
RIGHT TO LIFE AND LEGALIZATION OF PHYSICIAN- ASSISTED EUTHANASIA ASSISTED IN INDIA

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ABSTRACT

Throughout history, "euthanasia" has been used to imply several things. The historian Suetonius is credited with coining the term "euthanasia" in the 17th century. Francis Bacon was the first person to use the term "euthanasia" in a medical context, describing it as a quick, painless, and joyful death during which it was the "physician's responsibility to alleviate the 'physical sufferings' of the body." The phrase "outward euthanasia" introduced by Bacon to separate it from a spiritual idea—the euthanasia "which regards the preparation of the soul"—was used to describe a "outward euthanasia." Euthanasia has been described as the "painless inducement of a quick death" in modern use. However, it is argued that this definition falls short of accurately defining euthanasia since it leaves a wide range of potential behaviours available. It would fulfil the definition's standards yet not be considered euthanasia. These are instances in which someone murders another person without suffering but for no other purpose than personal gain; or unintentional, rapid, painless demises. An alternative strategy includes the idea of pain in the definition. The Oxford English Dictionary's definition of it as "the painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma" includes suffering as a necessary condition. Marvin Khol and Paul Kurtz's definition of it as "a mode or act of inducing or permitting death painlessly as a relief from suffering" also includes this approach. The improvements in medical technology that have the need for a definition of euthanasia has arisen over the past few decades due to concerns over the care of very ill patients and people's right to self-determination. The necessity for patients to expressly request euthanasia and the prohibition of other passive forms of the practice serve to limit its use. It should also be specified in words that make it apparent what methods are used to carry it out. According to this definition of euthanasia, it is the deliberate death of a patient who is suffering from a terminal illness, at their request and for their own benefit. It would be distinct from situations in which patients reject medical care and the life-sustaining medical intervention is withheld or discontinued to allow the patient to die.

Keywords: Physician-assisted death, mercy killing, end-of-life decision-making.

INTRODUCTION

The constitution is a political framework that serves as the foundation for a nation's laws and guiding principles. The rights and obligations of people are outlined in the constitution. The Constitution determines how individuals and governments interact.

There Are Two Constitutional Types

- Unwritten Constitution
- Written Constitution
- India's Constitution is in writing.
- The constitution was written by hand; no typing or printing was done.
- The final draught took about two years and one month to complete.
- The drafting committee's chairman was Dr. Bheem Rao Ambedkar. On January 26, 1950, the Constitution became a legally binding document.
- It is the world's longest Constitution.
- The Constitution's importance
- According to the Constitution, India is a secular, democratic, socialist nation. The Indian Constitution is significant since it is the fundamental law of the land. The Indian Constitution is significant because it guarantees that those who make decisions on behalf of the people do so fairly and in accordance with popular opinion. It outlined the procedures for holding those in positions of authority responsible to the people they were supposed to represent.
- Constitutional Analysis: A Critical View

An institutional foundation for political, economic, and social democracy is set down in the Indian Constitution. It highlights the Indian people's dedication to outlining, guaranteeing, and achieving a number of national goals in a free and

democratic way. It is more than just a piece of paper. It is a system that, by modifying and adapting to shifting needs and conditions, guides the country towards achieving the people's goals and expectations.

- Normative Rights

The Constitution grants several fundamental liberties to all individuals, both individually and collectively. These are protected by the Constitution under the six justified categories of Fundamental

Rights. Fundamental Rights are covered in Articles 12 through 35 of Part III of the Constitution. The Indian Constitution's most fundamental right is the right to life. It guarantees that no one may be deprived of their life until doing so in line with a legal process. The right to life and personal freedom is guaranteed by Article 21 of the Indian Constitution. Life, Liberty, and Dignity are its three key components.

ARTICLE 21

Everyone has access to this essential right, both citizens and visitors. Two rights are provided under Article 21:

Rights to life and personal freedom

This right has been referred to as the "heart of fundamental rights" by the Supreme Court of India.

The right to life encompasses more than just the ability to live. It also includes having the ability to live a full life with dignity and purpose.

Article 21's main objective is to ensure that the State only violates a person's right to life or liberty in accordance with the established legal process.

Case Law:

1. Kharaksingh v. State of Uttar Pradesh in the Right to Life case

The word "Life" is used in this context to refer to anything greater than just

animal life.

2. Sunil Batra vs the Delhi government

The Supreme Court ruled that the right to life included the right to live a healthy life and take use of all the benefits that come with having a human body in top form.

Right to Personal Liberty:

The 1978 case *Monika Gandhi v. Union of India*.

These stated that the right to life encompasses every element that gives life significance and goes beyond just animal existence.

An individual's right to a "Dignified Life" means that all that goes with that right is protected under Article 21.

EUTHANASIA

Euthanasia is defined as the painless killing of a patient suffering from an incurable painful disease or an irreversible coma. It is also termed as mercy-killing, as it is seen as a call for mercy for terminally ill patients.

- Euthanasia methods
- Free-will euthanasia
- It means to end one's life without suffering at the person's wish.
- Unwilling Euthanasia
- It indicates that when a person has euthanasia without their permission.
- Ways of Conducting Euthanasia
- Active Euthanasia

Actively performing the act of Euthanasia or activities that immediately facilitate a person's death. For example, the Consumption of a deadly drug/poison.

- **Passive Euthanasia**

No active performance of the act of Euthanasia. For example, withholding necessary treatments or medicines, etc.

LEGAL ANALYSIS OF EUTHANASIA

There has been a great deal of discussion and controversy around the legalisation of assisted suicide and euthanasia. Despite the fact that over 200 million individuals live in countries that permit assisted suicide, regulations and practises differ from country to country and need constant observation. For thousands of years, philosophers and religious intellectuals have discussed the ethics of suicide, basing their discussions on general notions of obligations to oneself and to society. Some believe that assisted suicide, or both assisted suicide and euthanasia, should be accepted as morally and legally acceptable options in the care of terminally ill or severely disabled patients, while others believe that these actions are only ethically acceptable in extremely rare and exceptional circumstances and should not be allowed to violate professional standards or the law. altered to allow any kind of treatment. On the other side, others claim that regardless of the specific situation, euthanasia and assisted suicide are ethically reprehensible and should not be available. Although more states and nations are contemplating legalising assisted suicide, there are cautions about possible misuse or harm from overcoming society's long-standing norms. Persistent restrictions against causing another person's death or aiding in suicide. The desire for control over the timing and mode of death has been the main topic of public discourse. While proponents contend that these procedures uphold a person's autonomy and self-determination at the end of life and give people the option of choosing a dignified death, detractors contend that they violate the medical code, the Hippocratic Oath, which all doctors take, and harm the patient-physician relationship. The effects of new and expanded assisted-dying legislation on members of vulnerable groups, such as those with psychiatric illness and minors, must therefore be continuously examined. Additional research into the effects on patients, physicians, healthcare systems, and communities is also required make sure that to the end of their lives, human integrity is protected.

CASE LAW: Aruna Shanbaug

Aruna Ramchandra Shanbaug, an Indian nurse who spent more than 41 years in a vegetative state as a result of sexual assault, was the focus of a court case on euthanasia (1 June 1948 – 18 May 2015). Shanbaug was sexually raped by a ward boy named Sohanlal Bhartha Walmiki in 1973 while working as a junior nurse at King Edward Memorial Hospital in Parel, Mumbai. Shanbaug was left in a vegetative state as a result of the incident. In response to journalist Pinki Virani's request for euthanasia, the Supreme Court of India established a medical team to evaluate Shanbaug on January 24, 2011, after she had been in this condition for 37 years. On March 7, 2011, the petition was denied by the court. Nevertheless, in its defining It permitted passive euthanasia in India, in my opinion.

Shanbaug died of pneumonia on 18 May 2015, after being in a persistent vegetative state for nearly 42 years.

FACT

Aruna Ramchandra Shanbaug, the petitioner, and one of "her next" friends, Ms. Pinki Virani of Mumbai, filed the writ petition in accordance with Article 32 of the Constitution. According to the plea, the petitioner was a staff nurse at the King Edward Memorial Hospital in Parel, Mumbai. On the evening of November 27, 1973, a hospital cleaner assaulted her by tying a dog chain around her neck and pulling her back. He tried to rape her, but when he saw she was menstrual, he sodomised her. To keep her awake during the crime, he tightened the chain around her neck. On November 28, 1973, at 7.45 a.m., the cleaner found her on the floor, unconscious and covered in blood. As stated by The dog chain's strangulation, according to the argument, cut off the blood's oxygen flow, harming the brain. The cervical cord and brain stem contusions caused damage to the cortex of the brain, according to the hospital's neurologist. According to reports, she is almost unconscious, in a persistent vegetative state (PVS), and her brain is nearly entirely dead. Due to her total lack of sight, hearing, and vision, she is utterly unable to speak or express herself. There is little hope that her condition would improve; it is claimed that her body has been lying on a bed in the KEM hospital in Mumbai for the past 36 years with no prospect of improvement. The petition requests that the responder stop eating Aruna, allowing her to die gently.

ISSUES RAISED

1. Should it be permitted or deemed "not unlawful" to withhold or stop providing life-sustaining therapies to someone who is in a persistent vegetative state (PVS)?
2. After her family abandoned her, Aruna Shanbaug has been receiving care from the KEM Hospital staff for the last 37 years. Who will make choices on her behalf?

JUDGEMENT OF THE CASE

The Supreme Court of India's First Division Bench, composed of Justices Markandey Katju and Gyan Sudha Mishra, handed down this historic verdict on March 7, 2011. Aruna was not brain dead, as determined by the court based on the medical report and the Transplantation of Human Organs Act, 1994's definition of brain death. She was given the necessary stimuli, experienced senses, and could breathe on her own. Aruna was in a PVS but was in a stable condition. So, taking her life was not appropriate. Pinki Virani further lacked the power to decide on her behalf; rather, KEM Hospital's management and staff did. She was still alive because of the life-saving practise of mashing the food. In this instance Putting an end to the life-saving treatment would have meant terminating the woman's feeding. The removal of ventilators and the stoppage of food could not be matched. For Aruna, euthanasia would mean overturning the case judgement that the team at KEM Hospital has been working on for years.

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Discontinuing the life-saving treatment in this case would have meant discontinuing the woman's nutrition. The removal of ventilators and the stoppage of food could not be matched.

For Aruna, euthanasia would mean erasing the years of effort put in by the KEM Hospital personnel.

CASES RELATED TO EUTHANASIA

1. Gian Kaur vs The State of Punjab on 21st March 1996.
2. Chandrakanth Narayan Rao Tandale vs The State of Maharashtra on 9th December 2020.
3. Allarakka Ismailbhai Thimmar vs Union of India on 21 July 2022.
4. Common Cause (A Registered Society) vs Union of India on 25th February 1947.
5. Re: Prashant Bhushan vs Incorrect or that on 31 August 2020.

SUGGESTIONS

1. Those who are afflicted with advanced, potentially fatal illnesses and their loved ones should be able to count on and get competent, dependable care.
2. Doctors, nurses, social workers, and other health professionals must make a commitment to enhancing care for patients who are nearing the end of their lives and to utilise the information already at their disposal to effectively prevent and treat pain and other symptoms.
3. In order to make sure that practitioners have the necessary attitudes, knowledge, and abilities to provide excellent care for patients who are dying, educators and other health professionals should spearhead improvements in undergraduate, graduate, and continuing education.
4. Palliative care need to develop into, if not a medical speciality, at least a clearly defined field of knowledge, instruction, and study.
5. The country's research establishment should develop and carry out priorities for enhancing the body of knowledge for end-of-life care.

6. To get a greater knowledge of the contemporary experience of dying, the alternatives accessible to dying patients and their families, and the responsibilities of communities to people nearing death, constant public dialogue is necessary.

CONCLUSION

We can infer from this that everyone has a right to life. No one may be deprived of their life or personal freedom other than in accordance with the legal process. Allowing those who are suffering to make the decision to stop their pain is the only option that is compassionate. Additionally, there is confusion as a result of differences between the laws as they currently stand and how they are applied. The physicians, their patients, and the patient's loved ones are all exposed as a result of this uncertainty. Both pro- and anti-euthanasia proponents have strong opinions in the controversial discussion around euthanasia and its ramifications. Euthanasia proponents frequently stress the value of individual autonomy and choice while making decisions about end-of-life care. Opponents of euthanasia contend that medically assisted dying can result in misuse and compromise the core moral values of medicine, such as respect for life and the patient's best interests. The legal and medical establishments will be significantly impacted by the classification of euthanasia as "medical treatment," and doctors will play a key role in deciding how to provide end-of-life care. There have been cases of non-voluntary and involuntary euthanasia in several jurisdictions where euthanasia has been decriminalized, such as the Netherlands, raising worries about the possibility of abuse in a system that enables euthanasia. It is the doctor's duty to terminate a patient's life through euthanasia, which has effects on their professional identity and integrity. The issue at hand is the right to assist people, not the right to die. Doctors must negotiate possible conflicts between their professional obligations and their moral integrity while honouring those patients' right to conscience-free/decision-making who morally disapprove of some alternatives. Euthanasia's ethics and ramifications are ultimately complicated topics that need serious thought, more study, and an honest discussion among all parties involved.

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