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EUTHANASIA: DEATH WITH DIGNITY

ABSTRACT:

Death is not the opposite of life but a part of it - Haruki Murakami

Euthanasia is the highly effective form of pain management which allows assisting people who are suffering from a painful and incurable disease or incapacitating physical disorder or allowing them to die. The concept of Euthanasia, Mercy killing comes from the very belief that losing some faculties are worse than losing one's life. However, through with the religious belief against premature death and also a moral dilemma in respective to legalising Euthanasia across the globe, but it was considered the best way to go rather see a person degenerating to his fate which is worse than death. Hence, countries across the globe had legalized Euthanasia with strict rules and stringent legal sanctions.

INTRODUCTION:

The term Euthanasia has been derived from two Greek words 'eu' and 'thanotos', which means, "Good death." The phrase Euthanasia was coined by Sir Francis Bacon. Euthanasia is requesting for the premature ending of life in the plight of suffering terminal illness who undergoes unbearable pain.

TYPES OF EUTHANASIA:

The dimension of Euthanasia encompasses from

Voluntary Euthanasia: Euthanasia is performed with the patient's consent. Further, the voluntary euthanasia is of two kinds

Active Euthanasia: A person takes action to cause a patients death that is where a person intentionally intervenes to end someone's life with the use of lethal substances or forces.

Passive Euthanasia: Death is brought about by withholding or withdrawing treatment to let the person die.

Non-Voluntary Euthanasia: The person is unable to give their consent as the patient is in a state of coma or are severely brain-damaged and so another person takes the decision on patients behalf, often because the ill person might have expressed the wish to end their lives previously in certain circumstances.

Involuntary Euthanasia: This kind of Euthanasia is administered without asking consent or against the patient's will. Involuntary Euthanasia is also termed as murder if conducted against the will of the patient.

Assisted Suicide: Patient is provided help in dying

Physician-Assisted Suicide: Doctor assists a patient in shortening their dying process

The doctrine of Double Effect: Doctor gives drugs to relieve symptoms even though this may shorten patients life.

Indirect Euthanasia: The treatment provides side effects that would speed up the patient's death.

DNR order: Doctor is not required to resuscitate a patient if their heart stops.

A living will: Person decides in advance to refuse life support system in case of a terminal illness.

LEGALITY OF EUTHANASIA ACROSS THE GLOBE

The subject of euthanasia has spun the world regarding legalising euthanasia. However, only a handful of countries has to grant citizens the right to die in cases of a terminal illness. The debate of legalising euthanasia cuts across complex and dynamic aspects such as legal, ethical, human rights, health, religious, economic, spiritual, social, and cultural aspects of civilised society.

In April 2002, it was the Netherlands the first country to legalise euthanasia and assisted suicide. Belgium stood second in the same year and legalised Euthanasia with strict rules that doctor can assist patients to end their lives when they freely express their wish to die if they suffer intractable and unbearable pain and sometimes in a vegetative state.

OTHER COUNTRIES:

Australia: Euthanasia and Physician-assisted suicide are illegal at the federal level, however, the states, and territories have legislated on the issue.

China: Under articles 232 and 233 of Criminal law of the People's Republic of China Euthanasia and physician-assisted suicide are illegal in the country

France: In Jan 2016, France's parliament passed a law that would allow doctors to sedate terminally ill-patients until their death from their illness or starvation.

Canada: Passive euthanasia is legal in this country while active euthanasia remains illegal.

However, medically assisted suicide was legalised in June 2016, after new legislation is passed in the parliament.

India: permits passive euthanasia but active euthanasia is illegal

United Kingdom: Euthanasia is illegal in the UK. Any person found to be assisting the suicide is breaking the law and can be convicted of assisting suicide or attempting to do so

United States: Active euthanasia is illegal throughout the United States. Assisted suicide is legal in Oregon, Washington, Vermont, California, Montana

Switzerland: The only country that permits euthanasia for foreign citizens

Finland: Passive Euthanasia is permitted to anyone who has declared a desire for it in advance.

Germany: in 2015 Germany legalised physician-assisted suicide that is performed on individual basis out of altruistic motives. Commercial euthanasia is illegal.

Ireland and Israel: Euthanasia and physician-assisted suicide are illegal.

EUTHANASIA: INDIAN SCENARIO

The issue of Euthanasia rose to prominence in India after *Aruna Shanbaug's* case and several other noteworthy cases filing pleas demanding euthanasia but the case of Aruna Shanbaug's was most alarming as she remained in a persistent vegetative state for 42years since 1973 when she was sexually assaulted. However, in 1996 the Supreme court in its landmark judgement in the case of *Gyan Kaur Vs State of Punjab*¹ held that both euthanasia and assisted suicide is not lawful in India and confusingly stated

The right to life under 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.

The right to live with dignity does include the right to die with dignity,

¹ 1996 AIR 946

However, the court could not come up with any practical rules and passed the buck to lawmakers to come up with laws regulating euthanasia, and that's how in 2006 the 196th report of law commission of India had brought out The Medical Treatment of Terminally ill-patients(Protection of Patients and Medical practitioners)Bill 2006, but no law was made on euthanasia.

The need to address the issue, however, had come up with the PIL filed by an NGO Common Cause in 2005 filing a petition that the person has right to die with dignity along with right of life. In fore with, 2011 the supreme court in *Aruna Shanbaug vs Union of India*² case laid down guidelines to process pleas for passive euthanasia and further laid down that till parliament works out legislation, the procedure laid down by the guidelines should be followed. Accordingly, in 2012 the law commission in its 241st report again proposed making legislation on passive euthanasia and prepared a draft bill called The Medical Treatment of Terminally ill patients(Protection of patients and medical practitioners)Bill which deals with passive euthanasia and living will and which doesn't highly recommend active euthanasia. Finally, in 2016 a five-judge constitution bench of the supreme court of India had passed a law legalizing passive euthanasia by laying out strict guidelines on passive euthanasia in the aforementioned case. The judgement was also based on the recommendation of law commission, ministry of health and family welfare and had prepared a draft of the Medical Treatment of Terminally ill patients (Protection of patients and medical practitioners)in May 2016.

RELIGIOUS ARGUMENTS :

² AIR 2011 SC 1290.

Though the human right activists, doctors, and health experts have hailed the supreme court judgement on euthanasia the religious beliefs are against premature death in India.

Hinduism: Hinduism believes in the concept of Atma gatha which means suicide is highly prohibited or the intention to voluntarily kill is considered as a sin

Islam: In Islam, there is a belief that no one has a right to die before the time decided by the god. Islam believes that killing a terminally ill person through active or passive euthanasia is considered as an act of disobedience against god.

Christianity: Christianity forever promotes the sanity of life, thus euthanasia is contrary to its teachings

Buddhism: The religion believes in the concept of asimha so no living organism must be deprived of life.

CONSTITUTIONAL ARGUMENTS:

Right to life is a natural right embodied in Article 21 but suicide is an unnatural termination or extinction of life and therefore incompatible and inconsistent with the concept of life. In India abutment of suicide and attempt to suicide are both criminal offenses. In 1994, the constitutional validity of Section 309 IPC was challenged in the Supreme court in *Rathinam Vs UOI* case. In this case, the supreme court declared that section 309 is unconstitutional that is IPC sec 309 says Euthanasia is an offence and Sec 304 says mercy killing is a murder. However, in the landmark judgement of *Aruna Shanbaug* the supreme court in 2011 have legalised passive euthanasia in special circumstances where it held that Right to die with dignity a fundamental right and execution of a living will of persons suffering from chronic terminal diseases and likely to go into a permanent vegetative state. Active euthanasia is still considered illegal and a criminal offence.

MERITS :

Euthanasia is the last resort when all other options are off the table as it would help the suffering of a lengthy death, especially if there is chronic and severe pain included. It would be considered as a way to uphold the 'Right to life' by honouring 'Right to die' with dignity.

In terminally ill patients euthanasia provides an opportunity to advocate for organ donation which helps many patients with organ failure for transplantation. It gives an opportunity to organ needy patients 'Right to life' and for terminally ill patients 'Right to die.'

It gives the right to refuse medical treatment that sustains or prolongs life in patients with a terminal illness, degenerating and deteriorating health conditions like blood cancer.

The caregivers' burden in patients with incurable, debilitating conditions can cut across various domains such as financial, emotional, time, physical, mental and social.

DEMERITS:

Euthanasia avoids the benefits of palliative care which would provide relief to patients from distressing symptoms and pain with active, compassionate and creative care for the dying but by eliminating them from the civilized society.

In cases like schizophrenia and the patients suffering from obsessive-compulsive disorder attempts to suicide or opt euthanasia which is least accepted as in classical teaching, attempt to suicide is a psychiatric emergency and is considered as a desperate call for help or assistance.

There is a possibility of misusing euthanasia in the era of declining morality where the family members or relatives would opt for euthanasia for self-seeking motives. The supreme court has also addressed this issue in the landmark judgement of *Aruna Shanbaug Vs Union of India*³ case

³ Ibid

and opined that 'Mercy killing' should not lead to 'killing mercy' in the hands of noble medical professionals.

Passive euthanasia being legalised in the countries has given a possibility of eliminating many elderly and disabled citizens by family members refusing to bear huge costs for their treatment or because of the huge costs involved in keeping them alive.

In patients with terminal and mental illness where sometimes the diseases are cured with palliative and rehabilitative care opt for euthanasia as their illness is correlated with the depression.

Second opinions are not always necessary in euthanasia.

CONCLUSION :

Euthanasia is a form of a merciful killing or peaceful death which has raised significant controversies as for and against it. Nevertheless, despite some potential benefits of this process the analysis of Euthanasia reveals that the society as a whole should exercise some responsibility for such an activity as it is even morally challenging. hence, it must be used only as a last resort to preserve harmony within the society, when faced with a complex medical, social and legal dilemma. There is also an urgent need to invest in our health care system as 'Right to health' is bestowed under 'Right to life' of our constitution.