kaur v State of Punjab*

In this situation, the case of *P. Rathinam* was overruled and it was held that the right to life does not require the right to die. It is not to be confused with dyeing an annual death, trying to restrict the life span of a person to suffer needlessly. It was also held that Section 309 did not breach Articles 14 and 21 of the constitution [11].

*Aruna Ramchandra Shanbaug v Union of India*

In this case, the Supreme Court permitted assisted dying to be performed in India in accordance with the rules set by the court. Before the decision was taken, the bench decided to investigate the validity of the petition, seeking answers from the Govt. of the Country, the State of Maharashtra, the Municipal Body of Brihan, Mumbai, the Mumbai Police Council, and Dean Dean.Euthanasia can only be performed after the order for the same has been given by the concerned high court.An advice from a panel of 3 doctors has to be taken before arriving on any decision by the court [12]. The doctors have to inform the court regarding the condition of the patient and whether killing of the patient is the only way to go about.The petition can only be filed by a close relative and not by any other person.

## CONCLUSION

The practice of euthanasia and the views surrounding it are very sensitive and legalization of the practice is a farfetched illusion for many countries. In the last few decades, there have been a lot of debates regarding the concept and campaigns against it have been held by religious bodies and medical societies.The practice of euthanasia and the perceptions regarding it are very sensitive, and for many nations, legalization of the practice is a farfetched illusion. There have been a number of discussions about the proposal over the past few decades, and religious organizations and medical center in san have held campaigns against it. Euthanasia has both benefits and drawbacks. The views of medical boards and societies, religious organizations, on the one hand, are that the practice is unethical and cruel and is never to be legalized, and on the other hand, the views from human rights organizations are that the practice is to be legalized. The supporters of euthanasia are either the persons who endure or the families of those who suffer. A liberal approach should be taken to something like the profession, because since no one but a sufferer however his family believe what patient is going thru, the client should be able to do to themselves to choose what they want, and then the option of his life or death will be left with them. The Aruna Shanbaug case has given rise for terminally ill in India, while active euthanasia in the country is not legal.

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