

Legal principles of euthanasia: a comparative analysis between different nations

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Abstract

Euthanasia is one of the most divisive topics in the world, many nations and religious people oppose it since it goes against their religious beliefs. India is no exception. Hinduism contends that the soul is indestructible and has its roots. A similar belief held by Muslims is that life should only cease at Allah's order and that doing so is evil. Christians also hold that humans shouldn't enter God's domain of life and death since doing so has other unethical implications. However, in some instances, it is asserted in contemporary culture, it is appropriate to give someone the option to choose death. Everyone has the right to life, according to both Article 3 of the 1948 International Declaration of Human Rights and Article 21 of the Indian Constitution. Although it is always up for judicial review and depends on the situation, the right to die is identical to other components of the right to life. It's common to hear people refer to euthanasia as "mercy killing" or "good dying." Others argue that in some circumstances, a person should be given the option to choose death rather than being forced to live. We have the right to live a decent life and are expected to endure difficult situations rather than giving up. This study tries to define the issue of euthanasia, examine the legality in various jurisdictions, and conduct a comparative analysis of the legal norms.

Keywords: active euthanasia; Aruna Ramachandra's case; assisted suicide euthanasia; good death; mercy killing.

Princípios jurídicos da eutanásia: uma análise comparativa entre diferentes nações

Resumo

A eutanásia é um dos temas mais polêmicos do mundo; muitas nações e pessoas religiosas se opõem a ela, pois vai contra suas crenças religiosas. A Índia não é exceção. O hinduísmo defende que a alma é indestrutível e tem suas raízes. Uma crença semelhante, defendida pelos muçulmanos, é que a vida só deve cessar por ordem de Alá e que fazê-lo é um ato maligno. Os cristãos também defendem que os seres humanos não devem interferir no domínio de Deus sobre a vida e a morte, pois isso acarreta outras implicações antiéticas. No entanto, em alguns casos, afirma-se na cultura contemporânea que é apropriado dar a alguém a opção de escolher a morte. Todos têm direito à vida, de acordo tanto com o Artigo 3º da Declaração Universal dos Direitos Humanos de 1948 quanto com o Artigo 21º da Constituição indiana. Embora esteja sempre sujeito a revisão judicial e dependa da situação, o direito de morrer é idêntico a outros componentes do direito à vida. É comum ouvir as pessoas se referirem à eutanásia como "morte por misericórdia" ou "boa morte". Outros argumentam que, em algumas circunstâncias, deve-se dar a uma pessoa a opção de escolher a morte, em vez de ser forçada a viver. Temos o direito de viver uma vida digna e espera-se que suportemos situações

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diffíceis em vez de desistirmos. Este estudo procura definir a questão da eutanásia, examinar sua legalidade em diversas jurisdições e realizar uma análise comparativa das normas jurídicas.

Palavras-chave: eutanásia ativa; caso de Aruna Ramachandra; eutanásia por suicídio assistido; boa morte; morte por misericórdia.

Principios jurídicos de la eutanasia: un análisis comparativo entre diferentes países

Resumen

La eutanasia es uno de los temas más polémicos del mundo; muchos países y personas religiosas se oponen a ella, ya que va en contra de sus creencias religiosas. La India no es una excepción. El hinduismo sostiene que el alma es indestructible y tiene sus raíces. Una creencia similar que tienen los musulmanes es que la vida solo debe cesar por orden de Alá y que hacerlo es un mal. Los cristianos también sostienen que los seres humanos no deben entrometerse en el ámbito de Dios sobre la vida y la muerte, ya que hacerlo tiene otras implicaciones contrarias a la ética. Sin embargo, en algunos casos, se afirma en la cultura contemporánea que es apropiado ofrecer a alguien la opción de elegir la muerte. Toda persona tiene derecho a la vida, según el artículo 3 de la Declaración Universal de Derechos Humanos de 1948 y el artículo 21 de la Constitución de la India. Aunque siempre está sujeto a revisión judicial y depende de la situación, el derecho a morir es idéntico a otros componentes del derecho a la vida. Es habitual oír a la gente referirse a la eutanasia como «muerte piadosa» o «buena muerte». Otros sostienen que, en determinadas circunstancias, se debería ofrecer a una persona la opción de elegir la muerte en lugar de verse obligada a vivir. Tenemos derecho a llevar una vida digna y se espera de nosotros que soportemos situaciones difíciles en lugar de rendirnos. Este estudio trata de definir la cuestión de la eutanasia, examinar su legalidad en diversas jurisdicciones y realizar un análisis comparativo de las normas jurídicas.

Palabras clave: eutanasia activa; caso de Aruna Ramachandra; eutanasia por suicidio asistido; buena muerte; muerte piadosa.

Principes juridiques de l'euthanasie : une analyse comparative entre différents pays

Résumé

L'euthanasie est l'un des sujets les plus controversés au monde ; de nombreux pays et croyants s'y opposent car elle va à l'encontre de leurs convictions religieuses. L'Inde ne fait pas exception. L'hindouisme soutient que l'âme est indestructible et qu'elle a ses racines. Une croyance similaire chez les musulmans est que la vie ne devrait prendre fin que sur ordre d'Allah et que le faire est un acte malfaisant. Les chrétiens estiment également que les êtres humains ne devraient pas s'immiscer dans le domaine de Dieu qu'est la vie et la mort, car cela comporte d'autres implications contraires à l'éthique. Cependant, dans certains cas, la culture contemporaine affirme qu'il est approprié de donner à quelqu'un la possibilité de choisir la mort. Chacun a droit à la vie, conformément à l'article 3 de la Déclaration universelle des droits de l'homme de 1948 et à l'article 21 de la Constitution indienne. Bien que cette question fasse toujours l'objet d'un contrôle juridictionnel et dépende de la situation, le droit de mourir est indissociable des autres composantes du droit à la vie. Il est courant d'entendre des personnes qualifier l'euthanasie de « mort par pitié » ou de « belle mort ». D'autres soutiennent que, dans certaines circonstances, une personne devrait se voir offrir la possibilité de choisir la mort plutôt que d'être contrainte de vivre. Nous avons le droit de mener une vie digne et on attend de nous que nous endurions les situations difficiles plutôt que d'abandonner. Cette étude vise à définir la question de l'euthanasie, à examiner sa légalité dans différentes juridictions et à mener une analyse comparative des normes juridiques.

Mots-clés : euthanasie active ; affaire Aruna Ramachandra ; suicide assisté ; « bonne mort » ; « mort par compassion ».

安乐死的法律原则：不同国家间的比较分析

摘要

安乐死是全球最具争议的话题之一；许多国家和宗教信徒因其违背宗教信仰而持反对态度，印度也不例外。印度教主张灵魂是不灭的且有其本源；穆斯林也持类似观点，认为生命只能在真主（安拉）的旨意下终结，人为结束生命被视为一种恶行。基督徒同样认为，人类不应涉足上帝掌管生死的领域，因为这样做会引发其他伦理问题。然而，当代文化中也有观点认为，在某些情况下，赋予个人选择死亡的权利是恰当的。根据1948年《世界人权宣言》第3条及印度宪法第21条，每个人都享有生命权。尽管“死亡权”的认定往往取决于具体情境并需接受司法审查，但它本质上与生命权的其他构成要素同等重要。人们常将安乐死称为“仁慈杀戮” (mercy killing) 或“善终” (good dying)。另有观点认为，在特定情形下，应允许个人选择死亡，而非被迫苟活。我们既有权过上有尊严的生活，也应在面对困境时坚韧应对，而非轻言放弃。本研究旨在界定安乐死议题，考察不同司法管辖区的相关法律规定，并对各项法律规范进行比较分析。

关键词：主动安乐死；阿鲁娜·拉马钱德拉(Aruna Ramachandra)案；协助自杀式安乐死；善终；仁慈杀戮。

Rechtliche Grundsätze der Sterbehilfe: eine vergleichende Analyse verschiedener Länder

Zusammenfassung

Sterbehilfe ist eines der umstrittensten Themen weltweit; viele Länder und religiöse Menschen lehnen sie ab, da sie ihren religiösen Überzeugungen widerspricht. Indien bildet hier keine Ausnahme. Der Hinduismus vertritt die Auffassung, dass die Seele unzerstörbar ist und ihre Wurzeln hat. Ein ähnlicher Glaube der Muslime besagt, dass das Leben nur auf Allahs Geheiß enden darf und dass es böse ist, dies zu tun. Auch Christen vertreten die Ansicht, dass Menschen nicht in Gottes Bereich von Leben und Tod eingreifen sollten, da dies weitere unethische Implikationen mit sich bringt. In der heutigen Kultur wird jedoch in manchen Fällen argumentiert, dass es angemessen sei, jemandem die Möglichkeit zu geben, den Tod zu wählen. Jeder hat das Recht auf Leben, sowohl gemäß Artikel 3 der Allgemeinen Erklärung der Menschenrechte von 1948 als auch gemäß Artikel 21 der indischen Verfassung. Obwohl dies stets einer gerichtlichen Überprüfung unterliegt und von der jeweiligen Situation abhängt, ist das Recht auf Sterben mit anderen Komponenten des Rechts auf Leben gleichzusetzen. Häufig wird Euthanasie als „Gnadentod“ oder „gutes Sterben“ bezeichnet. Andere argumentieren, dass einer Person unter bestimmten Umständen die Möglichkeit gegeben werden sollte, den Tod zu wählen, anstatt zum Leben gezwungen zu werden. Wir haben das Recht auf ein menschenwürdiges Leben und es wird von uns erwartet, dass wir schwierige Situationen durchstehen, anstatt aufzugeben. Diese Studie versucht, das Thema Sterbehilfe zu definieren, die Rechtslage in verschiedenen Rechtsordnungen zu untersuchen und eine vergleichende Analyse der Rechtsnormen durchzuführen.

Schlüsselwörter: aktive Sterbehilfe; der Fall Aruna Ramachandra; assistierter Suizid; „gutes Sterben“; „Gnadentod“.

“Every man’s life ends the same way. It is only the details of how he died that distinguish one man from another.”
Ernest Hemingway

Introduction

The term “euthanasia” derives from the Greek words “eu” and “Thanatos”, which literally mean “pleasant death” or “easy death” or “happy death”. It’s also known as “mercy killing” at times. A terminally ill patient’s death can be expedited actively or passively to lessen their pain or suffering. Francis Bacon is believed to have coined the phrase in the

17th century to refer to a speedy, painless, and pleasant demise for which the doctor's role and duty was to minimize the physical agony on the patient's body. In their discussion on "Medical Ethics" in England, the House of Lords Select Committee described euthanasia as "a planned intervention done with the stated goal of ending a life to relieve intractable agony. "The European Association of Palliative Care (EPAC) Ethics Task Force clarified in a 2003 discussion on euthanasia that "medicalized killing"—whether non-voluntary (done when the person is unable to consent) or involuntary (done against the person's will)—is a murder when carried out without the person's consent. Euthanasia can only be voluntary, then. As opposed to "active euthanasia," we are here concerned with passive euthanasia. In its ruling in *Aruna Ramachandra Shanbaug vs. Union of India*, the Supreme Court of India emphasized the distinction.

According to the eighth edition of Black's Law Dictionary, euthanasia is the deliberate killing or hastening of a person's death who has an incurable illness or condition, especially one that is painful, out of compassion. Euthanasia is described as an act of death designed to relieve a stressful or intolerable state of living in the "Crime and Justice" Britannica.

The act of giving a patient medication with the express purpose of ending their life at their request is known as euthanasia. Literally, euthanasia implies putting someone to die without suffering, especially when they are experiencing unending suffering or when their physical or mental impairment has rendered life meaningless. Euthanasia, also referred to as "mercy killing", is the practice of murdering someone to end their painless death or to end their excruciating suffering when their life has become futile and unpleasant. (Wanzer *et al.*, 1989) Contemporary euthanasia is limited to patients asking doctors to kill them to end their excruciating pain or to end their fatal illnesses. The main objective of euthanasia is to ensure a less painful death for a person who would eventually pass away after going through a lot of pain.

Euthanasia in Indian legal context

Euthanasia is frequently described as compassionate murder. The doctor simply ends the life of an intolerable patient at the patient's request. The debate over euthanasia has a very long history and is rooted in conventional thinking. Nonetheless, it has been perceived in an unexpected manner throughout history. Due to the ongoing advancements in medicine, the concept of euthanasia has recently come under increasing scrutiny.

One can anticipate that the discussion surrounding the moral acceptability of euthanasia and its decriminalization would intensify by active or covert measures to relieve the suffering of such patients. It suggests that Francis Bacon used the term to describe a

speedy, painless, and pleasant demise in the seventeenth century, for which the doctor had a duty and responsibility to alleviate the patient's physical suffering (Quill; Cassel; Meier, 1992). "A considering intervention attempted with the express aim of ending a life, to alleviate prolonged suffering" (India, 2011), is the simple act of ending a life that is mentioned.

Active euthanasia involves precise acts being taken to stop the suffering of a person who has a terminal illness, by injecting the patient with a fatal drug, like sodium pentothal, which causes the patient to pass away painlessly and go deeply asleep. Hence, active euthanasia is the same as killing someone intentionally. According to the Supreme Court, unless otherwise permitted by law, it is regarded as a felony everywhere in the world (regardless of the patient's preferences). Under *Bhartiya Nyaya Sanhita, 2023* Sections 103 and 105, active euthanasia is forbidden and is regarded as a crime in India as well. A violation of Section 108 of the *Bhartiya Nyaya Sanhita, 2023* is physician assisted suicide (abetment to suicide) (India, 2011). However, passive euthanasia, also referred to as "negative euthanasia", has a distinct foundation. It entails withholding medical care or withdrawing life-sustaining equipment, such as antibiotics when a patient would certainly die without them or removing a patient's heart-lung machine if they are in a coma. Even in the absence of legislation, passive euthanasia is permitted if specific guidelines and safety measures are followed. The Supreme Court has stated that the primary distinction between active and passive euthanasia is that in the former, a step is taken to end the patient's life, whereas in the latter, a step that would have preserved the patient's life is not taken. With passive euthanasia, "the doctors are not actively killing somebody; they are simply not saving him," in the words of the erudite Judge in Aruna's case (Myatra *et al.*, 2014).

The court noted forcefully that while we normally applaud someone who saves another person's life, we do not typically punish someone for doing the opposite. As contrast to active euthanasia, which may or may not be allowed, passive euthanasia is always legal since "you cannot prosecute someone for neglecting to maintain a life", according to the Supreme Court. The House of Lords' famous ruling in the Airedale case, which will be discussed in more detail in the following chapters, was cited by the Supreme Court in rejecting the argument that the distinction was genuine.

There are two other categories of passive euthanasia: voluntary and involuntary. When a patient is put to death voluntarily, their consent is obtained. Due to the patient's state, such as when he is in a coma, consent cannot be obtained in non-voluntary euthanasia. "Although there is no legal impediment in the case of the former, the latter creates various problems, which we shall consider", the Supreme Court stated further. Due to the patient's coma, the Supreme Court was troubled by a case of non-voluntary passive euthanasia.

Historical background

Euthanasia, the right to die, and the option to end one's life are not new ideas or developments in human civilization. In some circumstances, aiding in another person's death or putting them to death was deemed acceptable in ancient Greece and Rome. For instance, infants with serious birth abnormalities were executed at the Greek city of Sparta. In many ancient communities, the elderly's voluntary euthanasia was an accepted practice. Several ancient texts, including the Bible, the Koran, and the Rig-Veda, discuss suicide or self-destruction. The Vedic era of Indian history is replete with innumerable instances of suicides carried out for religious reasons. The Ramayana and the Mahabharata are both replete with accounts of religious suicides.

Hinduism- There are instances from the early days of the Hindu faith in India where monks urged individuals to renounce their bodies (kaya) to obtain eternities rewards and advance their quest for God. It is encouraged to urge someone's death if they are suffering terribly from their illness. The freedom to make one's own decisions is the basis for the right to assert a claim.

Most Hindus would contend that a doctor shouldn't consent to euthanasia since doing so would cause the soul and body to be split apart at an unnatural time. The consequence will be bad for the karma of both the doctor and the patient. Some Hindus believe that euthanasia is prohibited because it violates the ahimsa principles (doing no harm). Nonetheless, some Hindus feel that keeping one's moral duty and performing a good deed by assisting in the death of a difficult life fulfils those duties. In their comments on Manu[11], Govardana and Kulluka saw that, despite Vedic laws prohibiting suicide (Manu, 1886), mahaprastha is a journey that ends in death that a man may take if he is terminally ill or experiences a major catastrophe (great departure).

Hinduism has two stances on euthanasia:

1. A person is said to have fulfilled their moral duty by performing a good deed and putting an end to a painful life.
2. By helping to end a life, especially one that was full of suffering, a person tampers with the timing of the cycle of death and rebirth. Euthanasia is considered a dreadful act and anyone who participated in it will inherit the patient's unfinished karma.

Atma-gatha, the Hindu word for suicide, has been noted to contain characteristics of intentionality. Hinduism forbade the purpose to murder oneself deliberately out of self-interest. The Dharma sutras severely forbade suicide in this situation.

Yet, enlightened individuals who consciously chose their way of dying were revered in Hinduism. Hence, on their trek over the Himalayas, the Pandavas celebrated “Mahaparasthana,” or the great journey, by travelling as pilgrims and surviving solely on air and water until their bodies gradually decomposed one by one. According to Crawford, some examples of these celebrated demises include fasting, self-immolation, and drowning at sacred sites. Such enlightened people's deaths have never been associated with the widespread idea of suicide in Indian culture where it has traditionally been believed to make future lives more difficult.

Crawford sees a “spiritual death” as being akin to a “good death” in the context of Hindu culture, which implies that the person must be at peace and in equilibrium when they pass away. Crawford speculates that to ensure such a wonderful death, active euthanasia would not be repugnant to the Indian mentality.

Some authors, however, disagree, contending that “spiritual death,” also known as “iccha mrtu,” can only take place when the evolved soul voluntarily chooses to depart from the body (Firth, 2005). It is further claimed that since the evolving soul is at a higher state of consciousness, mental calm cannot be compared to it. Hindus have therefore always maintained a skeptical view of euthanasia, while being less dogmatic than other religions. It has been suggested that the Indian notion of Ahimsa may give rise to a strong opposition to euthanasia. Yet, violence that is unavoidable is not viewed as sinful even within the Gandhian Ahimsa framework.

The same reasoning also holds true for keeping someone on a life support system artificially alive. Yet, using life support system in an interim effort to heal would not be detrimental. Since a conscious dying is the objective, any palliative treatments that lessen mental alertness will be problematic.

Islam- Muslims are against assisted dying. They maintain that all human life is valuable because Allah grants each person life and decides how long they will live. Also, they have faith in two fundamental things:

- a) Suicide and euthanasia are not among the justifications for killing in Islam since it believes life is holy. They believe that since Allah declared human life to be holy, we should only take it when it serves the purposes of justice. If someone is killed, it is seen as if the entire population has been slain, barring murder or other serious offences.
- b) In the Islamic faith, it is specifically banned to commit suicide or end one's life. Allah is unfailingly compassionate to you (Chakraborty *et al.*, 2017).

Christianity- Most Christians oppose euthanasia as well. The arguments typically rest on the claims that God gave us life as a gift and that He created us in His likeness. People go through various life processes that God created, including birth and death. We should honor these processes. So, even if someone wants to die, no human has the right to kill an innocent person.

Sikhism- The Guru Granth Sahib and the Sikh Code of Conduct are the main sources from which Sikhs derive their moral ideals. The Sikh Gurus rejected euthanasia and suicide because they believed they were obstructing God's will. They believe that humans should work to change the conditions that karma has put them in, as well as accept suffering without complaining.

There are still opposing opinions on the question of euthanasia's legal standing. Intellectuals debate euthanasia because it needs to be legalized to be the focus of a cohesive policy. The reality is that God blessed us with life as a religious gift. The widely held notion is that nobody has the right to take their own life or anybody else's. All major world religions forbid the unnatural end of life. Each person should take on the problems that are presented to them. It is everyone's duty to treat others with respect. Abandoning someone who is in need is against humane thought. Since the dawn of civilized society, we have come to understand that no one should succumb to bad health or agony. We are inspired to help one another and sustain the ideal of unity in the face of difficulty by the concept of a family.

The judicial response to euthanasia in India

There is no law or regulation that recognizes or authorizes mercy killing in India. The 241st Report of the Law Commission of India, titled "Passive Euthanasia - A Relook," suggested to establish a law on the topic of passive euthanasia and drafted The Medical Treatment of Treatment of Terminally Sick (Protection of Patients and Medical Practitioners) Bill. The Bill was sent to the technical division and Directorate General of Health Services (Dte. GHS) of the Ministry of Health and Family Welfare in June 2014 for review. Meetings called and led by the special director general of the health service were attended by several professionals. The Ministry of Health and Family Welfare secretary presided over extra meetings to study the Bill on May 22, 2015, and it was during these meetings that the expert committee ultimately proposed passing legislation outlawing passive euthanasia.

P. Rathinam N. Patnaik v. Union of India

Euthanasia or mercy killing has long been a topic of legal and social debate due to several terrible scenarios shown in a variety of facts and circumstances. The right to die has occasionally been asserted to fall under the umbrella of the Indian Constitution's article 21 right to a dignified existence. The Indian Parliament has not yet created a law in this area. The country's highest court has occasionally provided interpretations of the term "euthanasia." The Supreme Court's two-judge panel ruled that attempting suicide is not against the law and that people have the freedom not to live lives that are forced upon them.

Gian Kaur v. State of Punjab

The constitutional bench of the Supreme Court disagreed with this position. Passive euthanasia is currently permitted in India according to a ruling by the highest court.

Section 309's constitutional legitimacy was contested, and it was also argued that it violated Article 14 and 21 of the Indian Constitution. It was maintained that the right to speech and expression covers the right to not speak, just as the right to remain alive includes the right to die and terminate one's life. The right to life guaranteed by Article 21 includes the freedom from oppression and coercion. The court upheld section 309 of the Indian Penal Code, 1860 beyond the point of no return to make our criminal laws more tolerant.

In *Airedale N.H.S. Trust v. Bland*, It was emphasized that mercy killing is prohibited under common law. Only legislation can allow for its application. The issue was the removal of life-saving equipment designed to save the doctor's life. Anthony Bland, a supporter of the Liverpool Football Club, visited Hillsborough Stadium during the incident and received terrible injuries because of which the blood supply to his brain was cut off. He entered a persistent vegetative state because of an irreversible brain injury (PVS). The House of Lords ruled that euthanasia is against common law.

Article 21 of the Constitution penalizes helping suicide, and it was asserted in the case of *Gian Kaur* that section 306 violated this provision and that section 309 was affirmed by a two-judge bench in the *P. Rathinam* ruling. *Gian Kaur* and her husband Harbans Singh were found guilty of breaking section 306 of the Indian Criminal Code by a trial court. They were punished for aiding Kulwant Kaur's suicide with a six-year prison term and a Rs. 2,000 fine. Act 309 penalizes suicide attempts, whereas Section 306 punishes individuals who facilitate suicide. In this instance, the constitutional bench reached a conclusion.

The five-judge constitutional panel found sections 306, 309 of the Indian Criminal Code, 1860 to be constitutional. The Constitutional Bench of the Supreme Court decided that euthanasia and assisted suicide are prohibited in India. The court affirmed the notion that euthanasia should only be made legal by law.

In the case of *Aruna Ramachandra Shanbaug*, the interested party filed the writ petition on behalf of the victim, who was sexually assaulted by a staff boy in 1973 while working as a nurse in a hospital, 36 years ago. Her brain was unconscious, and she was not cognizant. She was cared after by hospital staff while lying in bed nonstop. The victim's feeding should be stopped, the petitioner contended, and the respondent should be told to do so. After considering the physicians' report, the court decided not to permit the victim to stop receiving life-saving treatments or food.

In a recent case, *Common Cause Society v. Union of India*, the Supreme Court decided about euthanasia. According to the petitioner, a registered organization, the right to a dignified death should be added to the list of fundamental rights in article 21 of the Constitution of India, 1950. In order to ensure that people in poor health or who are terminally ill can sign a document called "My Living Will and Attorney Authorization" that can be presented to a hospital for appropriate action in the event that the executors are admitted with a serious illness that could endanger their lives, the petitioner asks for a declaration and an order to the respondent to adopt appropriate procedures, in consultation with state governments as may be necessary. The right to live with dignity and the right to pass away with dignity, in the eyes of society, go hand in hand.

In instances where a patient's health is continuously deteriorating, a cure is not likely, and the patient is continuously progressing towards death, it was suggested that everyone has the power to choose whether to live or die. It was argued that article 21's complicated and interconnected provision about the right to a dignified death. Because it frees the patient from such an incurable illness in which he is experiencing intolerable torment, passive euthanasia should be made lawful.

The legal principles of euthanasia in other countries

Euthanasia, also known as assisted dying or mercy killing, is a controversial and complex topic in the field of medical ethics and law. Different countries have different legal frameworks and approaches to euthanasia. Here's a comparative analysis of the legal principles of euthanasia in some countries:

Switzerland

Switzerland does not have a specific law on euthanasia, but it allows assisted suicide under certain conditions. The patient must make a voluntary and well-considered request for assisted suicide, and the physician must confirm that the patient is suffering from a terminal or incurable illness and has a clear and settled intention to end their life.

Canada

Canada legalized euthanasia in 2016, following a landmark Supreme Court ruling. The law allows euthanasia for patients who have a serious and incurable illness, disease, or disability, and whose death is reasonably foreseeable. The patient must make a voluntary and informed request for euthanasia, and two independent physicians must confirm that the patient meets the eligibility criteria.

United States

Euthanasia is illegal in the United States, but some states have legalized assisted suicide. Oregon was the first state to legalize assisted suicide in 1997, followed by Washington, Vermont, California, Colorado, Hawaii, New Jersey, Maine, and New Mexico. The laws vary from state to state but generally require that the patient is a resident of the state, has a terminal illness with a life expectancy of six months or less, and can make an informed decision (Lee *et al.*, 1996).

Doctors are allowed to administer lethal doses of drugs to terminally sick patients in five American states. Euthanasia is nonetheless illegal. Although the “help in dying” movement has advanced recently, the issue continues to divide people. Oregon was the first state in America to legalize assisted suicide. With the law's introduction in 1997, terminally ill, mentally competent individuals with less than six months to live have the right to ask a doctor for a prescription for a life-ending medication. A proposition modelled after Oregon's statute was enacted by Washington State more than ten years later. The Vermont legislature also enacted a comparable bill the previous year. In Montana, court rulings made the practice legal. the most recent instance being in New Mexico.

In the United States, the distinction between passive and active euthanasia is still recognized by law. Euthanasia has been declared to be wholly unlawful by the US Supreme Court in the cases *Washington v. Glucksberg* and *Vacco v. Quill*, despite physician assisted dying being permitted in the states of Oregon and Washington under the Oregon Death with

Dignity Act of 1997, Washington under the Washington Death with Dignity Act of 2008, and Montana by the State judiciary and not the legislature.

Belgium

Belgium legalized euthanasia in 2002, following the Dutch model. The law allows euthanasia for patients who are in a medically futile condition or suffering from unbearable pain or physical or psychological symptoms. The request must be voluntary, well-considered, and repeated, and the physician must ensure that the patient is fully informed about their condition and the available treatment options.

On October 25, 2001, the bill allowing euthanasia was approved by a sizable majority in the Belgian Senate. After two days of deliberation, the measure was approved by the lower house of the Belgian parliament on May 16, 2002, with 86 votes in favor, 51 votes against, and 10 abstentions. The statute specified the conditions under which physicians may take the lives of terminally ill people who are suffering intolerably. To be eligible for euthanasia, the applicants must reside in Belgium (Battin *et al.*, 2007). Patients who regularly and voluntarily seek having their life removed must be at least 18 years old and make specific demands. Unknown and subject to interpretation is the precise amount of “repeated requests.” 11 the 13th of February 2014.

Belgium approved child lethal injection euthanasia by legalizing it. By a vote of 86 to 44 with 12 abstentions, the lower house of Parliament approved the proposal that the nation's Senate had already approved. The most drastic euthanasia law expansion ever would allow young children to end their lives with a doctor's help. The age at which a minor may request a lethal injection is unrestricted by law.

Netherlands

Netherlands was the first country in the world to legalize euthanasia in 2002. The law allows euthanasia for patients who are suffering unbearably and whose death is expected to be within the foreseeable future. The patient must make a voluntary and well-considered request for euthanasia, and the physician must confirm that the patient's suffering is unbearable, the request is voluntary, and there is no alternative to alleviate the suffering. Euthanasia became legal in the Netherlands on April 1, 2002, following the approval of the “Law for the Termination of Life on Request and Assisted Suicide” on April 12, 2001. It is the outcome of a protracted discussion that started in the 1970s and 1980s with a more “understanding” vision for physicians, shaped by case law and built on several legislative

initiatives. The law of PAS was described as the doctor's prescription of medication for the patient to administer themselves. The law established five requirements for approving an application for euthanasia:

1. The patient's desire must be voluntarily made and carefully thought out.
2. The sufferer should endure severe and hopeless anguish.
3. The patient will be advised of their circumstances and outlook.
4. There are no practical alternatives that are available.
5. Also, a second doctor should be consulted, and euthanasia should be carried out with the appropriate medical care and attention. Two independent doctors, including at least one psychiatrist, must have been consulted when a mentally ill patient requests euthanasia.

In the Netherlands, euthanasia is governed by the "Termination of Life on Request and Assisted Suicide (Review Procedures) Act," passed in 2002. It states that physician-assisted suicide and euthanasia are not punishable crimes if the accompanying physician acts with the requirements of due care. In extremely rare situations and under very precise conditions, it permits the legalization of euthanasia and physician-assisted suicide (Mroz *et al.*, 20201). According to the penal code of the Netherlands, aiding in suicide carries a three-year prison sentence or fine in addition to a twelve-year prison sentence for killing someone at their behest. However, if all the following conditions are satisfied, the legislation allows a medical review board to stop legal proceedings against doctors who performed euthanasia:

1. There is no hope for the patient's excruciating anguish to be relieved.
2. The patient must freely and repeatedly ask to be put to sleep (the request cannot be granted when under the influence of others, psychological illness, or drugs).
3. To confirm the facts, at least one additional impartial doctor must be consulted.
4. The death must be brought about by the patient or physician in a way that is medically required, in which case the physician must be present.
5. There is a patient that is at least 12 years old (patients between 12 and 16 years of age require the consent of their parents).

Uk - England

Non-voluntary euthanasia for individuals in a persistent vegetative state was approved in England by the House of Lords in the Airedale NHS Trust v. Bland decision. It was a case involving a doctor withdrawing artificial life-supporting measures. It was ruled

that it would be illegal to treat an adult who is conscious and of sound mind without his consent. Such a person is entirely free to choose not to receive treatment, even if doing so will cause him to pass away. It was further decided that in cases where a person lost consciousness due to an accident or another event and was unable to give or withhold consent to medical care, medical professionals were allowed to administer treatment if they believed it to be in the best interests of the unconscious patient. It is unlawful to perform such actions, regardless of how severely the patient may be suffering, even if the doctor is acting out of compassion. In this case, Anthony Bland should be permitted to pass away, according to all the House of Lords justices (Egger; Smith; Phillips, 1997).

Even though there have been numerous court rulings on this issue in the United States of America, frequently using different strategies. Justice Cardozo made the following observation while serving on the Court of Appeals for the State of New York: "Every human being of adult years and sound mind has the right to determine what shall be done with his or her own body, and a surgeon who performs an operation without his or her patient's consent commits an assault, for which he or she is liable in damages."

International situation over euthanasia

In accordance with international humanitarian law, there is no "right to die." Any human rights document's common meaning does not imply the existence of a "right to a good death." Contrarily, states are urged in human rights declarations to safeguard and preserve everyone's life. Only four of the 193 members of the United Nations (UN) have legalized euthanasia (the Netherlands, Belgium, Luxembourg, and Canada). Even though the issue is still very contentious, many legislative bodies have opted against it. The 2006 Convention on the Rights of Persons with Disabilities was adopted by the United Nations as an international convention to uphold human rights and dignity. According to a UN international treaty, "States Parties shall take all appropriate steps to ensure that persons with disabilities have the same right to the effective enjoyment of the right to life as other persons" (United Nations, 2009). According to Article 6(1) of the 1966 International Covenant on Civil and Political Rights, every human being has an intrinsic right to life (ICCPR). No one's life may be taken against their will. Article 6 (1) of the Convention on the Rights of the Child (CRC) states that every child has an intrinsic right to life and Article 7 of the ICCPR, states that people should be protected from inhuman or degrading treatment.

In 2001, Holland legalized assisted suicide. The Dutch Parliament passed the Termination of Life on Request and Assisted Suicide (Review of Procedures) Act, 2001,

which formalizes a previous judicial decision to relax the law against euthanasia and assisted suicide. According to the Act, euthanasia and doctor-assisted suicide are only permissible if the patient agrees to it and a doctor is there to supervise it. Belgium passed the Belgian Act on Euthanasia on May 28, 2002. In accordance with Belgian legislation, physicians were permitted to assist in the killing of terminally ill patients who expressed a desire to die sooner. Euthanasia is only permitted under very specific situations and guidelines set forth by Belgian law. The patient must submit a written request. If the patient is unable to create the paperwork themselves, they choose a person to do it on their behalf. When a doctor confirms that a patient has reached adulthood, is legally capable, aware of making requests, and makes requests while experiencing constant, intolerable physical pain because of incurable suffering brought on by sickness or accident, the doctor does not violate the law. There must not be a workable answer. The patient may choose someone else to submit the request on his behalf if he is unable to do so himself. This person must be at least 18 years old and have no financial stake in the patient's demise. Any competent person, however, may draught advance instructions to be conveyed to doctors regarding unconscious patients suffer from an accident or an incurable ailment in cases where no one is able to make request.

With the passage of the law on March 16, 2009, Luxembourg became the third nation to decriminalize assisted suicide. Those who are terminally sick will be permitted to end their lives with the agreement of two physicians and a group of specialists. In Canada, if a terminal illness has progressed to the point where natural death is "reasonably foreseeable," persons over the age of 18 who have it are eligible for "physician aided dying," often known as voluntary active euthanasia. The position in Canada altered following the Supreme Court of Canada's decision in *Cartar v. Canada (Attorney General)* (Attorney General). Euthanasia is not allowed in either China or Hong Kong as it goes against its traditional moral ideals. It is the equivalent of murder under Chinese law as it stands. In the United Kingdom, assisted suicide is forbidden. Anyone who is caught encouraging someone to commit suicide will be breaking the law, which carries a maximum 14-year prison sentence (Mroz *et al.*, 2021). The House of Lords ruled that the European Convention's protection of the right to life and other human rights, which is enforced in England under the Human Rights Act of 1998, has not influenced the law. And the convention does not require a state to legalize assisted suicide. Director of Public Prosecutions, however, disagreed with this conclusion.

In Germany, active euthanasia is authorized while passive euthanasia is not. It is not a criminal act, for a doctor to stop performing life-saving procedures at a patient's written request. While active euthanasia is prohibited in the United States (US), it is not. Only a few

States, such as Oregon, Washington, and Montana, have legalized some form of physician assisted suicide. Physician-assisted suicide and euthanasia have been distinguished from one another. Only self-assisted suicide is legal in both Oregon and Washington. Outside of the legal restrictions, aiding someone in dying or helping them commit suicide by a physician is still a crime. In the US, a doctor can only turn off life support at a patient's request. The doctor's evaluation simply considers the patient's desire to end his life.

Suggestions & recommendations

Suggestions

The researcher thinks that legalization and protection of passive euthanasia are necessary. Euthanasia must, however, be legalized along with several clear and defined restrictions that must be carefully planned after considering its implications for both public policy and individual rights. Furthermore, legalizing active euthanasia should only apply to voluntary euthanasia. The patients themselves should sign a form indicating their desire for euthanasia. However, euthanasia performed against the patient's will or without his or her consent should continue to be considered illegal. Non-voluntary euthanasia is performed when the patient is unable to make the decision for themselves.

Recommendations

The practice of passive euthanasia, which is permitted in many other countries, will also be acknowledged legally in our country with certain protections, in accordance with the recommendations made by India's 17th Law Commission and decisions made by the Supreme Court in the case of Aruna Ramachandra. From a legal and constitutional standpoint, it is not problematic.

If the doctor is satisfied that the patient has made an "informed decision" based on the free exercise of his or her will, the patient has the right to demand that no invasive medical treatment including artificial life support or treatment be given. This decision is binding on the doctors and hospitals caring for the patient. The same standards will be used for minors over the age of 16, if they have stated a desire to forego the treatment and one of their parents and the significant spouse have both granted their agreement.

An incompetent patient, such as one who is in an incurable coma or a chronic vegetative state, or a competent patient who has not made an "informed decision," cannot

be forced to accept the doctor's or a patient's relative's decision to discontinue medical care. To stop or delay life-sustaining treatment, the relevant doctors, hospital administration, or concerned family members must first obtain High Court approval.

The Law Commission's proposals in its 196th report differ slightly in this regard. An authorization clause to petition the High Court was proposed by the Law Commission. After hearing from three medical experts and considering the patient's family's pleas, the High Court will issue its ruling. The Supreme Court will select the best option for the patient in its capacity as *parens patriae*. The new laws safeguard medical practitioners and others from legal action when they follow a competent patient's preferences or a High Court order. A competent patient who is terminally ill and refuses medical treatment is therefore not regarded as having breached any laws.

The process for creating panels has been laid up generally in accordance with the suggestions made by the 17th Law Commission. Prior to becoming ill, the patient gave a lawful advance medical directive. Even if medical treatment has been withheld or stopped in accordance with the standards, both competent and incompetent patients are eligible for palliative care.

Governments must develop plans that are reasonably priced, for palliative care for terminally ill people who are experiencing unrelenting misery. The Medical Council of India must publish guidelines for the withholding or withdrawal of medical care from competent or incompetent individuals who are afflicted with terminal illnesses. The Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2006, which was drafted by the 17th Law Commission in the 196th Report, has been modified considering this. In essence, the new Bill combines the earlier Law Commission recommendations with the rulings and recommendations made by the Supreme Court in the Aruna Ramachandra case.

Furthermore, the Guidelines provided by the SC under the 2018 case has undergone modifications recently; in the 2023 report SC simplified the rules on accessing passive euthanasia. The three tiered system consisting of doctor, patient's family and judicial Magistrate has been reduced to two. Further, stated that the approval of magistrate is no more required for the two tiered process introduced in 2018 guidelines for withdrawing life support. These changes not only make the guidelines simpler but also remove legal constraints of the hospitals dealing with such cases. However, the plot twist is that we are dealing with an issue of ending a life which we cannot bring it back once the process begins and simplifying such process makes it easier to avail and more accessible, but we must not take it lightly. Therefore, a proper legislation is still in need for the hour and for the long run.

The Government must ensure that the doctors do not neglect on evaluating the patient's mental capacity, emotional state and social circumstances, to confirm that the request is not due to depression, anxiety, or another reversible factor. Ensuring Palliative care, pain management and psychological support are available and accessible to all patients, regardless of their decision. Patients should have the right to optimal symptom control and quality of life and must not be coerced or pressured to choose euthanasia due to inadequate or unavailable care. Such equipment's needed for palliative care must be the first primary goal to be made available.

Conclusion

New laws are being codified every day because of the need to adapt the law as civilization develops, steadily as new areas of human rights are created, and as a result, new features of the law. Prior to the advent of due process of law, most legal principles were founded on custom rather than being codified. There are additional situations where claims are recognized as rights in the absence of legislation with the aid of prior judicial rulings. For instance, passive euthanasia is one of the situations in which the right is acknowledged by a legal ruling. It is appropriate to applaud the Supreme Court's judgement. Euthanasia should be permitted with the appropriate care and consideration since the doctor or doctors who are meant to do it may be under pressure.

The virtuous species of this cosmos is the human. He is this God's finest creation. The sacredness of life ought to be upheld. A safe and healthy living must be provided by the government. But life has also grown incredibly difficult in today's world. Humans suffer greatly from a variety of ailments. In every sector, scientific developments and methods have increased. Also, these advancements have influenced medical study and ultimately, human lives. People profit from the use of newly developed medical therapies in that they not only have access to life-preserving medications when they would otherwise have to wait their entire lives for natural death, but also from having their lives prolonged. Healthy living is the priceless jewelry of life. With health, one can enjoy life. The ability to live a dignified life, which includes the freedom to make decisions for oneself and to reject them, is a benefit to the individual. Patients should be permitted to decline treatment when their health is in such horrible form, and they are in such severe agony that there are no longer any hopes for them to recover or live. Alternatively, if he had previously said that he would like to accomplish something but is no longer able to; his wish should be considered. Occasionally, a patient may decide to undergo euthanasia because of the conditions in his life. He should be

examined and cared for by a psychiatrist in this case to determine whether he is depressed or not. Every human being deserves the right to pass away with dignity, whether they are healthy or afflicted with a deadly illness. The availability and protection of human rights are related to the problem.

Article 21 of the Indian Constitution states that to be protected from exploitation, a person's right to a dignified death must be. Passive euthanasia should be performed on the patient with the necessary caution and care. Since India's society is undereducated and has a high crime rate, granting active euthanasia may not be appropriate in the current climate, protecting the patient's security and best interests.

Also to protect from abuses from caretakers where they act like killers instead of healers wherein the dehumanization of healthcare providers and how people view them which affect doctor-patient relationship based on trust and morals furthermore in a country like India where family or any other benefices may be interested in getting property and assets of patients in inheritance wherein obligation of the government is to conduct proper investigation for the property conflicts wherein people can kill people to inherit property or falsify legal documents in civil cases such wills, power of solicitor and other legal documents.

To grant the same from an Indian perspective, the law makers must examine the whole context and the socio-legal circumstances. The Supreme Court has considered the underlying motivations of those who are accountable for not taking active euthanasia into consideration. The Indian Supreme Court has approved passive euthanasia and ordered the creation of legislation outlining its restrictions.

Regardless of geography or religious affiliation, the concept of life is revered and regarded as sublime and sacred by all civilizations and faiths. Euthanasia is not considered to be a moral act or a person's right by many religious groups since they hold the view that life, which has been bestowed upon one, must be honored. As a result, those who oppose active euthanasia emphasize the sanctity of life at all costs (which is primarily supported by arguments from the Christian and Islamic religions, which forbid any form of suicide), while those who support it believe that doctors have a moral obligation to end the suffering of a terminally ill patient while also emphasizing strong individual autonomy in matters of life and death. Hence, euthanasia can be morally supported or opposed while still considering the patient's welfare, freedom, and necessities of life.

Euthanasia also significantly affects how we view death itself. Euthanasia is a notion that suggests using death to end human suffering. When death is the solution, we as humans lose the chance to push ourselves further, work harder, and give these individuals

reason to believe. Accepting assisted suicide is a statement that certain lives are not worth living and should be ended, depending on the situation.

Euthanasia may alleviate a patient's suffering, but it paints a bleak and depressing picture for the rest of society. Being able to die is a concern because, for those with trauma, depression, or other mental illnesses, dying or committing suicide might be an option even when it is not necessary. Suicide being illegal will not be able to modify this thinking or put a stop to it.

Another potential foundation for this approach is substituted judgement, which gives the surrogate decision-maker the authority to euthanize people they determine to be incompetent. This approach would be relied on a review of the patient's values, which might be unreliable in some circumstances. Moreover, such vague and ambiguous techniques may be abused to target members of groups, a practice known as discriminatory euthanasia. My survey's findings provide greater credence to this assertion. Moreover, half of the survey participants think that prejudice could result from the legalization of euthanasia.

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