

# EUTHANASIA – Suicide OR Not

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## **ABSTRACT :**

When a person ends his life by his own act it is called "suicide" which is a crime under Indian penal code under section 309 and is a punishable offence, but to end the life of a person by others though the deceased orders it is called "euthanasia" or "mercy killing" .

Euthanasia may be classified in five categories and also there are various ways for its application. These apart the opinion of sociologists regarding euthanasia, its legal position in India in view of the Constitution of India, Indian Penal Code and other laws in vogue, so also the position of different countries of the world are all taken for discussion. Although the Supreme Court has already given its decision on this point but still some doubts arise in our point which we need to analyse carefully. Lastly, arguments are put forward for and against legalizing euthanasia and this article has been concluded with a definite comment in favour of legalizing passive euthanasia in India.

**Key words:** Euthanasia, Mercy killing, suicide, passive euthanasia

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## **INTRODUCTION:**

Every Human being is desirous to live and enjoy the fruits of life till he dies. But under some unnatural circumstances one ends his life by unnatural means. When a person ends his life by his own act it is called “suicide” but if a person ends his life with the help of others though the deceased orders it is called “euthanasia” or “mercy killing” . Euthanasia is mainly associated with people with terminal illness or who have become incapacitated and don’t want to go through the rest of their life suffering. A severely handicapped or terminally ill person should have the right to choose to live or die. The right to choose to live or die should not be a right allocated for bodied individuals of sound mind but to all human beings. Euthanasia is a controversial issue which encompasses the morals, values and beliefs of our society. Euthanasia has been a much debated subject through out the world. The debate has become increasingly significant because of the recent developments in Netherlands and England euthanasia has been allowed. As a result many of the nations across the world are now hotly debating whether or not to follow the Dutch example. Recently our Supreme Court in *Aruna Shanbaug* case<sup>1</sup> has already given its decision on this point and allowed passive euthanasia in India.

**Case refrence** : 1. *aruna ramchandra Shanbaug v. union of india*, 2011(3) scale 98:MANU/SC/0176//2011

## **MEANING AND DIFFERENT TYPES OF EUTHANASIA :**

According to Black's Law Dictionary (8th edition) euthanasia means the act or practice of killing or bringing about the death of a person who suffers from an incurable disease or condition, esp. a painful one, for reasons of mercy. Encyclopaedia of 'Crime and Justice', explains euthanasia as an act of death which will provide a relief from a distressing or intolerable condition of living. Simply euthanasia is the practice of mercifully ending a person's life in order to release the person from an incurable disease, intolerable suffering, misery and pain of the life. The term euthanasia was derived from the Greek words "eu" and "thanatos" which means "good death" or "easy death". It is also known as Mercy Killing. Euthanasia has been defined as the administration of drugs with the explicit intention of ending the patient's life, at the patient's request<sup>2</sup>. Euthanasia literally means putting a person to painless death especially in case of incurable suffering or when life becomes purposeless as a result of mental or physical handicap<sup>3</sup>. Euthanasia or mercy killing is the practice of killing a person for giving relief from incurable pain or suffering or allowing or causing painless death when life has become meaningless and disagreeable<sup>4</sup>.

In the modern context euthanasia is limited to the killing of patients by doctors at the request of the patient in order to free him of excruciating pain or from terminal illness. Thus the basic intention behind euthanasia is to ensure a less painful death to a person who is in any case going to die after a long period of suffering.

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#### **EUTHANASIA MAY BE CLASSIFIED AS :**

(1) Active or Positive

- (2) Passive or negative (also known as letting-die)
- (3) Voluntary
- (4) Involuntary
- (5) Non-Voluntary.

(1) **Active or positive** :

It is said to be Active euthanasia involves painlessly putting an patient into death for merciful reason, by the doctor by putting lethal dose of medicine.

(2) **Passive or negative:**

It is said to be done when the treatment given to the patient is terminated. for example removal of the life support system.

(3) **Voluntary:**

It is said to be voluntary when the euthanasia is practised upon a patient who himself gives the right to the doctor to practise the merciful killing on him.

(4) **Involuntary:**

It is involuntary euthanasia practise when the death is caused against the will of the patient and it is amount to "murder".

(5) **Non – voluntary:**

It is said to be non voluntary when the euthanasia is practiced upon a person who is not mentally fit and is able to give his consent to die.

4.

## **Various ways for euthanasia :**

### **1.Lethal injection:**

Injection of a lethal dose of a drug is given.

## **2.Asphyxiation :**

Use of hazardous gas which could cause death, the most popular gas is carbon monoxide, nerve gases like sarin and tabun etc.

## **Historical background :**

Before discussing the Indian point on euthanasia let us see the historical aspects of the euthanasia.

The right to die or end one's life is not new to the human civilization. In ancient Greece and Rome putting someone to death was considered permissible under certain circumstances. for example in Sparta the new born babies of the Spartans who had some defects were put to death. we even see in many holy books as the bible, Koran and the rig veda also give signs of self destruction or suicide.

- But we see there are two hindu views on euthanasia:
  1. By helping a person die who is in sever pain and illness is a good deed and fulfilling there moral obligations.
  2. By ending one's life full of sufferings could disturb the cycle of death and rebirth. this is a bad thing and those involved in such deaths could face the punishment of karma in their life.

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- Muslims point of view on euthanasia:

Muslims are against the practice of euthanasia as they say that human life is sacred as it is given by Allah and no one should think of ending it as Allah decides how long one would live .

In muslim context it was said that:

1. Life is sacred
2. Suicide and euthanasia are explicitly forbidden.

- Christians point of view on euthanasia:

We see Christians are largely against euthanasia as they say that the life is a gift given by god and one should respect it. Birth and death are gods process and one should not have any authority to take life of any one even if that man gives consent.

- Sikhs point of view on euthanasia:

We see that the Sikhs take their teachings from their holy book Guru Granth Sahib and that the Gurus have rejected suicide as it is against the gods plan of birth and death, and they said that suffering is the part of karma.

## **EUTHANASIA AND SUICIDE :**

Euthanasia and suicide could not be considered as one of the same thing. Therefore we would have to make a distinction between the two concepts. "suicide" as described in the Oxford Dictionary means an act of killing yourself deliberately. Therefore it is an act of intentionally termination of one's life by self-induced means for any reason, failure in love, failure in exam, failure in getting job, but mostly an act performed due to depression.

6.

Euthanasia is not been defined in any of the religious books but as it is seen that it is similar to the suicide therefore it could be seen that it is prohibited by the religion. In Indian law it is seen that the intention is

the act of penal liability. an act is not a criminal act if it is done without the intention. since we see that the person gives his consent to die thus we see that according to the law it is not a crime under the Indian penal law. Sec 87 of the Indian penal code lays down that a consent cannot be pleaded as a defence where the consent has been given to cause death or grievous hurt. in a similar case Bombay high court in Maruti Shripati Dubal case has been able to make a distinction between euthanasia or mercy killing and suicide. according to the court the suicide is an act of self destruction of life without help of others. whereas euthanasia intervention of other human agency to end one life. mercy killing could not be kept in same footing as on suicide.

## **LEGAL ASPECTS OF EUTHANASIA IN INDIA :**

The legal situation of India could not be read alone as we have adopted our constitution from various countries and the courts also refer to other country laws and decisions in certain points/cases. In India no doubt euthanasia is illegal practice as it is done by the doctor with the consent of the deceased and it will fall under clause first of section 300 of the Indian penal code, 1860. However valid consent is involved so it could be read with section 304 as culpable homicide not amounting to murder, but only cases involved in voluntary euthanasia. The non-voluntary and involuntary euthanasia could be punishable under section 92 of the Indian penal code. The law in India is very strict for assisted suicide and also for committing suicide and it is not a right in India.

We see various sections in Indian penal code, 1860 which have punishments for suicide as section 305 (abetment of suicide of a child or an insane), section 306 (abetment of suicide), section 309 (attempt to commit suicide).

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## **ARUNA'S CASE – A NEW DIMENSION IN INDIAN LEGAL SYSTEM :**

The judgement by the supreme court of India in Aruna ramchandra Shanbaug v. union of India opened the gate way of legalizing passive euthanasia in India. In this a petition was filled in the supreme court of India related Aruna ramchandra Shanbaug who was in persistent vegetative state( P.V.S.) and virtually a dead person or a brain dead person. The court appointed a medical team for the examination of the case and gave a historic decision of euthanasia under special cases under strict provisions of law.

The apex court laid down some guidelines related to euthanasia untill the parliament makes law in such field :

1. A decision has to be taken to remove the life support either by the parents, spouse or near relatives and in case of absence of them by close friends or by the friend acting next to friend or the doctor attending the patient.
2. Hence the decision taken by the relatives or the next friend or the doctor should have to be taken the permission of the high court to remove the life support system. As there colud be possibilities of falsely acquiring the property of the deceased. High court under article 226 colud give such decision and could make decision and issue a writ and orders.

## **LAW COMMISSION OF INDIA'S RECOMMENDATIONS :**

In euthanasia the law commission proposed the following recommendations:

1. First thing is that the competent patient who is suffering from and illness has the right to refuse medical treatment such as life support (ventilators, oxygen support), and if the competent patient has taken a decision then the doctor is bind to do that.

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2. That the commission propose to the doctors to not to stop the treatment unless he has obtained opinion from three expert medical practitioners panel appointed by higher officials.



3. The commission has also proposed that a patient who gives his consent for the withdrawal of treatment should be protected against the prosecution under section 309 of the Indian penal code, 1860. Like wise the doctors should be prevented against the section of 299 of the Indian penal code and the section 304 of the Indian penal code, 1860.
4. The commission has also proposed to the high court to take cognizance in matters that in which there is no one to take decision on behalf of the patient who needs to be given the benefit of right to die or mercy killing.
5. The commission has also guided the Indian medical council to lay down the guidelines related to the euthanasia or mercy killing and when it should be considered to remove the life support for a patient on his or by his relatives permission.

## **CONCLUSION :**

we see that as suicide is a crime under Indian law which is punishable under section 309 of the Indian penal code, 1860.

And also in the Gian Kaur's case we see that suicide is crime per se or illegal per se but same could not be said in the case of euthanasia. But in the judgement of Aruna Ramchandra Shanbaug case we see that supreme court has legalized the passive euthanasia and observed that the passive euthanasia is permissible under supervision of law in exceptional cases but active euthanasia is not permissible by law.

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In view of the above discussion I believe that the euthanasia should be legalised in India, and it should not be considered as an attempt of suicide and should not be made illegal and the legislature should take it into consideration and make

necessary law for dealing with the aspects of euthanasia. so we need to have a law to legalize euthanasia with adequate safeguards. Thus we see that the law commission of India has laid reports regarding euthanasia and also the guidelines considered in the Aruna's case should be noted in making any such law in the upcoming legislature that malpractising should be stopped and misuse of euthanasia should be stopped. beside if the above mentioned points should be considered in framing the laws then misuse and malpractise could be stopped.

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