

Analytical Study on the law of Euthanasia in India with Special Reference to Landmark Judgement of Aruna Ramchandra Shaunbhaug V. Union of India (2011) 4 SCC 454

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Abstract: *Euthanasia, also known as mercy killing, is a highly debated and controversial topic in today's society. It refers to the act of intentionally ending a person's life in order to relieve them from unbearable suffering. The concept of euthanasia raises ethical, moral, and legal questions, especially in regards to an individual's right to die. The landmark judgement of Aruna Shaunbhaug is seen as the cornerstone to development of euthanasia law in India. The guidelines issued in the same are integral to form euthanasia law in India. This paper aims to analyze the relationship between the right to die and euthanasia, discussing landmark judgments and their implications for this sensitive issue.*

Keywords: Euthanasia, Passive Euthanasia, Living will, Right to die.

I. INTRODUCTION

The word "euthanasia" has its origin from Greek words "eu" meaning good and "thanatos" meaning death. The word euthanasia is derived from the Greek language, meaning 'good death'. It is often used interchangeably with the term 'mercy killing', which refers to the act of ending the life of a person who is terminally ill or suffering from a chronic disease. The practice of euthanasia is also known as mercy killing which aims at reducing the patients suffering. Even though the medical science is much advanced these days, there are some terminal diseases which cause unbearable suffering to the patients. Hence the topic of Right to die with dignity is gaining importance. Euthanasia has been a topic of heated discussion in India for many years. The debate surrounding euthanasia revolves around the right to die with dignity, the moral and ethical implications, and the legal aspect.

Euthanasia, the intentional termination of life to relieve intractable suffering, encompasses several distinct types. Firstly, voluntary euthanasia involves a competent individual explicitly requesting the cessation of their life due to unbearable pain or suffering. Secondly, non-voluntary euthanasia is performed on an individual who is unable to express their wishes, typically due to a severe medical condition or cognitive impairment. This type is further subdivided into passive euthanasia, which entails withholding or withdrawing life-sustaining measures, and active euthanasia, which involves the direct administration of a lethal substance.

Additionally, there is assisted suicide, where a physician provides the means for a patient to end their own life. In involuntary euthanasia, the decision to end a person's life is made without their consent, usually in cases of severe mental illness or physical disability. Finally, euthanasia for minors refers to the termination of life for children or adolescents who are unable to make decisions for themselves. Each type of euthanasia raises complex ethical, legal, and medical considerations, and the legality and acceptability of these practices vary significantly across different jurisdictions.

The right to die is a fundamental human right, recognized by the United Nations in the Universal Declaration of Human Rights. It states that every individual has the right to live and die with dignity. However, this right is often challenged when it comes to euthanasia, as it involves taking a person's life, even if it is at their own request. Euthanasia is classified into two types: active and passive. Active euthanasia is when a person's life is deliberately ended by

administering lethal drugs, while passive euthanasia is when treatment is withheld or withdrawn, leading to the person's death. Both types of euthanasia are considered illegal in many countries, while a few have legalized it under strict conditions.

The debate on euthanasia has been ongoing in India for many years. In 2011, the Supreme Court of India delivered a historic judgment in the case of *Aruna Ramachandra Shanbaug v. Union of India*¹, which dealt with the issue of passive euthanasia. The court's decision to allow passive euthanasia in certain circumstances sparked a nationwide debate on the right to die and euthanasia. This case brought to light the lack of a specific law on euthanasia in India and the need for a comprehensive discussion on the concept of right to die.

II. HISTORICAL BACKGROUND

The concept of euthanasia has existed since ancient times. The concept of Euthanasia is not completely foreign to India. The issue of euthanasia is further complicated by religious and cultural beliefs in India. Many religions, such as Hinduism and Buddhism, consider euthanasia as a violation of the principle of ahimsa (non-violence). In contrast, some religions, such as Jainism, have a more liberal approach towards euthanasia, considering it a means to end the suffering of a person. Though the acceptable forms of it since ancient 1.(2011) 4 SCC 454

times are different than that of modern day techniques. 'Prayopavesa', or fasting to death, is an acceptable way for a Hindu to end their life in certain circumstances, 'Santhara' is the similar practice followed under Jainism.²

In India, the practice of Sati, where a widow would immolate herself on her husband's funeral pyre, could be considered a form of euthanasia. However, the modern debate on euthanasia began in the 19th century with the rise of the medical profession and advancements in medical technology. The case of Aruna Shanbaug, a nurse who was in a vegetative state for 42 years after a brutal sexual assault, brought the issue of euthanasia to the forefront in India.

III. RELATIONSHIP BETWEEN RIGHT TO DIE AND EUTHANASIA

The right to die and euthanasia share a complex and intertwined relationship. On one hand, the right to die is seen as a way to honour a person's autonomy and their choice to end their life if they are suffering from a terminal illness or unbearable pain. On the other hand, euthanasia is often seen as a violation of the right to life and the Hippocratic Oath, which states that doctors must do no harm. The question arises, should a person have the right to end their life if they are suffering from an incurable disease? Is it a compassionate act or a form of murder? These are some of the ethical dilemmas that surround the topic of euthanasia.

Proponents of euthanasia argue that it is a compassionate and merciful act, providing relief to those suffering from terminal illness or unbearable pain. They assert that individuals should have the right to die with dignity, rather than being forced to endure a prolonged and painful death. They also argue that euthanasia is a form of self-defense, as individuals should have the right to protect themselves from prolonged suffering.

BBC: Religion [Internet]. 2009. Euthanasia, assisted dying, and suicide

However, opponents of euthanasia argue that it goes against the sanctity of life and the moral and ethical principles of the medical profession. They believe that allowing euthanasia would open the door for abuse and coercion, particularly for vulnerable individuals such as the elderly or disabled. They also argue that legalizing euthanasia would devalue human life and have a slippery slope effect, potentially leading to involuntary euthanasia and a disregard for the value of human life.

Moreover, the relationship between the right to die and euthanasia is complicated by the different forms of euthanasia. Voluntary euthanasia involves a competent individual making a voluntary and informed decision to end their own life with the assistance of a physician. Non-voluntary euthanasia refers to ending the life of an individual who is unable to give consent, such as a person in a vegetative state. Involuntary euthanasia, which is widely considered unethical and illegal, involves ending the life of an individual without their consent.

The issue of euthanasia is further complicated by cultural, religious, and legal differences around the world. While some countries, such as the Netherlands and Belgium, have legalized euthanasia, others, like the United States, have strict laws prohibiting it. This has led to a debate about the role of the government in regulating end-of-life decisions and the extent to which individuals have the right to make decisions about their own deaths. Ultimately, finding a

balance between protecting individual rights and safeguarding against potential abuses remains a difficult and ongoing challenge in this highly debated topic.

IV. THE CASE OF ARUNA SHAUNBHAUG (2011) 4 SCC 454

The Aruna Shaunbhaug vs Union of India case is a landmark judgement that brought to light the issue of passive euthanasia in India. It was a highly controversial case that sparked nationwide debate and discussion on the ethical, moral, and legal aspects of euthanasia. The case was filed by Aruna Shaunbhaug, a nurse who had been in a vegetative state for 37 years after being sexually assaulted and left in a permanent coma. This paper will provide a detailed analysis of the case, its judgement, and its implications on the Indian legal system.

Background:

Aruna Shaunbhaug was a nurse working at the King Edward Memorial Hospital in Mumbai. In 1973, she was brutally raped by a ward boy, which resulted in her falling into a permanent vegetative state. She was kept alive through artificial feeding and hydration by the hospital staff. In 2011, a social activist named Pinki Virani filed a petition in the Supreme Court of India on behalf of Aruna Shaunbhaug, seeking permission for the withdrawal of life support and passive euthanasia.

The Judgement:

The Supreme Court of India, in its landmark judgement on March 7, 2011, recognized the right to die with dignity as a fundamental right under Article 21 of the Indian Constitution. The court also allowed passive euthanasia, under certain circumstances, by issuing guidelines for its implementation. The main highlights of the judgement are:

Right to die with dignity: The court, in its judgement, recognized the right to die with dignity as a fundamental right. It stated that a person has the right to refuse medical treatment or life support if they are of sound mind and suffering from an incurable disease.

Passive euthanasia: The court allowed passive euthanasia, which involves the withdrawal of life support and medical treatment, in cases where the patient is in a permanent vegetative state or has no chance of recovery. It also stated that passive euthanasia can only be allowed with the consent of the patient or their family members.

Guidelines for implementation: The court issued guidelines for the implementation of passive euthanasia. It stated that the decision to withdraw life support and medical treatment must be taken by a medical board consisting of at least three doctors, including the treating physician. The decision should also be approved by the High Court.

Protection against misuse: The court also addressed the concern of possible misuse of the judgement and guidelines by stating that the decision to withdraw life support and medical treatment must be taken in good faith and with the concurrence of the medical board and the High Court.

Implications on the Indian Legal System:

The judgement in the Aruna Shaunbhaug case has had a significant impact on the Indian legal system. It has brought clarity to the issue of passive euthanasia and has set a precedent for future cases.

Some of the main implications are:

Recognition of the right to die with dignity: The judgement has recognized the right to die with dignity as a fundamental right, which was not explicitly mentioned in the Indian Constitution before. This has given individuals the right to make decisions about their own lives and deaths.

Guidelines for passive euthanasia: The court's guidelines have provided a framework for the implementation of passive euthanasia, which was previously a grey area in the Indian legal system. It has given a sense of direction to medical professionals and the judiciary in dealing with such cases.

Protection against misuse: The guidelines for implementation of passive euthanasia also include safeguards to prevent its misuse. The involvement of a medical board and the High Court ensures that the decision is taken in good faith and with due consideration.

Opening the door for further debate: The judgement has opened the door for further debate and discussion on the issue of euthanasia in India. It has brought the issue into the mainstream and has encouraged people to have a dialogue on the ethical, moral, and legal aspects of euthanasia.

The Aruna Shaunbhaug vs Union of India case and its judgement have been a significant milestone in the Indian legal system. It has recognized the right to die with dignity and has provided guidelines for the implementation of passive

euthanasia. The judgement has also sparked nationwide debate and discussion on the issue of euthanasia, leading to a greater understanding of its complexities. Overall, the judgement has been a step towards a more progressive and compassionate society.

V. CURRENT LAWS ABOUT EUTHANASIA IN INDIA

The Indian legal system does not have a specific law on euthanasia. However, the Supreme Court of India has clarified the concept of euthanasia through various judgments. In 1994, the Supreme Court in the case of **Gian Kaur v. State of Punjab**³ held that the 'right to life' does not include the right to die, and hence, passive euthanasia is not permissible. Passive euthanasia is the withdrawal of medical treatment with the intention of hastening a patient's death.

However, in 2011, the Supreme Court, in the case of **Aruna Ramchandra Shanbaug v. Union of India**, allowed passive euthanasia in certain conditions, with the consent of the patient or their family and a team of doctors. In 2018, the Supreme Court, in the case of **Common Cause v. Union of India**⁴ recognized the concept of 'living wills,' which allows a person to refuse medical treatment in the future if they are in a vegetative state.

The debate on euthanasia and the right to die has been ongoing for decades, with many landmark judgments being passed in different countries. One of the most significant cases was that of **Karen Ann Quinlan**⁵ in 1976, where the New Jersey Supreme Court allowed the withdrawal of life support for a comatose patient, setting a precedent for future cases. In 1997, the Netherlands became the first country to legalize euthanasia under strict conditions. The famous case of **Terri Schiavo**⁶ in 2005 sparked a heated debate in the United States over the right to die and the role of family members in making end-of-life decisions. In 2011, the Supreme Court of Canada decriminalized physician-assisted dying, making it legal for terminally ill patients to seek medical assistance in dying. These landmark judgments have played a crucial role in shaping laws and policies surrounding euthanasia and the right to die.

Apart from the above-mentioned cases, there have been other significant judgments in India that have shaped the debate on euthanasia. In 1996, the Supreme Court, in the case of **P. Rathinam v. Union of India**⁷, declared that the right to life includes the right to die with dignity. In 2014, the Supreme Court, in the case of **Aruna Ramchandra Shanbaug v. Union of India**, allowed passive euthanasia for terminally ill patients. In 2018, the Supreme Court, in the case of **Common Cause v. Union of India**, recognized the concept of 'living wills' and legalized passive euthanasia in certain circumstances.

VI. CONCLUSION

In conclusion, the debate on euthanasia and the right to die is a complex and sensitive one, with strong arguments on both sides. While some argue that it is a compassionate choice for individuals who are suffering from incurable diseases, others believe it goes against the sanctity of life. The relationship between the right to die and euthanasia is a delicate one, and the laws surrounding it must be carefully crafted to protect the interests of all parties involved. As society continues to evolve, it is essential to have open and honest discussions about this issue to find a balance between individual autonomy and the value of human life.

Euthanasia is a complex issue, and there are valid arguments on both sides of the debate

While some argue that it is a violation of the sanctity of life and can lead to abuse and misuse, others believe that it is a person's fundamental right to choose when and how they want to die. In India, the legal system has taken a progressive approach towards euthanasia, recognizing the right to die with dignity and allowing passive euthanasia under certain conditions. However, the lack of a specific law on euthanasia has led to ambiguity and inconsistency in judgments. It is essential for the government to address this issue and provide a clear and comprehensive law on euthanasia to avoid any misuse and protect the rights of individuals.

VIII. SUGGESTIONS

In order to address this issue, it is imperative that India considers enacting a comprehensive and well-defined euthanasia law. Such a law would serve to protect the rights and dignity of individuals, while also providing legal guidelines for healthcare providers and families of patients in situations where euthanasia may be considered. The first step towards

enacting such a law would be to engage in thorough and open discussions with all stakeholders, including medical professionals, legal experts, religious leaders, and the general public.

One of the key considerations in formulating a euthanasia law in India should be the protection of vulnerable individuals. This includes individuals who may be coerced or pressured into choosing euthanasia by family members or healthcare providers, as well as those who may not have the mental capacity to make such a decision.

The law must establish strict criteria for determining when euthanasia is appropriate, such as requiring the individual to have a terminal illness with no hope for recovery and to have made a clear and informed decision to end their life. Additionally, there must be adequate safeguards in place to prevent abuse and ensure that the decision to end one's life is truly voluntary.

Another important aspect to consider is the role of medical professionals in the process of euthanasia. It is crucial to provide clear guidelines and protections for healthcare providers who may be involved in administering euthanasia. This includes ensuring that they are not forced to participate in any way if it goes against their personal beliefs, as well as providing legal protection for those who do choose to participate in the process.

Furthermore, the law must also address the issue of advance directives, which allow individuals to make decisions about their medical treatment in advance, including the option to refuse treatment or request euthanasia. This would not only give individuals control over their own end-of-life care, but also provide guidance for healthcare providers and families in difficult situations.

In addition to these considerations, the law must also address the cultural and religious beliefs surrounding euthanasia in India. It is important to acknowledge and respect the diversity of opinions on this topic and ensure that the law reflects the values and beliefs of the Indian society as a whole.

Finally, the implementation and enforcement of the euthanasia law must be carefully monitored and regulated. This includes establishing a regulatory body to oversee the process and providing training and education for healthcare professionals to ensure that the law is being followed correctly and ethically. With a well-crafted and comprehensive law in place, India can provide a framework for addressing end-of-life decisions in a compassionate and ethical manner, while also protecting the rights and dignity of all individuals involved.

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