

Euthanasia: Conflict Between Life and Death

Euthanasia is “letting a person die without pain for reasons assumed to be merciful?¹”. It is medical killing. It is a process of taking a life of incurable or hopelessly ill person with his or her free consent in order to end his or her suffering. ‘Euthanasia’ is a Greek word which means ‘good death’. Sometimes, euthanasia is also defined as killing a person rather than ending the life of a person who is suffering from some terminal illness, also called as ‘mercy killing’ or killing in the name of compassion.² People do not always die well. Some agony cause people to experience physical pain in their last days, and the ‘mercy killing’ may seem like a compassionate way of ending this suffering. Euthanasia can be performed by removal of life support equipment, lethal injection, refusal of food and fluids, gas, removal of essential medicines. There are four kinds of euthanasia: Voluntary and direct, Voluntary but indirect, direct but involuntary, and indirect and involuntary. Voluntary and direct euthanasia is selected and accomplished by patient, Voluntary but indirect euthanasia is selected in advance, direct but involuntary euthanasia is done to a patient without his consent, indirect and involuntary euthanasia is done at hospital’s decision.

In India passive euthanasia is legal but active euthanasia is not. Passive euthanasia is when absolutely nothing is done to prevent death. Active euthanasia is when one intentionally causes death. Active euthanasia is seen as a cruel act because of its later effects i.e. vomiting, depression, heart problems, shortness in breath etc. as one can see there are many aspects and issues that make euthanasia controversial.³ Controversies on legalization of euthanasia in India are continuing. The argument for legalizing is that the individual’s freedom demands liberty or choice in all matters as long as others’ rights are not infringed. The argument against euthanasia is that it will serve criminal purposes. Euthanasia can then be regarded as an act which disrespects human life. A financial motive is advanced in favor of euthanasia.

Will legalizing the use of Euthanasia open up the Pandora’s box of illegal, motivated murders in disguise or will it give an opportunity to end the suffering of helpless patients? Euthanasia is an

¹Euthanasia Appeal & plea for mercy killing, Ritika Bansal

²Euthanasia ‘Is It Right To Kill’ or ‘Right To Die’, Angkina Saika, Cr LJ 356 (2012).

³<http://missionislam.com/health/euthanasia.htm>, visited on 19st February, 2017.

important problem which disturbs the modern society. It has been one of the biggest controversial issues of whether or not Euthanasia be made legal in the country. On one hand, it supposed to relieve incurable patients from constant suffering, while, on the other hand, it is ground for various ethical and legal issues.

Various principles have been recognized for the purpose of analyzing euthanasia.

- Principle of motive, i.e., each human action is to be judged by the intention behind it.
- Principle of certainty, i.e., a certainty cannot be voided, changed or modified by uncertainty.
- Principle of injury, i.e., one should not harm other or be harmed by others.
- Principle of hardship, i.e., hardship mitigates relieving of the regulations and obligations.
- Principle of custom, i.e., what is customary is a legal ruling.

‘Everyone has the right to life’ and ‘all are equal before law and are entitled without any discrimination to equal protection of the law.’ These are natural rights. Natural rights are not to be taken away. The right to life is to be protected by law that means life is not to be taken away for any reason. Therefore, whenever an effort is made justify euthanasia by using claim about human rights, it becomes problematic, as they focus only on right to life.

The Indian Constitution says that the “Right to Die” is not a fundamental right under Article 21.⁴ In the case, **The State of Maharashtra v. Maruti Shripathi Dubai**⁵, the Bombay High Court held that the ‘right to life’ guaranteed by Article 21 includes ‘right to die’. The Supreme Court in **P. Rathinam v. Union of India**⁶, upheld the Bombay High Court’s decision but the Court in **Gian Kour v. State of Punjab**⁷, overruled the P. Rathinam’s case decision and held that “Right to Life” under Article 21 doesn’t include “Right to die”. In **Aruna Ramchandra Shanbaugh v. Union of India**⁸, the Supreme Court of India passed a historic judgment- law allowing Passive Euthanasia in India by means of withdrawal of life support to patients in permanent vegetative

⁴ The Constitution of India

⁵ (1987) Cr LJ 549

⁶ (1994) 3 SCC 394

⁷ (1996) 2 SCC 648

⁸ AIR 2011 SC 1290, in Pinki Virani’s plea for Aruna Shanbaug’s case these guidelines were laid.

state (PVS). It is a landmark law which gives the right to choose to the individual, over government, medical or religious control which looks all sufferings as “destiny”.

The existing legal restrictions leave both the incurable patients as well as pro-euthanasia activists helpless who approve euthanasia as a goodwill gesture for a patient’s dignity.⁹ The intentional killing of a dependant human being as an advantage can be viewed in various situation, such as:

- When a person is suffering from an incurable disease and his quality is depreciating then he should have the freedom to choose induced death.
- It would be inhuman to make terminally-ill patient endure the unbearable pain. Therefore, legalizing euthanasia would help alleviate suffering.
- Mercy killing is seen as an act which is highly immoral in nature, whereas, killing someone in attempt to self defense oneself is acceptable by law.
- Legal heirs would misuse euthanasia as a tool for gaining undue advantage is a myth as there are my other ways also to do the same.
- It is not rational to keep a person alive who has no scope of recovery and survival.

Those against this practice emphasis that it is unethical and not justified. Here are some cons of euthanasia:

- It is a homicide and morally incorrect as murdering another human cannot be rationalized under any circumstance.
- Better alternative to help disabled or patients to be pain free are palliative care and rehabilitation centers.
- Legal heirs would take undue advantage if euthanasia was legalized by influencing patient for personal gains.
- Legalizing euthanasia would be like empowering law abusers and increasing suspicion of patient towards doctor.
- Every religion believes that euthanasia to be an act of murder, as it’s no one’s right to end anyone’s life.¹⁰

⁹ <http://www.buzzle.com/articles/reasons-against-euthanasia.html>, visited at 20 February 2017

¹⁰ <http://www.buzzle.com/articles/pros-and-cons-of-euthanasia.html>, visited at 20 February 2017

Everything has its pros and cons. But the facts remain same. Proposals for legalization of mercy killing must, at the very least, include some attempt to find a balance between a person's choice and the community's need for good order, social peace and the protection of its vulnerable members. Euthanasia should be legalized. Not because it occurs as a result of mercy but because it relieves the suffering and initiates peaceful death. Legalizing euthanasia is a tough terrain to walk in, and to prevent its abuse, strictest measures should be taken. **Aruna Shanbaug's case** was an eye-opener for the country and has brought the essential evolution in the Indian judiciary as passive euthanasia was legalized then. But does the legalization of the active euthanasia call for another incident? Does our country require another eye-opener to allow active euthanasia in India?

