

Legality of Euthanasia in India

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Abstract: Every person wants to live his or her life to the full, and for a long time. There are certain cases, however, where the same person wants to end his life. Two ways can result in the ending of a person's life by himself; either suicide or euthanasia. While the former is absolutely illegal in India, the latter is, in the light of Article 21(right to life) of the Indian Constitution, a debatable issue. According to the Merriam-Webster dictionary, euthanasia means the act or practice of killing or enabling, for purposes of compassion, the death of hopelessly sick or wounded persons in a reasonably painless manner. It can also be seen as 'killing mercy'. According to this procedure, the victim chooses death for himself, mostly because of the victim's medical problems, or some other person on his behalf, and then someone else puts him to death. This is done purely to end the victim's life mercifully, to free him from the incurable illness, the unbearable suffering, and the misery and pain of life.

Keywords: Euthanasia, Mercy, Right To Life, Suicide, Victim, Rules and Guidelines.

INTRODUCTION

The term "euthanasia" comes from the relation of the two Greek words: "eu" and "thantos" respectively, meaning good and death. Therefore, through suspension of medical facilities or injection, it is called the practice of ending an individual's life of deprivation and misery induced by an illness that is beyond repair or a terminal disease, in order to rid the person of the unbearable pain. It is also referred to as an act of deliberately taking the life of a human in a painless way, which is not worth living, or 'killing mercy' where the person is set free from the irremediable state of suffering and pain in life. The classification of euthanasia and the terminology associated with it need to be understood in order to grasp the complexity of the idea of euthanasia [1].

- (i) Physician Assisted Suicide (PAS), in which the doctor deliberately offers medical assistance to a person who is likely to experience chronic and unbearable misery and pain in order to end his life. A full examination of the medical condition is given by the doctor and the most painless and efficient form of dying is decided [2].
- (ii) Voluntary Euthanasia, when the person decides to end their assistance with the aid of another by a deliberate decision. Complete consent and knowledge of the definition and procedure is required [3].
- (iii) Non-Voluntary Euthanasia, whereas someone else, like a family member or your spouse, makes the decision to end the life of a person. This takes place when the individual is in a state of irreversible unconsciousness beyond treatment and incapacitated [4].
- (iv) Active Euthanasia means where the doctor is able to end the life of a person directly. 'Positive Euthanasia' or 'Violent Euthanasia' are the other names given to this method. In order to end the life of a person, the doctor can intervene directly and prescribe a painless procedure. Under this, the principal element remains the consent of the individual whose sufferings are irremediable and endless. This is a faster means of dying or administering a toxic drug into a lethal and high dose of medicine [5].
- (v) Passive Euthanasia or 'Negative Euthanasia' or 'Non-Aggressive Euthanasia' It is the practice of purposely causing a person's death by removing the necessary and important treatment, food or water. It is a deliberate discontinuation that often means the elimination of facilities for artificial life support. It is known to be a slow killer and is more relaxed than the aggressive approach. It is helped only when the person is no longer mentally and physically alert. Medical assessments and scales such as the Glasgow Coma Scales (GCS) are available to ensure the individual's mental vegetative state. This is a legal right granted to people typically on medical life support in many countries and states [5].

Euthanasia was branded as a practice against society, faith, and even ethical human values in ancient or sometimes considered conventional times. The transition from being deemed a malpractice to a civil right was due to the "Palliative Care" concept and expansion of the practice. The medical practice of providing care for all patients with some terminal condition. Under this, the needs and wishes of the patient are taken care of and the process of deterioration and prolonged death in whatever way possible is made comfortable. Each individual is born with a fundamental shield of human rights and the right to life is the most basic right among all such rights. It is the fundamental and fundamental right which states that each human being has the right to live and that another being cannot destroy him. This right is the umbrella right in which their light and backing is granted to other rights.

Legal aspects of euthanasia

Only passive euthanasia is recognized by the Indian courts. In a recent Common Cause case (a regd. Society), it was held that an individual's 'right to die with dignity' is a constitutional right. Patients with incurable and prolonged diseases that have entered a permanent vegetative condition (p. v. s.), where there is very little to no hope of recovery, and patients are held alive by external instruments and devices, such as cardiopulmonary machines, can profit from it. In such situations, it may be possible to permit passive euthanasia [6].

This was not historically the case when, in India, even passive euthanasia was not legal. The physicians who caused euthanasia fell within the scope of Section 300 of the Indian Penal Code, Exception 5, since they had the necessary 'intention' of causing the death of the patient concerned; in cases of voluntary euthanasia, since there was valid consent, the physician or the person who caused euthanasia would be liable under punishment for guilty homicide not equivalent to murder, subject to murder. However, this position is only valid in cases of voluntary euthanasia, where the patient consents to the cause of his death and the individual is over the age of 18 years of age at the time of consent. This did not include cases of non-voluntary and involuntary euthanasia, since they would have been affected by the first clause of Section 92 of the Penal Code. Active sterilization is a felony in India.

One of the important points posed before the Supreme Court in the case of Gian Kaur v. State of Punjab [7], in favor of legalizing euthanasia in India, was that the 'right to live' granted under the Indian Constitution also includes the 'right to die.' This claim was, however, rejected and the SC held that the 'right to live' provided for in Article 21 does not include the 'right to die.' And it can't be stretched to mean the same by any way. The Supreme Court of the Country, however, does not hold that the unconstitutional existence of euthanasia is legally null. It was held in Aruna Ramchandra Shanbaug v. Union of India[8] that, as *parens patrie*, it is for an incompetent individual who is unable to take a decision as to whether or not to withdraw life support, as *parens patrie*, that the Court alone can ultimately take that decision in the case of an incompetent person who is unable to take a decision as to whether or not to withdraw life support, although, undoubtedly, the views of an incompetent person who is unable to take a decision as to whether or not to withdraw life support. Consequently, in the present case, the Supreme Court held that, while active euthanasia was wholly unconstitutional, passive euthanasia was legalized to an extent consistent with the guidelines laid down in the case.

The Law Commission has also recommended that euthanasia be legalized in its 241st article.

A leading case on euthanasia, passive euthanasia, was legalized in Common Cause (A Regd. Society) vs. Union of India (UOI) and Ors, and it was held by the Supreme Court that the 'right to die with dignity' is a constitutional right [9]. A healthy adult human of conscious mind may refuse medical treatment, or decide against taking the same. Instead of using the medication, he might decide to die a natural death. Passive euthanasia, in which the doctor does not cause the person to die, he simply does not save him, through halting the ongoing care or by removing the life-support devices in which the patient is alive, has been accepted by the court. 'Active euthanasia' occurring as a result of the administration and injection of a dose of a lethal medicinal product; an overdose of such a medicinal product or medicinal product which may otherwise not be lethal, but which would increase the dosage in the victim's body, has been accepted in the Indian Courts as of now. The courts are of the opinion that it is not possible to convict a person or a doctor here for not saving a

patient. However, since a 'act' requires not only a constructive act on the part of the perpetrator, but also all the 'omissions' of the legal obligation that one is bound to fulfill. An individual should therefore be punished not only for some overt act, but also for failing to fulfill a legal duty bound to him by statute [10].

CONCLUSION

Euthanasia involves ending the life of a person suffering from a terminal disease that is irremediable or has chronic pain or suffering and is not a life worth living. Therefore, there are many issues to understand and answer. The discussion on the issue and the variables that one must weigh when determining if their lives are no longer worth living remains ongoing. The emphasis remains on the allowance and its consequences for successful euthanasia. If the acceptance of this will bring justice to the suffering people or become the long-term cause of the suffering. The social standards and principles, the patient's medical needs, and his will and consent remain in dispute. It challenges the principles and scales that describe and measure the quality of the life of a person and whether such life can be terminated with the consent of the individual. Although the euthanasia provision has already been accepted and approved by several countries in the world, the legalization of it may not be a very appealing concept. Thus, the courts in India have taken a long time to accept and legalize euthanasia, from the cases of Gian Kaur, Aruna Shanbaug, to the case of Common Cause (a regd. Society), and have legalized passive, voluntary euthanasia. The Supreme Court is the highest court of justice, and all the people of the country must respect and acknowledge the judgments given to it, as the bench deciding the cases is highly experienced and wise. Therefore, due to recent changes in the law on euthanasia in some nations, this decision to legalize passive voluntary euthanasia is appreciated. Active euthanasia has not yet been allowed, and hopefully in the future it will not be done as well. Euthanasia for the people for whom the legalization has been performed would be more of a mischief than a boon.

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