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Case Comment: Aruna Ramchandra Shanbaug v Union of India: Slippery Slope and the Problem of Euthanasia

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INTRODUCTION

Euthanasia is a deliberate act of ending an individual's life to alleviate their pain, typically as a result of a terminal illness or severe physical or mental agony. Mercy killing or assisted suicide are considered analogous to euthanasia. Euthanasia can be of two types active euthanasia, where a person intentionally takes action to end another person's life, and passive euthanasia, where medical treatment is withheld or withdrawn, allowing the natural process of dying to occur. In some cases, euthanasia may be voluntary, where the suffering person requests it, or in other cases non-voluntary, where the decision is made by someone else on behalf of the person who cannot decide for themselves.

The topic of euthanasia is surrounded by strong emotions and controversy. Advocates believe that it is a compassionate method to relieve an individual's suffering, whereas opponents believe that it is morally and ethically unacceptable and devalues human life. The legality and regulation of euthanasia differ greatly worldwide, with some countries permitting it in specific situations, while others prohibit it entirely.

In passive euthanasia, medical professionals may decide to stop or not to start treatment if they determine that it is no longer beneficial to the patient, or if the patient has requested that treatment be withdrawn. This may be done when the treatment is causing significant pain, discomfort, or other suffering, and the patient's condition is terminal or irreversible. The Netherlands in 2002 became the first country to legalize euthanasia. Some other countries where euthanasia is legalized are Luxembourg, Canada, and Australia. In **Aruna Ramchandra Shanbaug v Union of India**,¹ the legality of euthanasia in India was challenged.

FACTS OF THE CASE

Aruna Shanbaug born on 1 June 1948 used to live in Haldipur, Karnataka. In 1967, she came to Mumbai to become a nurse and was soon appointed to King Edward Memorial (KEM) Hospital in the position of nurse. On 27 November 1973, she was sexually harassed by Sohan Lal, a sweeper at KEM Hospital in the Hospital basement. He tied a dog chain around her throat, due to which the oxygen supply to her brain stopped and her brain was damaged. As a result, at the age of 25 years, Aruna slipped into a permanent vegetative state, popularly known as a coma. She was unable to move her hands and legs and thus, was completely dependent on the staff of KEM Hospital.

Till 2009, she spent 36 years of her life in a Coma, when a social activist and journalist Pinki Virani filed in the Supreme Court of India a writ petition as per Article 32 of the Indian Constitution² to allow euthanasia so that Aruna can be liberated from all her pain and suffering. In 2010, the Supreme Court constituted a bench of 3 highly professional and reputed doctors to analyze Aruna's condition and submit their report.

ISSUES INVOLVED

1. If an individual is in a permanent vegetative state for a long period, then can the life support system be withdrawn?
2. If a person has previously agreed to go for withdraw from the life support system in case of futile treatment or permanent vegetative stage, then can such a preference be honored?

¹ *Aruna Ramchandra Shanbaug v Union of India* (2011) SC 1290

² Constitution of India 1950, art 32

3. Does the relatives or next kin of the patient have a right to withdraw or give consent to the withdrawal of the life support system, in case the individual has not consented to the same?

PETITIONER'S ARGUMENTS

The petitioner's attorney made a defense to the judge throughout the case. They contended that the right to die with dignity should be added because Article 21 of the Indian Constitution protects the right to life and also guarantees the right to live in dignity. They argued that there is also a right to die in addition to the right to life. A person should have the right to a dignified death if they are afflicted with a serious or terminal illness, are permanently vegetative, or cannot be revived. According to the argument, Aruna was in a permanent vegetative condition from which she could not be revived, hence passive euthanasia should be permitted to spare her the misery.

RESPONDENT'S ARGUMENTS

The respondent in this case was the Dean of KMT Hospital. He contended that the staff of KMT Hospital has been looking after Aruna for more than 36 years and in no way was, she a burden for them. They are willing to take care of her and feed her with utmost responsibility. He further argued that Aruna was already 60 years old and there is a high chance that she may soon die naturally, thus he opposed the idea of euthanasia. It was also argued that as per the report submitted by the Doctors, Aruna's brain was still functional, she was able to understand her surroundings and also tried to communicate through sounds and facial expressions. Thus, she was not brain-dead and was given a food supply. Thus, it was argued that if her food supply is stopped, then euthanasia will be immoral.

JUDGEMENT

On 7 March 2011, the Supreme Court of India delivered a landmark judgment concerning the legality of euthanasia in India. The decision was given by Justice Gyan Sudha Misra and Justice Markandey Katju. According to the court's ruling, it is considered immoral and unlawful to perform active euthanasia in India. Active euthanasia involves intentionally ending a person's

life through the administration of lethal medication or other means, usually to relieve their going through some medical disease that cannot be cured and causes immense pain to the person.

The court issued certain guidelines regarding Passive Euthanasia:

- To request passive euthanasia in India, one must apply to the High Courts under Article 226 of the Indian Constitution.
- The Chief Justice of various High Courts will form a two-judge bench to consider the application.
- The bench will consult with three respected doctors chosen by themselves.
- Copies of the doctors' reports will be provided to the State, the patient's relatives, and their next of kin.
- The bench will then decide on the case, considering all relevant factors.
- This protocol is to be complied with across India till the date when any new legislation is passed concerning the same.

The Court stated that Pinki Virani was not Aruna's next friend, thus, she had no right to give consent for Aruna's euthanasia. Passive Euthanasia can be granted only if the KEM Hospital wanted. Thus, the Hon'ble Supreme Court quashed and rejected Pinki's petition. On 18 March 2015, after being in Coma for 42 long years, Aruna Shanbaug died of pneumonia.

CRITICAL ANALYSIS

Euthanasia is a highly debatable topic that has attracted many social, ethical, and legal controversies throughout the world. Some favor euthanasia on the ground that it alleviates the suffering and pain of the ill person, while others oppose it on the ground that it is against the sanctity of life and an immoral act. Thus, a critical analysis regarding euthanasia has been provided below:

Arguments in favor of Euthanasia: Every citizen of India is guaranteed the fundamental right of right to life as per Article 21 of the Constitution³. The ambit of the Right to life has been enhanced by the courts in various landmark judgments.

³ Constitution of India 1950, art 21

In **Munn v Illinois**⁴, the Supreme Court held that *“the term life is more than mere animal existence. Thus, it means not only the physical existence but also the quality of life”*.

In **Maneka Gandhi v Union of India**⁵, the Supreme Court held that *“Article 21 doesn't only mean a physical right. It also includes within its ambit the right to live with dignity.”*

In **Common Cause v Union of India**⁶, it was laid down that *the "Right to die with dignity is also right fundamental to the citizens and thus is inclusive of the right to life as mentioned under Article 21 of the Indian Constitution”*.

Passive euthanasia is permitted in situations where a person is suffering unbearably and it would be better for them to pass away than to continue living, according to the Hon. Supreme Court, which holds that Article 21's guarantee of the right to life also includes the right to die. As a result, passive euthanasia is acceptable.

Arguments against Euthanasia:

Section 309 of the Indian Penal Code, 1860⁷ mentions that an attempt to commit suicide is a criminal offense and as per Section 306, abetment to commit suicide is an offense punishable by 10 years of imprisonment.

In the case of *Gian Kaur v State of Punjab*⁸, the legitimacy of Section 306 was disputed. In this case, the petitioner was accused of promoting her husband's suicide. She claimed that Article 21's protection of Article 21's right to life is violated by Section 306 of the Indian Penal Code, 1860⁹. The Supreme Court concluded in a landmark decision that the right to life does not encompass the right to death. If an individual previously mentions his/ her desire to be euthanized in case of any severe disease, then it will be a form of suicide and if the close friends, relatives or kin of the person concerned approves of euthanasia, then it is a form of abetment of suicide, as

⁴ *Munn v Illinois* [94] U S 113

⁵ *Maneka Gandhi v Union of India* (1978) SC 597

⁶ *Common Cause v Union of India* (2018) SC 1665

⁷ Indian Penal Code 1860, s 309

⁸ *Gian Kaur v State of Punjab* (1996) SCC (2) 648

⁹ Indian Penal Code 1860, s 306

euthanasia is also known as assisted suicide. If the attempt to suicide and abetment to suicide is a criminal offense in India, then why is passive euthanasia, not an offense?

It is often argued that euthanasia is mistaken to be a right to die, as in reality, it is a right to kill in disguise. It is a form of murder. We don't have the right to take something which we cannot give. It is the moral obligation of medical practitioners to save the life of the patient no matter how serious the condition is. They should strive hard till the patient's last breath. Euthanasia is against this moral. The consent given by the patient himself or by his relatives might not always be free. There could be emotional and psychological pressure. Moreover, the financial burden is also a major determinant. Poor and middle-class families who cannot afford expensive treatments going on for years would choose euthanasia. Thus, the biggest argument against euthanasia is that it could be misused and could become a tool of oppression.

CONCLUSION AND WAY FORWARD

The concept of euthanasia is a complex and controversial issue that requires careful consideration and discussion. Here are some ways forward that can be explored to address the concept of euthanasia:

Legalization and Regulation: One approach is to legalize and regulate euthanasia, which could allow individuals to have the option of a peaceful death while ensuring that the practice is conducted responsibly and ethically. This could include setting criteria and safeguards to ensure that euthanasia is only carried out in certain circumstances, such as when an individual is terminally ill or suffering from unbearable pain.

Improved Palliative Care: Another approach is to improve palliative care services to provide patients with better end-of-life care, support, and pain management. This could include increasing funding for hospice services and training healthcare professionals to better manage pain and symptoms.

Education and Awareness: There is a need for education and awareness-raising about end-of-life decisions and euthanasia. This could include promoting open and honest conversations about death and dying, providing information on end-of-life options, and addressing misconceptions and fears surrounding euthanasia.

Further Research: There is a need for further research on the ethical, legal, and social implications of euthanasia. This could include studies on the experiences of patients, families, and healthcare professionals and the impact of cultural, religious, and social attitudes on end-of-life decisions.

Ultimately, any approach to the concept of euthanasia must prioritize compassion, respect for individual autonomy, and the promotion of a peaceful death.