



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## A BRIEF ON EUTHANASIA

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### ABSTRACT

The right to die has been a topic for debates since a long time now. A person's life is of prime and utmost importance in India. The Article 21 of the Constitution of India talks about the right to life. It is one of the most discussed Article. Different judges have given different interpretations of this respective Article in various cases. A person's life is of prime and utmost importance in India. The Article 21 of the Constitution of India talks about the right to life. It is one of the most discussed Article. Different judges have given different interpretations of this respective Article in various cases. Few people are of the opinion that euthanasia should be legalised as the patient's life is ended with his own consent. If we compare the interest of an individual to that of the society then the individual interest would be given more weightage. Therefore, it is an obligation on the society to guarantee a peaceful life for a person. In the 196<sup>th</sup> report of Law Commission this point was widely discussed. The commission gave certain recommendations. It said that there should be a law which safeguards patients who are at the verge of succumbing to death because of severe illness denying all possible treatments offered. Euthanasia and its types have been briefly discussed under this article.

**keywords:** euthanasia, right to life, article 21, interpretation, right to die.

### INTRODUCTION

*"I am the master of my fate; I am the captain of my soul."* - William Ernest Henley

The right to die has been a topic for debates since a long time now. As per the Article 21 of the Constitution of India, "no person should be deprived of his life or personal liberty except according to the procedure established by law".

From time to time there have been different interpretations of the Article 21. At present it includes right to food, right to education, right to privacy, and so on.

In the recent times there have been discussions and debates happening with respect to the connotations that whether the right to end one's life comes within the ambit of Article 21 or not? Various perspectives have come into light which include legitimate, political, virtuous and medical reasons.

In the case of State of Maharashtra vs Maruty Sripati Dubal, the Hon'ble court declared that the right to die comes under the ambit of right to life but later different observations have been seen.

### TYPES OF EUTHANASIA

Euthanasia can be classified into 5 types; they are discussed as follows:

1. Active
2. Passive
3. Voluntary
4. Involuntary
5. Non-voluntary

Active Euthanasia: any act which intends to reduce the life of an individual is referred as “active euthanasia”. Under this kind of euthanasia, the person willing to end his/her life gives consent to a process wherein they are injected with a pernicious dosage of medicine to put them in a state of death without any pain.

Passive Euthanasia: in this kind of euthanasia all the procedures that come under “extra treatment” which are necessary for an individual’s survival are stopped. For example, stopping the dialysis of a person having kidney-related health issues. All such procedure which are aiding in extending a person’s life are entirely removed. This procedure is usually performed on people who are in persistent vegetative state.

Voluntary Euthanasia: in this type of euthanasia, a person voluntarily agrees to end his life through the procedure of euthanasia. He gives consent for the procedure or in some cases his legitimate guardians consent is also taken to end his life. The consent should be a free consent, i.e., it should not be under and undue influence or by any forceful act/activity.

Under the purview of international practices, voluntary euthanasia is the most acceptable form amongst all the other forms of euthanasia.

Involuntary Euthanasia: the involuntary euthanasia is where the process of euthanasia is performed on a person without his/her consent. It is also considered as a form of murder.

Non-voluntary Euthanasia: in this kind of euthanasia, the individual is not able to give his assent to die because of his sufferings or illness. In such cases, the family or the legitimate guardians take a decision on his behalf.

### **EUTHANASIA AND INDIAN LAW**

A person’s life is of prime and utmost importance in India. The Article 21 of the Constitution of India talks about the right to life. It is one of the most discussed Article. Different judges have given different interpretations of this respective Article in various cases.

Right to die falls under the ambit of Article 21 or not?

This question was first raised in the case of State of Maharashtra vs M.S. Dubal, where the court held that Article 21 includes right to die. This judgement was later upheld in the case of P. Rathiman vs Union of India.

Later this decision of the court was changed in the case of Gian Kaur vs State of Punjab.

In the case of Gian Kaur, there was a bench of five judges which gave a judgement stating that right to die does not come under Article 21 of the Constitution of India. The bench also said that right to life is a person’s natural right unlike the right to die which comes under the unnatural part of life. Therefore, it cannot be considered as a right under Article 21.

In the 196<sup>th</sup> report of Law Commission this point was widely discussed. The commission gave certain recommendations. It said that there should be a law which safeguards patients who are at the verge of succumbing to death because of severe illness denying all possible treatments offered. It was also said that the doctors would discuss it with the patient and the family but the final decision will be of the doctor and the experts with respect to the guidelines given under the Medical Council of India.

Further the commission ordered that the doctor should maintain notes wherein he mentions about the denial by the patient to take the treatments/medications. These notes should also include the circumstances leading to continuance, stop or pause of the medications with proper reasoning behind every decision and opinions of the experts.

### **Aruna Shanbaug vs Union of India**

Hon’ble Supreme Court of India on 7<sup>th</sup> March, 2011 gave a landmark judgement with respect to the concept of euthanasia by allowing passive euthanasia for the patients who are almost dead or are in the condition of permanent vegetative state.

Facts of the case: Aruna was a nurse at King Edward Memorial Hospital, Mumbai. During her work tenure, she became the victim of sexual assault which further led to a vegetative state. 37 years later, her friend- Pinki Virani approached the Court. The court responded to her and a medical panel was constituted to examine the

condition of Aruna. After examination, the petition of mercy killing was denied by the court, but passive euthanasia was made legal in the country.

The court gave certain instructions; they are discussed as follows:

1. If the patient has made up their mind to stop taking the additional supplements that help them live longer, then those who are closest to them such as their partners or legal guardians should make that decision. The physician ought to behave lawfully while keeping the patient in mind.
2. The second significant ruling made by the Hon'ble Supreme Court of India in this case was that the consent of the State High Court is required. It is important to remember that many close family members attempt to obtain the patient's belongings and as a result, they may consent in this situation. The respective High court would examine every facet of the case and form a plan of action.
3. In such circumstances, the High Court was also given a set of guidelines that it must adhere to. It was reported that any decision will be made by two judges following a consultation with the group of three highly qualified medical professionals. Prior to rendering a final decision, the court would also hear testimony from the patient's family members.

### **REASONS FOR DECLARING EUTHANASIA LEGAL**

1. Few people are of the opinion that euthanasia should be legalised as the patient's life is ended with his own consent. If we compare the interest of an individual to that of the society then the individual interest would be given more weightage. Therefore, it is an obligation on the society to guarantee a peaceful life for a person.
2. People favouring active euthanasia are of the opinion that if passive euthanasia has been legalised in the country, then active euthanasia should also be legalised. They argue that in situations where patients feel like their life has become a burden and they want to end it then they should be allowed to do so. They also say that this will help a patient to die with dignity and will also help in saving the medical amenities for someone whose illness is in a recoverable state.
3. Euthanasia acts an immediate antidote for the patients because it ends the insufferable pain at once. With the help of euthanasia, they can have a peaceful death.
4. Some people are also of the opinion that euthanasia also has some moral perspective as well. They suggest that it is better for a person to die peacefully and with ease rather than going through mental and physical pain; and it is not only the patient that undergoes pain, the family also faces trauma and financial problems. Thus, they suggest that if by ending the life of the patient in pain, we can save the resources and instead use it for someone who can actually be saved then we should definitely do that.
5. By denying the right to die and perform euthanasia, we are letting people suffer which leads to a form of cruelty and cause damage to the dignity of the patient which is both ethically and socially wrong.

### **REASONS FOR DECLARING EUTHANASIA ILLEGAL**

1. It is against the ethics of medical practitioners.
2. One major contention is that a patient who is already suffering from a severe health concern is usually not in his right mind and is not stable enough to make such a decision with respect to his life.
3. If euthanasia is legalised then people would start opting for it for very petty reasons like extreme work stress, relationship trauma, poor financial conditions etc.
4. Few also have the opinion that it is an immoral act as it is against the will of God.

### **CONCLUSION**

Euthanasia is a sensitive issue. It involves various perspectives including religion, morality, legality. It is still a topic of debate and will remain so for times to come. In my opinion, though Article 21 deals with the natural right and death is an unnatural concept still it should be considered under the respective Article.