

The Legal And Moral Dilemma About Euthanasia

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Introduction

Desire for ending one's life is something that is the central idea behind a large number of issues. These issues largely include Suicide, interest in the idea of mercy killing or Euthanasia, and a request for the same from the legally binding authorities. This idea was actually proposed by Brown and Colleagues¹ and was later on developed by Chochinov². The core idea behind this focuses on the degree to which a person could wish to end his/her life sooner.

A large number of surveys have been recorded to understand the practice of Euthanasia. For instance, a survey conducted in the year 1995 in the Washington revealed that around 26 percent of the recorded responses of the physicians suggest that they have received at least one request for Euthanasia and only two-thirds of them were allowed such requests.³This statistic is enough to suggest that even though it has had an illegal status for decades, the request for Euthanasia is not a rare event.

¹ Brown JH, Henteleff P, Barakat S, Rowe CJ, Am J Psychiatry, *Is it normal for terminally ill patients to desire death?* Am J Psychiatry 143(2), 208-11 (1986).

² Chochinov HM, Wilson KG, Enns M, Lander S, *Prevalence of depression in the terminally ill: effects of diagnostic criteria and symptom threshold judgments*, Am J Psychiatry 151(4), 537-40 (1994).

³ Back AL, Wallace JI, Starks HE, Pearlman RA. *Physician-Assisted Suicide and Euthanasia in Washington State: Patient Requests and Physician Responses*, JAMA 275(12), 919-925 (1996)

What Is Euthanasia?

The word “Euthanasia” is derived from Greek words “eu” and “thanotos”, which translates into “good death”⁴.

Euthanasia or mercy killing refers to a series of acts or omissions that are practiced intentionally in order to put an end to someone’s life.

It is majorly done with the inherent intentions to end the sufferings and pain of a person by following a due course of law. Depending on various factors such as the practice and wish of the suffering person, Euthanasia could be further classified into various categories. These categories are as follows:

On the basis of the practice:

- **Active Euthanasia** - Refers to the ‘acting’ part of the definition. To put it in a simpler manner, a direct intervention by a person in order to end someone’s life is known as Active Euthanasia. For instance, administering lethal drugs to a patient to end the course of life is Active Euthanasia.
- **Passive Euthanasia** - Refers to the ‘omission’ part of the definition. In simpler words, passive euthanasia involves discontinuing the practices that are important for the survival of a person. When these practices are discontinued, the person dies as a result of the lack of supply of necessities. For instance, discontinuing the supply of important drugs to the patient to let the patient die is Passive euthanasia.

⁴ “Euthanasia.” Merriam-Webster.comDictionary, Merriam-Webster, <https://www.merriamwebster.com/dictionary/euthanasia>.

On the basis of the consent:

- **Voluntary euthanasia** is the case where euthanasia is performed after the consent of the patients. Voluntary euthanasia is allowed in countries like Belgium, Netherlands. Etc.
- **Non-voluntary euthanasia** is the case where euthanasia is performed without the consent of the patient. In fact, the consent is given by his family or close friends because the person is not in a state to give the consent on his own.
- **Involuntary euthanasia** is the case where euthanasia is practiced on the patient against his consent. Involuntary euthanasia is considered as murder.

Status of Euthanasia In The Countries Around the World

The Netherlands was the first country all over the world to legalize physician assisted suicide or passive euthanasia. It is very pertinent to note that the data regarding the number of requests for assistance in dying and people who are terminally ill is properly managed and provided by the authorities. The current status of Euthanasia was granted in the year 1984 when this practice was authorized by the Dutch supreme court, provided the several regulatory measures were strictly adhered to.

A great deal of influence on the status of passive euthanasia is also exerted by the decision of UK authorities in the case of *Airedale NHS trust v. Bland*⁵. It was in this case that the measures related to withdrawal of Artificial life support in the case of patients who were in a permanent vegetative state were disused at length. It was in this case that it was considered lawful to discontinue the administration of treatment on a patient if he/she expressed his/her desire for not receiving the treatment. The court also discussed the decision of the European

⁵ *Airedale NHS trust v Bland* (1993) 2 WLR 316

Court of Human rights which upheld the legality of passive euthanasia. The court held that the principle of “Sanctity of human life” has a major role to play but it is not absolute. The court clearly stated in the Airedale case that if a prolonged treatment to keep a patient alive was not in his best interests, such a treatment could be stopped only after the consent of the patient or the authorized person.

Even though there are many countries in the world where passive euthanasia is legalized the major question that arises before the law bodies is regarding the decisive body for withdrawal of the treatment in the case of the patients are unable to give their consent. Euthanasia is a practice that is supported by the people only because of the belief that this practice helps in easing the pain of a medically ill person.

Status of Euthanasia or Mercy Killing In India

India is a diverse country with an abundant part of its population living in the void of basic human rights, Euthanasia might not be a very important or even relevant topic for the masses. But again, due to the religious and cultural diversities it has become important that some light is thrown on this issue.

Initially, in the case of *Gian Kaur V state of Punjab*⁶, the honorable Supreme Court was of the view that Article 21 of the Indian constitution only guarantees to life and the right to die is not inherent in the purview of the same.

A turning point in this regard was taken by the Medical council of India in the February of the year 2008 when the opinion of the ethics committee of the council presented its views on the concept of Euthanasia. Major issues regarding the conduct of physicians who carried out this act were also addressed during this meeting. It was opined by the Committee that

⁶ Gian Kaur v. State of Punjab, 1996 (2) SCC 648.

Practicing Euthanasia will continue to constitute unethical conduct. However, in some exceptional situations the question of removing life support devices or medicines should be addressed by a team of expert doctors and not only the concerned physician. The team of the doctors has to be constituted as per the guidelines of the Transplantation of Human Organ Act, 1994.⁷

The issue was again surfaced in the famous case of *Aruna Ramachandra Shanbaug Vs Union of India*⁸. It was in this case that the withdrawal of life support was allowed for the first time in the case of patients who have been in a vegetative state for a long period. It was in this case that the court observed that Right to die with dignity is one of the inherent rights that are guaranteed under Article 21 of the Indian constitution. However, this right is not absolute and is subject to the regulations as provided by the legislation. On the basis of the report provided by the team of the doctors, the court observed all the material medical facts about the condition of the patient and presented 7 major regulatory guidelines that had to be followed in case of withdrawal of the life support system.

The court has issued a very well informed and balanced decision in this case. The court stated that a person has all the rights to live a dignified and respectable life which also means that the person has the right to decide the end of his/her course of natural life in a dignified manner. A person who has not been able to stand or walk and perform basic functions attributable to human life is already suffering with a lot of pain. A person who is brain dead is only a body lying down in the physical form. In such cases, it is always a better idea to opt for passive euthanasia after the detailed study of the patient's condition. It is based on the fact that there has been an upsurge in the number of patients suffering from terminal

⁷ Vedprakash Mishra, *Medical Council of India New Delhi. Minutes of the meeting of the Ethics Committee held on 12th and 13th February. (2008).*

⁸ *Aruna Ramachandra Shanbaug v. Union of India*, 2011 4 SCC 454.

illnesses committing suicide while they are under treatment⁹. It is majorly because of the hopelessness and negativity that they are surrounded with while dealing with a medical condition. A free and unbiased consent should be ensured before the process is started and all the guidelines regarding the same should be followed.

After the decision of the Supreme Court in the Aruna Shanbaug case, the law commission presented its 241st report in the year 2012. It was proposed in this report that a proper legislation regarding passive euthanasia in India has to be ruled out to prevent the misuse of this right. As a result of various efforts and hard work of many learned people, the health ministry uploaded the draft bill for public opinion in the year 2016. The bill is known as ‘The Medical treatment of terminally ill patients Bill, 2016’. The bill is open for public opinions and deals with aspects related to euthanasia such as the guidelines in preparation of a living will, etc.

Even in the religious aspects, Passive euthanasia for people who are unable to perform basic human functions is not considered as a sacrilege. It is majorly because Hinduism is based on the fact that death is a process by which all the ties of a person with the cosmic impermanence could be put to an end. This helps in achieving the ultimate goals of immortality and freedom from the evils could be achieved by the human body¹⁰. Another way of presenting it could be in the manner that a person in a permanent vegetative condition is unable to perform his “Karma” due to which he is unable to protect his ultimate “Dharma” of being true to one’s soul and its actions. When one is not doing his karma, the meaning of life is reduced to nothing and the purpose of living is defeated.

⁹ Vol. 16 Breitbart W. CANCER PAIN AND SUICIDE, 399-412(Foley K, Bonica JJ, Ventafridda V, Advances in Pain Research and Therapy, New York, Raven Press; 1990).

¹⁰Young K. *Euthanasia: Traditional Hindu views and the contemporary debate*. In: Coward H, Lippner J, Young K, editors. *Hindu ethics: Purity, abortion and euthanasia*. New York: State University of New York Press; 1995.

Conclusion

There has been an ongoing debate about the legality and morality of the allowing of passive euthanasia ever since the verdict of the Aruna Shanbaug case was delivered. It has been contended by many people that the decision of the honorable Supreme Court in this case was very inconsistent and ambiguous. It is only because the court only issued guidelines regarding the process of passive euthanasia. The court has been condemned by many people on the basis that the court said a person would be considered only if the brain of the person was completely dead.

To introduce the effective implementation of Passive euthanasia in Indian Medical Authorities, there is a requirement of a fair legal framework to guide the whole process.

A well framed law will ensure that no person has to succumb to the unhealthy and fraudulent intentions of any of the person who could have a standing in the decision to end his life in case of an unfortunate medical contingency.