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Euthanasia

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“I’m not afraid of being dead. I’m just afraid of what you might have to go through to get there.”

- Pamela Bone

Someone said it very well that life and death are not in our hands. All these things are in his hand because he is the only creature among us who can give birth and has the power to take. However, when life becomes more painful than death, there is a desire to end one’s life. Euthanasia means the death of people suffering from a deadly disease or incurable disease against their will. It is called euthanasia. If a person is sick and there is no cure for the disease that caused it so that he can end his life with honour, that person can be put to death with respect. In this paper, we have dealt with the concept of euthanasia in a well-elaborated manner and discussed the historical context of its origin. After that, we briefly elaborated on the differences between suicide and euthanasia, and after that, we dealt with the different parts of euthanasia in detail. Finally, good manners explain India’s context. Then, we tried to explain the law related to euthanasia in the context of India. Lastly, we explained why euthanasia needs that. Also focused on the landmark judgment and discussed it very briefly.

Keywords: *euthanasia, right to life, article 21, suicide.*

INTRODUCTION

A person is endowed with fundamental human rights from when he is born. The right to life is one of the most fundamental rights, without which no other rights may be exercised. The term "right to life" refers to a person's fundamental right to survive, especially the right not to be murdered by another human being. However, if a person has the right to life, does he also have the right not to live, i.e., does he have the right to die? The Indian courts indicated differing viewpoints while providing this response. The Bombay High Court ruled in *M.S. Dubal vs State of Maharashtra* that article 21¹ of the Indian Constitution includes the freedom to die. In *Chenna Jagadeeswar vs the State of AP*², the AP High Court ruled that under Article 21 of the Constitution, the freedom to die is not a fundamental right. However, the Supreme Court of India held in *P. Rathinam's case* that the 'right to live' includes the 'right not to live,' i.e. the right to die or end one's life. However, in *Gain Kaur versus the State of Punjab*³, a five-member panel rejected P.Rathainam's case, holding that Article 21's right to life does not include the right to die or be murdered. The right to life, which includes the right to live with human dignity, would imply that such rights remain until the end of natural life. This might involve a dying man's right to die with dignity. However, the 'right to die with dignity should not be confused with the 'right to die an unnatural death that shortens one's lifespan. The legalisation of the right to die, sometimes known as Euthanasia, has been a contentious subject in recent years. Because it entails the purposeful end of human life, Euthanasia is contentious. Patients with terminal conditions are often subjected to excruciating agony as their sickness progresses until it kills them. This may be so scary that they would rather die than suffer. So the debate is whether individuals should be assisted in suicide or allowed to face the misery caused by terminal sickness. As a result, the right to life lies at the heart of the argument over Euthanasia.

Euthanasia comes from the Greek word "εὐθανασία" which means GOOD DEATH & Thanatos, which means DEATH. It is how a person, on their own, will end his life to get

¹ Constitution of India, 1950, art. 21

² *Chenna Jagadeeswar v the State of A.P* (1987)

³ *Smt. Gain Kaur v the State of Punjab* (1996), AIR 946

relieved from pain and suffering. Euthanasia laws vary from country to country. Euthanasia is defined as "a purposeful action performed with the explicit aim of terminating a life, to alleviate persistent suffering."⁴ By the British House of Lords select committee on medical ethics. Euthanasia is defined as "the end of life by a doctor at the request of a patient." In the Netherlands and Belgium. On the other hand, the Dutch legislation does not use the word "euthanasia" but instead refers to "assisted suicide and end of life on request."⁵

HISTORY

N.D.A. Kemp, a well-known historian, discusses the origins of Euthanasia. He claims that the current discussion over Euthanasia began in 1870. Long before then, the subject has been addressed and practised. In Ancient Greece and Rome, Euthanasia was practised: in the Greek island of Kea, hemlock, a poisonous plant, was used to hasten death, which was also used in Marseilles. Socrates and Plato, two Greek philosophers, favoured Euthanasia, whereas Hippocrates opposed it. He was opposed to any technique that may result in a person's death. In both Judaism and Christianity, Euthanasia is forbidden. In opposing the practice, Thomas Aquinas claims that it goes against man's survival instinct. Disagreement amongst disputing academics may be shown in the mixed viewpoints on the subject. During the Age of Enlightenment, Protestantism advocated suicide and Euthanasia, a common practice. From various perspectives, every culture recognises and acknowledges these concepts. They are sometimes likened to sins, while they are acknowledged as acts of bravery in other cases. There is a clear distinction between them. This phrase started to be used in the early 19th century to mean hastening death and annihilating so-called worthless lives. It is now defined as intentionally ending the life of a person suffering from an incurable sickness. Some people believe in the right to die. The argument against Euthanasia is that it violates our culture's ethical, moral, and legal values. Euthanasia in any form is considered a homicide. In complicated circumstances, distinguishing between homicides and murders might be challenging. In Ancient India, taking one's own life was not considered odd.

⁴ NM. Harris, 'The Euthanasia Debate' (2001) 147 (3) *Journal of the Royal Army Medical Corps*, 367-370

⁵ Claudia Carr, *Unlocking Medical Law and Ethics 2e* (Routledge 2014)

Lord Rama's suicide is known in Hindu mythology as Jal Samadhi. It was known as Maharparinirvaan during the reign of Lord Buddha. Lord Mahaveer was in a similar situation. SwatantraveerSavarkar and Acharya VinobaBhave took up Prayopavesa as a way of life. It directly translates to "resolving to die through fasting." Mahatma Gandhi also endorsed willful death. Scholars such as these were in favour of dying in peaceful ways. Willful death is acknowledged in Hinduism, Jainism, and Buddhism. The idea has a philosophical foundation. It speaks of a never-ending cycle of life and death, as well as redemption. These schools of thought agreed that life should terminate after the purpose of birth had been completed. Dnyaneshwar, a Hindu saint, died when his mission was completed. As a result, there was evidence of a right to die in the past. Euthanasia has long been considered an illegal use of divine privilege in Western religion. Christians have believed since the 5th century B.C. that every human being owes his or her existence to those who have kindly brought him or her into this world. Birth and death are natural aspects of God's design for life. As a result, humanity should respect them, and no human being can determine when and how he dies. Euthanasia and suicide are banned in Islam because Islam does not recognise any form of justification for murdering someone.

EUTHANASIA - MEANING, AND DEFINITION

Definition and Meaning of Euthanasia Its definition and meaning: The Greek language of 'euthanasia' comes from the term. It is made up of two words: EU-good or well, death, which means 'to die well.' As a result, Euthanasia is defined as the "painless termination of human life for the aim of eliminating physical suffering." 'Mercy killing' or murdering in the name of compassion is another euphemism for Euthanasia⁶ which is defined as killing a person rather than terminating the life of someone who is suffering from a terminal disease. According to J.S. Rajawat, Euthanasia is the deliberate killing of a person who, due to sickness, advanced age, permanent paralysis, or fast irreversible degradation, is unable to live a meaningful life. It may also be described as the act of putting an individual's life on hold who is suffering from a

⁶ Angkina Saikia, 'Euthanasia 'Is It Right To Kill' or 'Right To Die' CRLJ 2010

terminal disease or incurable condition by administering a fatal injection or turning off life support.

SUICIDE AND EUTHANASIA: WHAT IS THE DIFFERENCE?

Between suicide and Euthanasia, there is a conceptual divide. Suicide occurs when a person kills himself intentionally by stabbing, poisoning, or other means. Without question, suicide is a deliberate effort to end one's life. It is the act or occurrence of someone purposefully killing themselves, usually owing to sadness or other factors such as dissatisfaction in love, failure in exams, or difficulty finding a decent job. Euthanasia, on the other hand, is the action of another person to terminate the life of a third person. A third party is either actively or passively engaged in Euthanasia, meaning he assists or abets the death of another person. It is also worth noting that there is a distinction between 'assisted suicide' and 'euthanasia' in this situation. Assisted suicide is when someone knowingly assists someone else in committing suicide, such as by giving them the tools to do so. A 'physician-assisted suicide' occurs when a doctor assists a patient in killing himself (by prescribing fatal drugs). As a result, since the patient is the one who commits suicide, the patient has complete control over the process that leads to death. The other person only assists (for example, providing the means for acting). Euthanasia, on the other hand, maybe active, such as when a doctor administers a deadly injection to a patient, or passive, such as when a doctor removes the patient's life support system.

Euthanasia is divided into three categories:

The end of an unwell person's life to alleviate his pain is known as Euthanasia. In most circumstances, Euthanasia is carried out because the individual wants and requests relief; however, there are cases when a person is unable to make such a request, which is referred to as Euthanasia. In general, Euthanasia may be categorised into the following categories based on whether or not a person offers informed consent:

1. Voluntary Euthanasia:- Euthanasia is practised when patients consent and desire to do this is known as voluntary Euthanasia. It is practice when patients are ill, and there is no chance of recovery, and he is suffering from pain and want to end his/her life.

This includes situations such as:

- Requesting aid is dying;
- Refusing intensive medical care;
- Request that medical treatment is halted or life support equipment be turned off.;
- Refusing to eat or drink or fasting on purpose.

2. Non-Voluntary Euthanasia:- when a person killed and had given no prior consent, no request. In other words, we can say that person is unable to communicate his/her wishes. There are several examples, such as serious car accidents in which the patient loses consciousness and enters a coma. In this family, the decision is the ultimate decision.

The people are unable to make decisions or express their preferences. This covers situations in which:

- the person is in a coma;
- the person is too young (e.g. a newborn infant);
- the person is forgetful;
- the person is intellectually challenged - the person has severe brain damage.

3. Involuntary Euthanasia:- Involuntary Euthanasia is Euthanasia that occurs against a person's will and is often seen as murder. In this scenario, the patient can agree, but he or she does not want to die, so the same is done. Because both sides believe this kind of Euthanasia to be wrong, it is seldom debated. It seems to be immoral and brutal. Nazi Germany carried out similar executions in gas chambers involving physically disabled or mentally disabled persons.

In terms of its method, Euthanasia may be divided into two categories. There are two types of Euthanasia: Active and passive.

4. Active Euthanasia:- Active Euthanasia is putting people to die without suffering for compassionate reasons. A doctor gives a patient a fatal amount of drugs. The use of deadly chemicals in active Euthanasia is where the dispute arises. A person cannot induce his death; instead, he or she needs someone else's assistance with a drug that causes death. As previously noted, active Euthanasia is illegal everywhere except where it is allowed by law. Active Euthanasia is banned in India and is punishable under sections 302 and 304 of the Indian Penal Code. Section 306 of the Indian Penal Code makes physician-assisted suicide illegal (abetment to suicide).

Passive State:- When the life support systems are turned off, Euthanasia is considered passive. Withdrawing life-sustaining equipment from a terminally sick patient, which leads to death in the natural order of events, is a well-accepted practice. The physicians in "passive euthanasia" are not actively murdering somebody; they are just refusing to save him. Passive Euthanasia is withholding routine medications, such as antibiotics, that are required to keep a person alive. The term "passive euthanasia" refers to when a patient dies as a result of medical practitioners failing to do what is required to keep the patient alive, such as:

- Turn off life-support devices;
- Unplug a feeding tube;
- Not to live one's life;
- Life-prolonging surgery - not to provide life-prolonging medications.

Euthanasia is used for a variety of reasons. Euthanasia is the deliberate killing of a dependent human person for his or her supposed benefit by an act or omission. Euthanasia is advocated for a variety of reasons. People rationalize its usage in certain conditions. Euthanasia is used for a variety of reasons⁷. Here are a few examples:

⁷ 'Euthanasia' (School of Medicine) <<https://medicine.missouri.edu/centers-institutes-labs/health-ethics/faq/euthanasia>> accessed 25 February 2022

- Excruciating agony.
- The right to commit suicide is demanded.
- Should individuals be compelled to live in order to survive?

Lets us understand this term one by one:-

Excruciating Agony: we can say that unbreakable pain is suffered by the person, which is beyond to treat this health problem and the improvement rate meager, and in this case person want peaceful death without any pain. Medical research has achieved a pinnacle in developing life-saving medications and therapies. While it is appropriate to numb the acute pain produced by disease till recovery, relying on medications for the rest of your life is not. If such a decision becomes a requirement of day-to-day existence, the patient is more likely to acquire a desire to terminate his life. On the other hand, death is not a solution to the patient's problems.

The right to commit suicide is demanded: In the mandatory decision, the term right cannot guarantee ultimate finality. It is often mistaken with the basic right to life guaranteed by Article 21 of the Indian Constitution. That is not the case in this instance. This is about the patient's procedural right to be present. Relatives' and medical professionals' rights are also taken into account. The concepts should not be confused with the right to die in their broadest meaning. Euthanasia, in other words, is not about the right to die. It's about having the legal authority to kill someone. Furthermore, it is not about recognizing the right but making legal measures for a seamless and peaceful euthanasia process.

Should individuals be compelled to live in order to survive: This is the third and most significant issue about when Euthanasia should be administered? It should not be necessary to keep oneself alive. According to law and medical ethics, every conceivable measure must be used to keep a person alive. It is illegal and unethical to insist, against the patient's desires, that death be postponed by any means and in any fashion possible. It would be cruel and barbaric as well. When trying to heal someone is no longer humane, wise, or medically sound, there comes the point. Then, and only then, should all treatments be focused on relieving pain and providing support for both the patient and the patient's loved ones? These are both suggestive

and directive motives. When discussing Euthanasia, it is impossible to make them obligatory. Because each instance is unique, the same yardstick cannot be used for all of them.

LAW-RELATED EUTHANASIA IN INDIA

In India, abetment of suicide i.e. is Section 306 of Indian Penal Code, and attempt to suicide, i.e. is Section 309 of Indian Penal Code These both are criminal offences. This is compared to many countries such as the USA, where suicide attempt is not a crime. The Constitution Bench of Supreme Court in Gian Kaur vs the State of Punjab, 1996 held that both euthanasia and assisted suicide are not lawful in India. Hence the is decision overruled by the earlier divisional Bench decision of the Supreme Court in P. Rathinam vs Union of India⁸, 1994. The Court ruled that under Article 21 of the Constitution, the right to life does not include the right to die (part 33).

Sections 306 and 309 of the Indian penal code are as follow:

“306 Abetment of suicide -Any person who aids in the act of suicide may be punished by imprisonment of any sort for a time that may exceed ten years, as well as a fine⁹

309. Attempt to commit suicide - Anyone who tries to commit suicide and does any act that contributes to the commission of such an offence is subject to simple imprisonment for a time up to one year, a fine, or both.”¹⁰

REASONS FOR EUTHANASIA TO BE LEGALIZED

The term euthanasia is rather too ambiguous, i.e. whether Euthanasia should be allowed or not. Currently, the topic is basically regarding active euthanasia sort of passive Euthanasia. Euthanasia gives a way to assuage an individual's unacceptably hard pain and suffering. It relieves the terminally ill people from a lingering death, rather than allowing them to suffer in agonising agony for what seems like an interminable period. There is a shortage of hospital space. There is a dearth of cash in many emerging and underdeveloped nations, such as India.

⁸ *P. Rathinam v Union of India* (1994), AIR 1844

⁹ Indian Penal Code, 1860, s 306

¹⁰ Indian Penal Code, 1860, s 309

As a result, instead of extending the lives of individuals who desire to die, the energy of physicians and hospital beds may be utilised to help those whose lives can be preserved. The supporters of Euthanasia argue that it will be much better to use such facilities for those who have even fair chances of recovery. Supporters of Euthanasia say that since passive Euthanasia is legal, active Euthanasia should be as well. From a moral standpoint, it is preferable to enable the patient to die painlessly when he is aware that he will die due to his terminal condition. Only in extreme circumstances of misery and suffering would a patient desire to terminate his life, preferring to die a painless death rather than live a terrible life with that torment and suffering. The practice of Euthanasia is putting to death individuals who are suffering from agonising and incurable conditions painlessly. Its goal is humanitarian and good since it is an act of helping rather than hurting rather than harming. It not only soothes a patient's severe pain but also relieves the emotional anguish of the patient's family.

ARUNA SHANBAUG'S CASE

Euthanasia, often known as mercy killing, is the act or practice of putting to death those suffering from a terrible and incurable sickness or a physically incapacitating condition without pain. There are two different types of Euthanasia: active and passive. Passive Euthanasia refers to withholding medical care that would otherwise cause a person's death. The Supreme Court established standards for passive Euthanasia in ArunaShanbaug's case. These standards allow for the removal of life support equipment, resulting in a person's death. Passive Euthanasia is now legal in India, making it one of the few nations in the world to do so. However, there are still flaws in how passive Euthanasia is carried out. It was a time-consuming procedure since, after the Shanbaug case, it was now obligatory to get the authorisation of the High Court before proceeding with any matter. Passive Euthanasia is considerably more difficult to carry out, as it now requires the execution of the directive in the presence of two witnesses, verification by a Judicial Magistrate, consent from two Medical Boards, and a jurisdictional collector.

CONCLUSION

In this article, I have tried to explain my perspective on the most highlighted issue in the world EUTHANASIA. The understanding of euthanasia can be best understood in the light of the right to live along with the right to dignity and personal liberty mentioned under (Article 21). If a person has the right to live his or her life as he or she wishes, he or she should also be entitled to terminate it under unavoidable circumstances, such as while suffering from an incurable sickness. As a result, he or she may be legally permitted to end his or her life in order to relieve excruciating agony. Without a question, human life is a gift from God, and every human being should treat it as such. To end the trauma, a person should be able to use 'Assisted Dying.' When the physical and emotional anguish becomes unbearable, they should be given the option to choose and control their death. When the desire or will to live disappears, a chance to stop the miseries once and for all should be granted rather than dying every minute till God blesses you with death. For someone whose life is a living misery, euthanasia is a blessing. I am a significant supporter of assisted suicide; laws should be altered to consider those who are going through agony. It is a painless (passive euthanasia) technique to relieve someone from a life that has grown too difficult to bear. It's simple to simply stop the therapy or turn off the life support system. People get depressed due to their various hardships in life, which exacerbates their problems. It is preferable to let them die than to prolong their lives artificially. To sum up, given the right circumstances, euthanasia may be a decent approach to relieve someone from excruciating agony. If we claim the right to live a life of human dignity, we should be granted the right to die in grace as well. It should be our choice whether or not we want to live this life in such a state where we feel cursed.