

EUTHANESIA : A CRITICAL APPRAISAL



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Abstract:

Euthanasia it means intentional killing of by act or omission of a dependent human being for his or her alleged benefit. The key word here is 'intentional', if the death is not intended; it is not an act of Euthanasia. Keeping this in view the paper shall introduce the reader with the concept of euthanasia. It will also provide clarification of the concept with other similar concepts. The paper shall throw light of the famous cases of euthanasia, which have questioned the legality of the practice of Euthanasia. Further, the paper will analyze the advantages and disadvantages of Euthanasia. Hence, it paper is written not only to introduce the concept but also to provide analysis on Euthanasia.

Keywords: Active Euthanasia, Passive Euthanasia, Voluntary killings, Letting Die, Physician Assisting Dying

INTRODUCTION

You matter because you are you.

You matter to the last moment of your life,

And we will do all we can, not only to help you die peacefully,

But also to live until you die.... (Dame Cicely Saunders, 1886)

There have been many arguments and discussions regarding this issue. But to make a study on this topic, there is an immense need of comprehending the word Euthanasia. Basically, it means intentional killing of by act or omission of a dependant human being for his or her alleged benefit. The key word here is 'intentional', if the death is not intended; it is not an act of Euthanasia.

The Euthanasia debate is still in its infancy, with the ultimate outcome very much in doubt. But one thing is sure that Euthanasia controversy is likely to be significant source of social and political argument for many years to come. Hence, Euthanasia is one of the most perplexing issues which the courts and legislatures all over the world are facing today and thus it is indispensable to study this issue.

OBJECTIVES OF THE PAPER

1. To study the legality of Euthanasia.
2. To study the pros and cons of Euthanasia.
3. To analyse different cases regarding Euthanasia in world.
4. To study the constitutional laws such as Right to life and Right to die.
5. To determine its impact on various fields.

RESEARCH METHODOLOGY

My research is based upon secondary data. It is based on many books related to this topic. It is descriptive and analytical in nature. Dictionaries, books have been of great importance in carrying out this project report.

Footnotes and endnotes have been given where required.

ORGANISATION OF STUDY

Chapter 1- A brief discussion on Euthanasia

This chapter gives a brief on euthanasia along with types of euthanasia and some differences related.

Chapter 2 -Important Cases of Euthanasia

Anthony Bland's Case, Nancy Cruzan's Case, Aruna Shanbhaug's Case

Chapter 3 Pros of Euthanasia

What are the advantages of euthanasia? Why its practice shouldn't be banned? Will it be helpful for society?

Chapter 4 Cons of Euthanasia

What are the disadvantages of euthanasia? Why its practice should be banned?

CHAPTER 1

A BRIEF DISCUSSION ON EUTHANASIA

One of the most public policy debates today surrounds the issues of Euthanasia and assisted suicides. The outcome of that debate will profoundly affect family relationships, interaction between patients and doctors, and concepts of basic ethical behavior. With so much at stake, more is needed than a duel of one-liners, slogans and sound bites. There are different Euthanasia laws in each country. The HL Select Committee on medical ethics of England defines Euthanasia as “a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering”¹.

The debate over euthanasia begins with the definition of the word itself. Today, people distinguish between active and passive euthanasia, as well as voluntary and non-voluntary euthanasia. Coming now to legal issues in this case, it may be noted that euthanasia is of two types: Active Euthanasia and Passive Euthanasia.

1. **Active Euthanasia** entails the use of lethal substances or forces to kill a person e.g. a lethal injection given to a person with terminal cancer with terrible agony. e.g. Sodium pentothal which causes a person instantaneously and painlessly dies in this deep sleep.
2. **Passive Euthanasia** entails withholding of medical treatment for continuance of life, e.g. withholding of antibiotics where without giving it a patient is likely to die, or removing the heart lung machine, from a patient in coma.

The difference between active and passive euthanasia is that in active euthanasia, something is done to end the patient’s life’ while in passive euthanasia, something is not done that would preserve the patient’s life.

The general legal position all over the world seems to be that while active euthanasia is illegal unless there is legislation permitting it, passive euthanasia is legal even without legislation provided certain conditions and safeguards are made.

A further categorization of euthanasia is between voluntary euthanasia and non voluntary euthanasia.

¹ *Paper on Euthanasia*, Committee of Medical Ethics on Euthanasia.

1. **Voluntary Euthanasia** is obviously where the consent is taken from the patient, whereas on the other hand,
2. **Non Voluntary Euthanasia** is the one where consent of the patient is unavailable, for instance, if the patient is in coma, or is suffering from any other conditions where he cannot provide its consent.

While there is no legal difficulty in the case of the former, the later poses several problems, which we shall address.

As already stated above active Euthanasia is a crime all over the world except where permitted by legislation. In India, active euthanasia is illegal and a crime under section 302 or at least section 304 IPC. (abetment to suicide).

Euthanasia and Physician Assisting Dying:

A distinction is sometimes drawn between euthanasia and physician assisting dying, the difference being in “who” administers the lethal medication. In euthanasia, a physician or a third party administers it, where as in physician assisted suicide it is the patient himself who does it, though on the advice of the doctor. In many countries/states the latter is legal while the former is not.

Difference between Killing and Letting Die:

There is a moral gulf between killing (taking a life) and letting die (not saving a life). The right not to be killed is undisputed. There is no right to have one's own life saved. Where there is a right - and only where there is one - there is an obligation. Thus, while there is an obligation not to kill - there is no obligation to save a life.

CHAPTER 2

IMPORTANT CASES OF EUTHANASIA

Anthony Bland's Case:

The facts were that one Anthony Bland aged 17 went to the Hillsborough Ground on 15th April 1989 to support to Liverpool Football club. In the course of the disaster which occurred on that day, his lungs were crushed and punctured and the supply to his brain was interrupted. As a result, he suffered catastrophic and irreversible damage to the higher centres of the brain. For 3 years, he was in a condition known as PVS. All the judges in the Airdale case² were agreed that the Anthony Bland should be allowed to die by restraining the medical treatment to end up his sufferings.

Nancy Cruzan's Case:³

The petitioner sustained injuries in an automobile accident and lay in a Missouri State hospital in what has been referred to as a PVS, a condition in which a person exhibits motor reflexes but evinces no indication of significant cognitive function. Her parents and co-guardians applied to the court for permission to withdraw her artificial feeding and hydration equipment and allow her to die. The SC did not hold it right, saying that under a statute in the State of Missouri it was necessary to prove by clear and convincing evidence that the incompetent person had wanted withdrawal of life support treatment in such an eventuality.

Aruna Shanbhaug's Case:⁴

In this case, Aruna was in a state of PVS from last 42 years. The tragic incident took place with her. The sweeper of the KEM Hospital where she worked, tried to rape her and then choked her with a dog chain and sodomized her, resulting in brain stem contusion injury and cervical cord injury apart from leaving her cortically blind. The SC of India rejected the plea

²(1993) AC 789 HL

³ 497 US 261 (1990)

⁴ Writ petition (Crl.) no(s). 115 of 2009, supra

after a long discussion on it whereas, granted Passive euthanasia in the country. In India, the Right to live under Article 21 does not include the Right to die. The provisions in the Penal Code under which an attempt to commit suicide is a crime, do not violate Article 21 since death is a denial of the right to life and cannot be construed as forming a part of the Right to life.⁵

⁵ Gian Kaur v. State of Punjab, (1996) 2 SCC 648 overruled P. Rathinam v. UOI, (1994)3 SCC 394

CHAPTER 3

PROS OF EUTHANASIA

1. **Right To Choose**

A person who is suffering has the right to choose what should be done with his or her life. He or she may choose to get treated and he also has the freedom to not choose treatment. If treatment is unavailable and a person is unable to bear the suffering, then it is his or her right to end the painful life.

2. **Patient Suffering At End-Of-Life**

Euthanasia has a moral advantage; however, it can be questioned when thought from a different perspective. By allowing a sufferer to die, who also wishes to end his or her life, the loved ones and even the medical fraternity and society at large is relieving the person of the pain and suffering. It is the right thing to do.⁶

3. **Financial Implications**

Euthanasia has far-reaching financial implications. Patients who are terminally ill or those who suffer from incurable diseases can choose to get medical attention but that would be eventually futile since the person will not be saved. One would simply prolong the life of suffering and pain while spending a lot of money. There are thousands of cases where a family has gone bankrupt to ensure medical care for a terminally ill person or to keep up the treatment for an incurable disease.⁷

4. **Abstract Line Of Murder**

Euthanasia is basically a form of legalized murder. As a pro, it is possible that in a very abstract line of thought, we can grow as a race and as a society when it comes to our mentality and our stance towards death. Perhaps one day we can eradicate murder as a problem in human societies due to the fact that the line of thought and stance towards death has changed. What if death is no longer feared? What if we truly embrace death as a part of life, and have to completely change the definition of death, changing what

⁶ *Euthanasia Pros and Con List*. Retrieved from <http://occupytheory.org/euthanasia-pros-and-con-list/>

⁷id.

we have believed it to be for the whole period of our conscious existence. If we look at death in a different way, and if we open our minds to it, the possibilities are endless.⁸

5. Donation Of Organs

Euthanasia can be very helpful in many ways. When people become old and especially when they suffer from terminal illness or incurable diseases, they still have vital organs which can be donated. If the person dies naturally and doesn't manage to get the organs donated, then they are of no use. Euthanasia allows the patients to die under medical supervision and the healthy vital organs can be donated to those in need. This can pave the way for a much better world. This was decided in the **Aruna Shanbhaug's case**⁹ where the doctors who examined Aruna said that her organs can be put to use in saving the life of others

6. Scarcity Of Medical Aid

Consumption of scarce medical resources depriving those who may live healthy lives if provided the same opportunities.¹⁰

7. Nation's Economy

Euthanasia is also financially beneficial for a country or a nation's economy. Every country spends a large sum of money on free medical care and for the wellbeing of the elderly and ailing. Those among the ailing who wish to end their life can be allowed to do so and that can save the nation a lot of money. It may be immoral to look at life and death from the perspective of a nation's economy but it makes sense when one looks at the subsequent generations and the burden on the exchequer that is left by the ailing who could otherwise choose to opt for euthanasia.

⁸ *Euthanasia Pros and Con List*. Retrieved from <http://occupytheory.org/euthanasia-pros-and-con-list/>

⁹ Writ petition (Crl.) no(s). 115 of 2009

¹⁰ *Should Euthanasia Be Legal?* Retrieved from <http://www.mapsofworld.com/infographics/poll/should-euthanasia-be-legal-text.html>

CHAPTER 4

CONS OF EUTHANASIA

1. Misuse by family members

Euthanasia can be misused. Many psychiatrists are of the opinion that a terminally ill person or someone who is old and suffering from an incurable disease is often not in the right frame of mind to take a call. Such a person deciding to die may not be a rational call. Family members deciding on behalf of the patient can also lead to abuse of the law legalizing euthanasia.

2. Advancement of technology

There is always a chance of medical miracle which is not being accounted for when euthanasia is opted for. A person may not suffer forever as is expected in certain situations. A person may get better and that possibility is completely rejected when euthanasia comes into the picture.

3. Misuse by doctors

Doctors have misused euthanasia in the past. There's no certainty that certain sections of the society, including doctors, will not abuse the law or the provisions.¹¹

4. Changing Acceptance of Death

We must face that we know nothing about death. The philosopher Epicurus has defended that death is nothing but the absence of feelings and sensations, and as such, there is nothing in death.

5. Legalizing Murder

Legalized murder in another form. Things can easily get a little out of hand and in some cases, euthanasia may be completely justifiable. In some other cases, it might be a way

¹¹ *Top 8 Euthanasia Pros and Cons*. Retrieved from <http://nlcatp.org/top-8-euthanasia-pros-and-cons/>

for incompetent doctors to get away with pure stupidity, and in other cases, it can mean doctors can get away with murder, by saying it was the patient's choice, and since the patient won't be there to defend himself, who is going to know? The issue needs to go deeper, and other current problems with our society will come up, like corruption, greed, envy, and so on.

6. Religious Conflicts Among Different Belief Structures

Religious concerns may exist with euthanasia. Religious books are written, and no matter what major religion we talk about, there are millions of followers involved, which means these books do contain truth to some degree, whether or not there is a superior being. By ending it all, even if consciously, we are choosing to terminate our search for whatever might be above us, or right by our side looking after us. Perhaps if someone is miserable enough to desire death, or weak enough to desire death, could this person keep the hope up, and try and look for divinity, even if within? No one is a simple waste of space and oxygen, we are all here for a reason, and that reason is certainly not wait for death, or to hurry it up.¹²

¹² *Euthanasia Pros and Con List*. Retrieved from <http://occupytheory.org/euthanasia-pros-and-con-list/>

CONCLUSIONS

The law as of now is still pretty ambiguous on the topic of Euthanasia, but we can hope that some concrete steps shall be taken to resolve this burning problem. Though, these issues has arisen new paths and goals in the Indian Judiciary system there is more to find about. Right to life certainly do not include Right to die but does not it hamper personal liberty of an individual. It can be used in many wrong ways which could probably change the title 'mercy killing', but the importance of Euthanasia in specific cases cannot be undermined. The topic is still a toddler and there is lot to discover about it. However, there is a lot of confusion and mainly subjective. Thus, in concluding remarks, assisted suicide and abetting of suicide can be made punishable, "due to cogent reasons in the interests of society".

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