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**EUTHANASIA**

*"I do not want to die. But I am dying. And I want to die on my own terms. Who has the right to tell me that I don't deserve this choice?!"*

**INTRODUCTION**

Euthanasia is described as the deliberate and intentional killing of a person for the benefit of that person in order to relieve him from pain and suffering. The term 'Euthanasia' is derived from the Greek words 'Eu' meaning 'Good' and 'Thanatos' meaning 'Death', which literally means "good death". The term was coined by the great historian Suetonius, who described the way in which King Augustus opted for a quick and a less painful death without suffering. Euthanasia is defined as the administration of a lethal agent by another person to a patient for the purpose of relieving the patient's intolerable and incurable suffering. Basically, the physician's motive is merciful and he or she does so with a bonafide intension of ending the suffering of the patient.

According to Oxford English dictionary, Euthanasia means, “the painless killing of a patient suffering from an incurable and painful disease or a person who is in irreversible coma”. Euthanasia can broadly be classified into two types, namely, active euthanasia and passive euthanasia:-

**1. Active Euthanasia-** It can be described as when a person directly and deliberately does something which results in the death of patient. It is done by undertaking the various and specific steps and procedures by the third party, say, by administering a lethal drug to the patient. This is prohibited in India, under Section 302 or Section 304 of the India Penal Code and is considered as a crime in India as well as in most parts of the world. Although there are countries which have passed legislation permitting assisted suicide and active euthanasia but the differences between them are in the former, patient himself administers lethal medications and in the later doctor or some other person does it.

**2. Passive Euthanasia-** It can be described as withholding of medical treatment or withdrawal from life support system for continuance of life, like removing the heart– lung machine from a patient in coma. Hence in passive euthanasia death is brought about by an act of omission of the medical equipment and not by injecting or administering any medicine or drug to the patient.

### **CLASSIFICATION**

**1. Voluntary Euthanasia:-** It can be described as when the euthanasia is carried out at the request of the patient, as he or she is unable to bear the pain of the illness. voluntary euthanasia is illegal in India as it can

be interpreted as attempt to commit suicide which is punishable under Section 309 of the Indian Penal Code.

In the case of *Gian Kaur vs. State of Punjab*<sup>1</sup>, it was stated that the right to life guaranteed by Article 21 of the Constitution of India does not include the right to die. The supreme court passed the judgement in the year 1996, advocating the same and denying the right to voluntary euthanasia.

**2. Non-voluntary Euthanasia:** - It can be described as when the person is unable to ask for euthanasia, perhaps because he or she is unconscious or otherwise unable to communicate, or to make a meaningful choice between living and dying and a surrogate person, most probably the immediate guardian of the patient takes the decision on his or her behalf. Notwithstanding these legal predicaments, passive euthanasia is not illegal in most parts of the world including India; provided certain standard safeguards are present and those measures are to be followed while carrying out the same.

In the case of *Aruna Shanbaug vs Union of India*<sup>2</sup>, Aruna Shanbaug was an Indian nurse who was at the centre of attention in a court case on euthanasia after spending 37 years in a vegetative state as a result of sexual assault. She died of pneumonia, after being in a persistent vegetative state for nearly 42 years. However, in its landmark opinion, it allowed passive euthanasia in India.

In India, euthanasia is a crime. Section 309 of the Indian Penal Code (IPC) deals with the attempt to commit suicide and Section 306 of the IPC deals with abetment of suicide, where both actions are punishable. Only those

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<sup>1</sup> 1996 AIR 946

<sup>2</sup> Decided on March 07, 2011.

patients who are brain dead can be taken off life support with the help of family members or with the consent of their legal guardians. Likewise, the Supreme Court is also of the view that the right to life guaranteed by Article 21 of the constitution does not include the right to die. The court held that Article 21 is a provision guaranteeing protection of life and personal liberty and by no stretch of imagination can extinction of life be read into it. However, various pro-euthanasia organizations, the most prominent among them being the Death with Dignity Foundation, keep on fighting for legalization of an individual's right to choose his own death. One cannot disagree from the fact that there is genuine need for Passive Euthanasia with definitive, unbiased protocols and safeguards.

The question now is, what is the need of Euthanasia? Why do we need the existence of euthanasia in the world or in India for that matter? The starting point has to be in the law, which at present is failing, as shown by the recurrence of cases in the courts that often place relatives, already dealing with the painful loss of a loved ones, in the middle of distressing legal battles. There is clearly a desire, whether we like it or not, among a number of patients to end their lives, not able to tolerate the terrible pain and suffering due to the terminal illness. In such a situation, such patients take the help of their legal guardian or relatives in order to proceed with his or her desire of ending their life. To deny this right to euthanasia is to prolong the suffering for such individuals and their families as well, something that should not be condoned.

It is true that this is not like any other clinical decision and that, if society is to offer this solemn choice it must also build in safeguards and protection to its laws that not only rectify the inadequacies of the current situation, but also protect the vulnerable, the weak and all those doctors and nurses, including all those who are involved in this incredibly difficult situation. As a start, the legal system must enact legislation to decriminalise the acts of euthanasia and physician-assisted suicides. So, there are several reasons which can compel

the lawmakers to change laws in favour of euthanasia which can be stated as follows: -

1. **Protection of human rights:** - To allow a terminally ill individual to end his or her life is the only humane, rational and compassionate choice. To force a person to continue living his or her life even in miserable physical and mental conditions, which has no signs of improvement is actually cruel. The right to life definitely includes the condition of quality of life. So, the laws should be made flexible rather than being rigid when it comes to taking the decision about right to life and should give them the choice to live or die when the life is no longer one of quality.
2. **Regulation of control:** - The terminally ill patients travel to abroad countries where the right to euthanasia is recognized. We cannot control the laws of other countries nor the regulations of such laws in the respective countries. So, the lawmakers of the country should amend their laws regarding euthanasia so that the issues regarding euthanasia can be regulated and assisted within the boundaries of India and under the control and supervision of the same. The judiciary must not prosecute loved ones for “encouraging or assisting suicide”, who enable or assist a terminally ill individual to travel abroad to end his or her life lawfully.
3. **Ambiguity and Discrimination in the current laws:** - The current laws are in conflict with the laws which are ought to be enforced. It is completely wrong to punish the near and dear ones of the terminally ill patient for supporting the patient, so that he or she can undergo the process of euthanasia. It is not right to punish the legal guardians for helping the patient to end the misery of such a life. Besides, it is even discriminatory to the unwealthy people of the country. The ability of the wealthy to travel to countries where it is lawful for the terminally

ill to end their lives has the discriminatory impact of treating the rich and the poor, who cannot afford to take such patient to abroad to carry out euthanasia.

4. **Maintenance of terminally ill patient:** - It becomes very tough for the family of the terminally ill patient to maintain them, more so, because of the monetary constraints when it comes to the unwealthy people. It gets pretty hard for the family of such patient to pay for the medications and the hospital bills and yet, knowing the fact that there will be no improvement in the condition of the person. It acts as a wastage of hard-earned valuable money of these people as well as a prolonged suffering of the patient and his or her family members

Although, many people are opposed to the legislation that would allow "end of life" choices. But the focus of the lawmakers should be on the state and quality of life of the patient, following which, the right to die with dignity should definitely be granted to such patients. The court formulated guidelines for the passive euthanasia. This is important in a country like India with its vast and culturally diverse population where unfortunately the ethical standards of our society have descended to new low. Hence, there is an impending possibility that people might misuse passive euthanasia with malafide intentions, say, in order to inherit the property etc. So, keeping all these essential points in mind, some of the important safeguards, which can be stated as follows: -

1. The patient must be terminally ill, being in a vulnerable state and quality of life.
2. The patient must be an adult, that is. He or she must be of eighteen years of age or above

3. The patient must be mentally competent. He or she can give the consent of euthanasia by themselves or through their legal guardian or relative.
4. The patient must be in severe pain which accords that he or she is in a miserable living condition.
5. Two independent physicians must be satisfied that the above stated conditions are present.

Considering that all these safeguards are present with satisfactory and absolute proof, such patients should be allowed to undergo euthanasia.

### **CONCLUSION**

The issue of euthanasia, or assisted dying, is incredibly controversial and there are legitimate concerns on either side of the subject but in conclusion, the only humane choice is to allow individuals who are suffering to choose to end their suffering. There is a serious need of protection of the people associated with the process of a successful conduction of euthanasia, say, the legal guardians and the family members of the terminally ill patient, the doctors, physicians, nurses, medical attendants and so on and so forth. They should not be harassed or punished for the same. The legislator as well as the society needs to understand that euthanasia is not about snatching someone's right to life but to give someone the right to end a painful life and attain a peaceful and dignified death. The mindset of the society needs a change in the case that euthanasia is not the same as committing suicide. The goals of the medical profession and the laws, rules and regulations of the country should and will continue to remain one of saving lives of the people but this should not be at the expense of compassion and a terminally ill individual's right to choose to end his or her painful and vulnerable life and die with dignity. As Pamela Bone, a reputed journalist once said and I quote, "*I'm not*

*afraid of being dead. I'm just afraid of what you might have to go through to get there.*” This gives us a fair idea about the fact that sometimes people with terminal illness would rather like to embrace death ‘peacefully’ than clinging on to life filled with intractable pain and suffering.

