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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

EUTHANASIA: THE ETHICAL CONCUINDRUMS IN ITS LEGALIZATION

AUTHORED BY - AAHANA SHRESTHA

The public and legislative attitudes towards euthanasia in India are heavily influenced by cultural and moral beliefs. A significant proportion of the population and medical community prohibit active euthanasia based on traditional religious perspectives, while a smaller and growing segment, including secular members of society and healthcare staff, supports the need for clear legal avenues differentiating between passive and active euthanasia efforts to provide consistency, clarity, and patient rights respect in end-of-life care treatment decisions. This paper uses a doctrinal methodology, including case law and literature review, major judicial decisions, scholarly articles, legal reports, and views from medical and ethical quarters. The paper aims to establish the legal status, ethical implications, and social attitude toward euthanasia in India, but there are limitations due to a scarcity of empirical evidence, lack of relevant surveys or direct interviews, and the need for more empirical analysis to understand public thoughts broadly. The increasing liberal attitudes of a nonreligious nature and the attention the medical fraternity is paying to palliative care and ethical dilemmas around death, along with a need for legal distinction between active and passive euthanasia could well prompt another look at the issue. This paper aims to suggest a nuanced approach where ethical and legal aspects must be considered while advocating for more precise legislative guidelines.

Keywords: euthanasia, palliative care, end-of-life care, ethical implication, healthcare staff

INTRODUCTION TO EUTHANASIA

Euthanasia, or "mercy killing," means the intentional act of ending a person's life to prevent pain and suffering from terminally ill diseases. Euthanasia, literally coming from Greek words "eu," meaning good, and "thanatos," death, refers to the practice of ending life to relieve suffering. The subject of euthanasia has evoked massive debates in various countries and legal systems. Euthanasia in India is complexly shrouded in legalism.

Judicial decisions in various cases have established and restricted euthanasia practice simultaneously. The sanctioned legal position is that withholding life-sustaining treatment with stringent guidelines allows for the practice of passive euthanasia. The current illegality, however, under Indian law persists when a physician acts to end the life of a patient through active intervention.¹

The crux of the matter regarding euthanasia in India relates directly to the legally ambiguous difference that exists between active euthanasia and passive euthanasia. Active euthanasia, referred to directly as an act by a doctor to cause death, is illegal and punishable under IPC sections 302 (murder), 304 (manslaughter), and 306 (abetment to suicide). In contrast, passive euthanasia has been judicially recognized to occur under certain circumstances, particularly for patients in permanent states like Permanent Vegetative State (PVS). The confusion surrounds the lack of clear definitions in the law and no legislation that fully defines all these aspects, creating confusion and sometimes differing interpretations among both the medical and legal communities.

These same questions also bring along ethical dilemmas on euthanasia debates as they touch deeply rooted cultural and religious values on the sanctity of life. Advocates for euthanasia argue for the moral right of people suffering from debilitating conditions to a choice of death in dignity. Those opposing, however, buttress that if euthanasia is practiced, it might result in further abuses and take a slippery slope towards extensive toleration of life-ending practices.²

These issues require a balanced appreciation of how personal autonomy, ethical medical practice, and legal accountability coexist within a society faced with the moral conundrums of euthanasia.³ In so far as the law continues to develop, effective management of such issues remains crucial in ensuring respect for both individual and societal interests.

The debates about euthanasia have been going on in India since the late 1980s, largely with sensational cases of patients left in permanent vegetative state. The most recent landmark

¹ thelegalquorum (2024). *POSITION OF EUTHANASIA IN INDIA: LEGAL PERSPECTIVE - The Legal Quorum*. [online] The Legal Quorum. Available at: <https://thellegalquorum.com/position-of-euthanasia-in-india-legal-perspective/> [Accessed 12 Oct. 2024].

² Jibs.edu.in. (2018). *Euthanasia*. [online] Available at: <https://jibs.edu.in/euthanasia/> [Accessed 12 Oct. 2024].

³ Kothari, A., Premarajan, K.C., Adinarayanan Sethuramachandran and Subramanian, S. (2024). Assisted Dying and Voluntary Euthanasia: Exploring Healthcare Professionals' Perceptions in a Tertiary Care Setting in South India. *Deleted Journal*, [online] 1(3), pp.130–133. doi:https://doi.org/10.4103/pmrr.pmrr_58_23.

comes from the decision on Aruna Ramchandra Shanbaug in 2011, marking the first time the Supreme Court permitted passive euthanasia under some limited circumstances with the right to die with dignity being an integral part of the right to life.⁴

Therefore, the foundation of the euthanasia debate in India lies in fundamental constitutional interpretations concerning the right to life and dignity. The Indian Constitution under Article 21 vests the right to life; however, the extension of the same to "right to die" has remained a contentious issue. Such issues like individual autonomy, dignity, and ethical responsibilities of medical professionals are being re-molded through the rulings of the apex court, more particularly in landmark cases such as Aruna Shanbaug and Common Cause.

While debates continue to evolve, the historical, cultural, and ethical backdrop to euthanasia in India requires careful consideration.⁵ Its legal status and ethical ramifications have come into the fore around the world, while in India it is adopted differently in various countries. The Indian nation, on the whole, has been concerned with the concept of euthanasia in recent decades culminating in a series of judgements that have formed the present legal framework.

LEGAL DISTINCTIONS IN EUTHANASIA

Euthanasia can be broadly classified into two forms: active and passive. Active euthanasia is when a doctor intentionally prescribes medication that leads to the death of a patient, normally on demand of the patient. On the other hand, passive euthanasia refers to withholding or withdrawal of medicinal treatment which maintains a living state.⁶ Presently in the Indian scenario, active euthanasia is strictly forbidden and covered within criminal offenses through various sections of the IPC, whereas, under certain judicial guidelines, it is permitted.

It is this line that clearly distinguishes the two categories and demonstrates the ethical responsibility and legal liability of medical practitioners when considering end-of-life situations. The Supreme Court in its judgment in the Aruna Shanbaug case clearly demarcated the legal rationale for passive euthanasia by permitting it when patients have reached an

⁴ Aruna Ramchandra Shanbaug vs Union Of India & Ors, 2011 (4) SCC 454

⁵ Roy, C. (2011). *POSITION OF EUTHANASIA IN INDIA - AN ANALYTICAL STUDY*. [online] ResearchGate. Available at: https://www.researchgate.net/publication/259485727_POSITION_OF_EUTHANASIA_IN_INDIA_-_AN_ANALYTICAL_STUDY.

⁶ Sinha, V., Sarkhel, S. and Basu, S. (2012). Euthanasia: An Indian perspective. *Indian Journal of Psychiatry*, [online] 54(2), p.177. doi:<https://doi.org/10.4103/0019-5545.99537>.

irrevocably weak condition wherein they cannot, at all, speak of their decision.⁷

EUTHANASIA IN INDIAN JURISPRUDENCE

Most of the legal debates related to euthanasia are Constitutionally based on juristic standards and important judicial pronouncements. Article 21 of the Indian Constitution safeguards a right to life, but whether this kind of right could be extended to include a right to die has been subject to considerable judicial interpretation. The Supreme Court had established distinctions between active and passive euthanasia and, consequently, had made the importance of patient autonomy and dignity in end-of-life decision-making crystal clear.

Although judicial approval has been given to passive euthanasia, as defined by withdrawal of support under certain conditions, active euthanasia remains strictly forbidden in India. Thus, the legal divide creates a maze for the patients and the medical fraternity, which requires constant debates and amendments so that the patients' rights are properly protected and the legal positions are clearer.

JUDICIAL PRECEDENTS IMPACTING REGULATION OF EUTHANASIA

The legal precedents provide the basis of India's euthanasia debate. Some notable cases where the rights of the individual with regard to end-of-life choices were discussed are Maruti Sripati Dubal v. State of Maharashtra and P. Rathinam v. Union of India. While deciding on the P. Rathinam case, the Supreme Court asserted that the right to life is equal to the right to die in dignity. Such a choice should be made by an individual with regard to his/her end because it speaks of liberty and dignity of an individual while ending one's life.⁸

However, in Gian Kaur v. State of Punjab, the Supreme Court again stated law overturning its earlier position by saying that although the right to life means dignity, it does not include the right to end life.⁹ A little legal pendulum here reveals the convolutions within which euthanasia laws in India are held prisoner. It was, therefore, imperative that patient rights were protected

⁷ A DISSERTATION ON AN ANALYTICAL STUDY OF EUTHANASIA IN INDIA WITH REFERENCE TO ARUNA SHANBAUG'S CASE. (2014). Available at: http://elib.bvuict.in/moodle/pluginfile.php/179/mod_resource/content/0/An%20Analytical%20Study%20of%20Euthanasia%20in%20India%20with%20-%20Rucha%20Kulkarni.pdf.

⁸ P. Rathinam v. Union of India, 1994 SCC (3) 394

⁹ Gian Kaur v. State of Punjab, 1996 SCC (2) 648

even as the ethical hurdles crossed due to the availability of obvious dangerous dichotomies of ending a miserable life or giving up to prolong one's suffering.

ETHICS OF EUTHANASIA

Ultimately, the ethical concerns of euthanasia are closely aligned with the tension between the doctrine of sanctity of life and the principle of autonomy. It is argued that people have a right to decide the course of their death especially when pain becomes unbearable and one's life is at its terminal end. This is majorly anchored on the rationale of utilitarianism, which always emphasizes on more good and pain reduction as opposed to life being maintained at any cost.

Opponents of euthanasia express an ethical issue that there have been medical doctors now involved in killing a human person. The Hippocratic oath that was traditionally in place to guide the practice of medicine requires doing no harm. This defines a possible contradiction to the moral acceptability of euthanasia in the practice of medicine. An important challenge in these ethical dilemmas is to equate the contested positions on euthanasia.

ETHICS IN MEDICINE

At the intersection of the crossroads, doctors are usually confronted with an ethical duty versus a legal mandate concerning euthanasia requests. Beneficence promotes practice by adherence to the maxim of do no harm for patients while considering the non-maleficence principle to perform no harm acts. It will be challenging to strike a balance on this provided situation since doctors can be put at a moral imperative to reduce suffering while strictly adhering to a legal framework that prohibits euthanasia.

Hence, there is a need for careful consideration in terms of training and professional guidelines about end-of-life care so that healthcare practitioners are equipped with adequate solutions to deal with these ethical dilemmas. The approach for developing a systemic approach in health care institutions dealing with euthanasia-related issues is essential in aid to medical professionals for decisions with conscientious care.

CULTURAL PERCEPTION, RELIGIOUS VIEWS OF EUTHANASIA

Public opinions towards euthanasia in India vary widely due to cultural, religious, and educational orientations. Current opinions suggest a growing appreciation and acceptance of

the practice, by the fact that more people know about the ruthlessness that prevails among most terminally ill patients and the subsequent state of their life. However, the strong cultural and traditional beliefs that have been embedded over time have an influence on one's readiness to accept euthanasia, largely because of a concern regarding the potential for misusing and ethical concerns.

Cultural and religious beliefs are of significant influence in this regard on the attitude of the public toward euthanasia in India. The religion, mainly consisting of Hinduism, Islam, and Christianity, has different views about euthanasia; most of them are oriented toward respect for life and abhor the practice that accelerates death. For instance, Hindu notions about karma, and also cycles of life and death, make individuals avoid euthanasia in general due to its interference with a natural cycle of life.

Others argue that these dogmas should be rethought considering humanitarian measures and the pain that patients with terminal illness have experienced. Open communication about religious views and secular views will promote greater acceptance and understanding from society towards end choices.

These diverse theological and ethical considerations associated with euthanasia reflect the core tenets of each religion on the sanctity of life, the nature of suffering, and the role of human agency in birth and death.

1. Christianity

Roman Catholicism

The Roman Catholic Church holds an absolute position opposing euthanasia. Doctrine of the Church on Euthanasia: The Church teaches that euthanasia is a serious sin because it goes against the natural order and the divine authority of God over life (CCC 2277). Human life is sacred because it is made in the image of God, and only God has the authority over life and death (Pope John Paul II, *Evangelium Vitae*, 1995). The Church teaches that withholding extraordinary means of life support in cases of terminal illness can be morally licit provided that an intention to kill is not present and that only death is permitted (cf. CCC, 2278).

Protestantism

Views in Protestantism on euthanasia are diverse. Many evangelical and conservative Protestant groups are against euthanasia because of the sanctity of life and the belief that human beings do not have the right to take their own lives (Hauerwas, 1981). Liberal Protestant denominations, however, probably would give a more nuanced assessment, with some ruling that euthanasia is morally acceptable when suffering is ineluctable. For example, United Methodists acknowledge the ethical complexities surrounding issues of euthanasia but have a general opposition to assisted suicide and euthanasia and support of compassionate care (The Book of Discipline of The United Methodist Church, 2016).

Eastern Orthodoxy

The Eastern Orthodox Church, like Catholicism, is opposed to euthanasia, viewing it as an attack on God's dominion over life. The Church will tell you that it's spiritual training, and that we should accept it in faith. But indeed, Orthodox teachings also emphasize compassion in caring for the sick, advocating relief of pain but not a hastening of death (The Orthodox Church. Ware, 1997)

2. Islam

Islam is a religion founded on a divine plan as well as the sanctity of life, leading to the prohibition of euthanasia by Islam. The Qur'an states, "And no soul can die except by Allah's permission, and at an appointed term" (Qur'an 3:145), the message being that only God has the right to end a human life. Islam considers euthanasia as forbidden (Al-Azmeh, 2007).

As for passive euthanasia (ex: withdrawal from life support), it is more permissible in Islam as long as there is no hope for recovery. The fundamental principle however is that the intention is not to hasten death but to prevent nonbeneficial medical treatment (Ahmad, 2009). Islam encourages and teaches compassion, including relieving pain, but any action that could help induce a person's death would be an interference in God's will."

3. Judaism

Even Judaism, whose fundamental moral code includes the commandment that we should not murder (Exodus 20:13), considers life sacred. Jewish law (Halacha)

prohibits euthanasia on grounds that it is an act of killing and only God has the right to take a life (Feldman, 1990). However, Halacha differentiates between active euthanasia (which is forbidden) and passive euthanasia, which may be allowed in circumstances involving futile life-sustaining treatment. Under Talmudic jurisprudence, life support can be withdrawn where death is inevitable and recovery improbable (Maimonides, Mishneh Torah).

A well-known case in Jewish law is that of the Shulchan Aruchs recognition of withdrawal of food and water of a patient in permanent vegetative state in a situation where one believes that death is imminent (Shulchan Aruch, Yoreh De'ah 339:1).

4. Hinduism

Life is part of an unending cycle of birth, death and rebirth (called samsara), according to Hinduism. The main reason euthanasia is opposed is that it interferes with the karmic cycle and the condition of the soul (Krishna, Bhagavad Gita, 2: 27). Only cite the case of Prayopavesa, or fasting to death (Jain, 1998), as an exemption, where it becomes permitted to terminate one's life only if any greater spiritual cause exists to do so, which means life before God, in its sum and total, shall not be terminated for that proper cause; therefore this being an exception of the aforementioned inference.

Euthanasia, however, is said to not be welcomed in Hinduism but the latter does encourage relieving the person of suffering. Hindu ethics might be said to encompass the systematic attempts of developing palliative care that focuses around the dead and facilitates the completion of the turning of the deceased's journey on this Earth (Kakar, 2002).

5. Buddhism

In Buddhism, they are trained to reject violence (ahimsa); all forms of life are sacrosanct. But it acknowledges the inevitability of death and the reality of suffering in the world. In contrast, actively causing the death of another being (active euthanasia) through any means is widely disagreed with according to the precept of ahimsa (Rahula, 1974) as this implies doing harm to another sentient being.

The question rested on the false premise that Buddhists seeing assisted dying, a form of which is euthanasia, as morally permissible; in fact, Buddhists advocate compassionate care for patients, particularly the terminally ill, but do not view euthanasia as morally permissible and would not say that euthanasia is morally

problematic. This underscores in the person's decision to die with dignity rather than intervening to hasten death (Gethin, 1998).

6. Sikhism

Sikhs believe life is a gift from God, and that life is sacred, so humans should never take the life of another. The basic religious text is Guru Granth Sahib and it is believed that only God gives and takes a life. Hence, euthanasia is forbidden in Sikhism (Singh, 2003). But like other religions there is an emphasis on compassion and caring for the dying. "The Sikh faith has tenets to alleviate suffering and provide spiritual services during terminal illness, but does not support any action that intentionally ends life."

7. Jainism

Take the Jain religion, for instance — it is entirely opposed to euthanasia due to its core ethos of ahimsa (non-violence). All acts of violence, including those committed for euthanasia, result in a "bad" karma in Jainism, which hinders an individual's progress on a spiritual path. On the same note, Jains may also fast till death (Santhara) only for extreme reasons, such as terminally ill patients wanting to liberate their souls (Jaini, 2008). The practice is controversial, and the interpretation of it can vary across the Jain community itself.

Medical Profession: Ethical Obligations and Decisions

Medical professionals would therefore be the most essential individuals in this euthanasia debate because they are at the receiving end of such calls from patients to end their suffering. Given the responsibility they must undertake and their own legal obligations, doctors have the ethical call to act in the best interest of the patient.

When euthanasia is requested, the doctors must have very intense discussions with the patients and their families, indicating to them the implications of that decision against the background of the legal framework regarding euthanasia in India. There is a need for ethics at the end-of-life care that respects both the autonomy of patients and professional ethics.

Perceptions of Euthanasia of Health Care

Various scopes of viewpoints by healthcare professionals regarding euthanasia have their basis in personal beliefs, cultural backgrounds, and exposure to end-of-life care discourse. Indeed, several professionals advocate for an alleviation of suffering by a compassionate approach and support euthanasia for badly-off patients.

Others raise ethical concerns about euthanasia, believing that if doctors are allowed to end the lives of patients, it might create a slippery slope situation and eventually have more acceptance of euthanasia. Creating forums for discussions in the professional circle may invite more lateral thinking and will instruct practitioners to seek more knowledge on euthanasia practices.

Article 6.7 of the Medical Council of India Professional Conduct, Etiquette and Ethics Regulations, 2002¹⁰ considers euthanasia as harassment that goes against medical professional ethics. "Euthanasia, or deliberately ending the life of a patient, even at the request of the patient or at the request of the closest relatives, is unethical," the World Medical Association stated in its euthanasia declaration. This was reaffirmed in 2005 and 2015 after it had been adopted at the 39th World Medical Assembly in 1987¹¹.

Section 3 of the ICU Guidelines includes "Guidelines for limitation of life prolonging intervention and palliative care at the end of life in Indian ICU," which was published by the Indian Society of Critical Care Medicine (ISCCM) in 2012¹².

Passive euthanasia and its legalization in India, as per the 241st report of the Law Commission of India, August 2012, is acceptable and fine from a legal and constitutional standpoint. An otherwise competent patient age 16 or older has the right to demand that no artificial life-sustaining procedure or treatment be used. As long as the doctor believes that the patient made the decision without coercion, this right shall bind the hospital and doctors involved.

The choice made by the doctor or relative not to provide medical treatment (or to stop it) to the

¹⁰ Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002. <https://www.mciindia.org/CMS/rules-regulations/code-of-medical-ethics-regulations-2002>.

¹¹ WMA Declaration on Euthanasia. [Mar; 2020]. 2015. <https://www.wma.net/policies-post/wma-declaration-on-euthanasia/>

¹² Guidelines for end-of-life and palliative care in Indian intensive care units' ISCCM consensus Ethical Position Statement. Mani RK, Amin P, Chawla R, et al. Indian J Crit Care Med

incompetent patient is never irrevocable and can never be implemented without the approval of the High Court. It also reinforced the invalidity of the patient's pre-illness medical directive¹³.

Legislative Reforms

While some highly important strides have been taken about the legal acceptance of passive euthanasia, active euthanasia remains in a gray area; thus, this brings up the greatest urgency for legislative clarity. The current legal murkiness does not permit doctors to make decisions ethically and legally to safely navigate end-of-life situations, and thus complicate their roles and responsibilities in regard to patient care.

In addition, the lack of appropriate legislation that clearly defines the requirements, procedures, and safeguards attached to active euthanasia may raise questions about potential misuses and violations of morality. The development of a rational legal structure that defines the rules on active and passive euthanasia may clear up legal stances surrounding the issue and contribute to better morality in the care of patients.

Sentiment Guidance for Positive Legislation

To bridge the existing gaps in the legal structures, some recommendations can be proposed:

- 1. Active v. Passive Euthanasia:** A provision of a lucid distinction between active and passive euthanasia must be given with clear definitions of the conditions and procedures when such will be applicable.
- 2. Incorporation of Strong Mechanisms for Informed Consent:** A sound process of obtaining informed consent shall be introduced including advance directives and living wills.
- 3. Prevention of Abuse:** Adequate safeguards should be built to protect those individuals who might fall prey to euthanasia, and any decision meant for euthanasia should be voluntary and not through coercion.
- 4. Integrated Training for Health Professionals:** Establish curricula and policies that could guide medical care professionals in the proper handling of euthanasia requests in an ethical and lawful manner.

¹³ Passive Euthanasia- A Relook. [Feb; 2025]. 2012. <http://lawcommissionofindia.nic.in/reports/report241.pdf> <http://lawcommissionofindia.nic.in/reports/report241.pdf>

- 5. Public Awareness Programs:** Be part of public education initiatives to raise awareness and acceptance toward euthanasia, enabling meaningful discussions on decisions regarding the end stages of life.

Future Trends in Public Opinion and Laws

As societal attitudes regarding the introduction of euthanasia continue to evolve, some legislative changes are bound to happen in the near future. A surging public attitude that calls for wider recognition of people's autonomy over end decisions may open up an opportune window for legal changes addressing existing holes in the euthanasia framework of India.

This continued dialogue and advocacy by stakeholders, among them medical practitioners and legal experts, along with the public at large, will be important in shaping up an inclusive and rights-based approach to euthanasia legislation.

Legalization of Active Euthanasia: What to Expect

Institutional licensing of active euthanasia under strict rules might result in several possible consequences:

- 1. Patient Autonomy over Life's Ending Process:** Licensing can make way for more dominance by patients over their end-of-life decisions about care, thus making them have as much control as they should over their suffering.
- 2. Clarity for Health Professionals Improved:** Clear law regarding active euthanasia would improve uncertainty for health professionals, and thus enable them to answer difficult questions in relation to ethical dilemmas.
- 3. Increased Awareness and Education:** Legal recognition of active euthanasia can, therefore promote public awareness and education initiatives in end-of-life care, making community discussion richer.
- 4. Ethical Safeguards:** The utilization of empirical evidence and thoughtful legal frameworks serves to address the imperatives that abuse may occur and ensures euthanasia is performed ethically and responsibly.

Conclusion

Euthanasia in India stands at the crossroads of complex legal, ethical and societal narratives where careful consideration and ongoing dialogue are imperative. On one hand, the recognition

of the legality afforded to passive euthanasia is compelling while the challenges facing active euthanasia need comprehensive and compassionate legal frameworks.

This report highlighted the balance between individual autonomy and societal values in protecting vulnerable populations. Legalizing structures over the subject, public awareness creation, and involving medical professionals are some critical steps towards a just and humane approach to euthanasia. Even after the bill is turned into a law, advocacy and informed debate will remain pertinent when the future details of the appropriate law regarding euthanasia take shape in India, under which dignity and rights of individuals at their time of choosing death must be addressed.

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