

EUTHANASIA

The Oxford English Dictionary defines 'euthanasia' as 'the painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma'. The word appears to have come into usage in the early 17th century and was used in the sense of 'easy death'. The term is derived from the Greek 'euthanatos', with 'eu' meaning well, and 'thanatos' meaning death. In ancient Greece and Rome, citizens were entitled to a good death to end the suffering of a terminal illness. To that end, the City Magistrates of Athens kept a supply of poison to help the dying 'drink the hemlock'

The above Greek definition of euthanasia apart, it is a loaded term. People have been grappling with it for ages. Devised for service in a rhetoric of persuasion, the term 'euthanasia' has no generally accepted and philosophically warranted core meaning. It is also defined as: killing at the request of the person killed. That is how the Dutch medical personnel and civil authorities define euthanasia. In Nazi discourse, euthanasia was any killing carried out by medical means or medically qualified personnel,

Legally request to end a person's life prematurely voluntarily has been under a lot of debate. This debate focuses across complex and dynamic aspects like legal, health, human rights, ethical, spiritual, religious, psychological social and cultural aspects of the society. When talking about Euthanasia, we will discuss it in a neutral aspect, covering both the supporters and opponents' perspectives on this complex activity.

Euthanasia is classified into passive and active Euthanasia; passive Euthanasia is when a patient stops taking essential medications which would eventually cause them to die. Active Euthanasia is when you are terminating a person's life.

When it comes to passive Euthanasia the acceptance level among the masses is way more than active Euthanasia as it directly withholds the physician with the responsibility to insert a lethal substance into the patient's body to help them die.

A strong ethical argument against the use of Euthanasia is that it could soon become a slippery slope, with the legalization of involuntary Euthanasia following it.

Life and death as concepts have invited many a thinker, philosopher, writer and physician to define or describe them. Sometimes attempts have been made or efforts have been undertaken to gloriously paint the pictures of both in many a colour and shade. Swami Vivekananda expects one to understand that life is the lamp that is constantly burning out and further suggests that if one

wants to have life, one has to die every moment for it. The following rights in the International Covenant on Civil and Political Rights (ICCPR) have been considered by the practice of voluntary euthanasia:

- right to life (Article 6)
- freedom from cruel, inhuman or degrading treatment (Article 7)
- right to respect for private life (Article 17)
- freedom of thought, conscience and religion (Article 18). 112.

Right to life under Article 6(1) of the ICCPR provides: Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. The second sentence of Article 6(1) imposes a positive obligation on the States to provide legal protection of the right to life.

Comments from the UN Human Rights Committee suggest that laws allowing for voluntary euthanasia are not necessarily incompatible with the States' obligation to protect the right to life. The UN Human Rights Committee has emphasised that laws allowing for euthanasia must provide effective procedural safeguards against abuse if they are to be compatible with the State's obligation to protect the right to life. In 2002, the UN Committee considered the euthanasia law introduced in the Netherlands. The Committee stated that:-

‘where a State party seeks to relax legal protection with respect to an act deliberately intended to put an end to human life, the Committee believes that the Covenant obliges it to apply the most rigorous scrutiny to determine whether the State party's obligations to ensure the right to life are being complied with (articles 2 and 6 of the Covenant)’

The Court extensively considered Indian and international precedent, including the decision in *K.S. Puttaswamy & Anr. vs. Union of India & Ors.* ((2017) 10 SCC 1) and held that the right to die with dignity was a fundamental right under Article 21. The Court also validated the use of Advance Medical Directives, noting that through this mechanism individual autonomy could be safeguarded in order to provide dignity in death. The Court discussed the development of the right to privacy in some detail, noting that privacy is essential to human dignity, without which liberty cannot be actualised. The right to privacy was also considered central to bodily autonomy, integrity

and freedom of choice, which would then be protected as fundamental rights. In balancing State interest and individual privacy, the Court took note of the US decision in *In Re Quinlan* which suggested that as bodily integrity was increasingly violated and chances of recovery lessened, the right to privacy increased and state interest dimmed.

The Hon'ble Supreme Court held that the right to die with dignity was a fundamental right, as declared by a Constitution Bench of the Supreme Court in the case of *Gian Kaur*. It held that the Court in *Aruna Shanbaug* had erred in holding that passive euthanasia could only be introduced through a legislation.

The Court elaborated concept of 'living will' and held that there was clear indication of the acceptance of the concept of Advance Medical Directives in this country. It further stated that the right to execute an Advance Medical Directive was a step towards the protection of the right to self-determination and bodily integrity. In case a patients who is unable to take an informed position on the matter, a 'best-interest' position could be applied, allowing a guardian to step in and take this decision on their behalf.

Conclusion: Permission of Euthanasia involves right to privacy as explained in the case of *Justice K.S. Puttaswamy vs. Union of India* (2017 (10) SCC 1) and its relation to autonomy and liberty. The Court opined that the right to privacy mandated safeguarding the integrity of individual choice in the intimate sphere of decisions relating to death with human dignity and held that the protection of these rights was an emanation of the right to privacy.