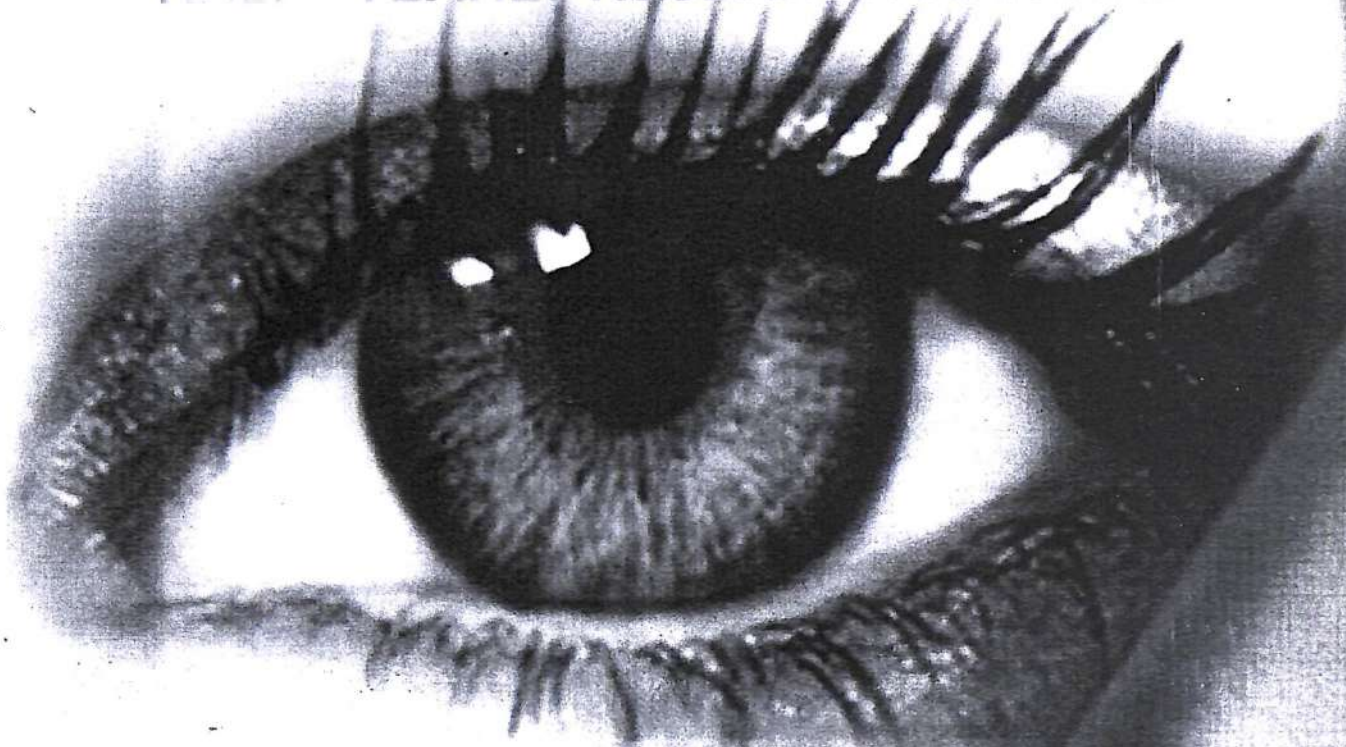


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**AJANTA PRAKASHAN**

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# Euthanasia: A Socio Legal Prospective In India

Mr. Swapnil Bhimrao Jadhav

## Abstract

The concept of euthanasia is relation with to give the mercy death to any person who is suffering the Hugh pain or whose life going mare on the medical machinery. On the other side the law maker also thinks that the when we legalize the euthanasia then the people can take undue advantage to kill the persons it may be subject of misuse of euthanasia so it is against nature and against the morality. On which basis the euthanasia have to be permit and what is the opinion of law maker and judiciary of India have to be studied. Where Indian penal code section 309 deals with punishment for attempt of suicide so it's just like to give the permis- sion for the suicide and article 21 is also make controversy where right to life include right to die.

## Introduction

What is life? ....A life is a beautiful journey a just like flower...Pain and pleasure is a part of life where only pain take over the life then life become a nightmare and then there is only way to die to remove the pain from life. Then and then the Euthanasia came in the picture to remove the life form legal way. There are several ways to end own life but where the situation comes that this life treats like cage and man's sole like bird who want to fly but cage difficult to open.

Euthanasia is the concept which derived from a Greek word Euthanotos, which literally means good death. It refers to a practice of intentional ending of a life to relieve the pain and suffering of a person.

## Statement of Problem

Today India is the world's second number country in the population and its basic problem of illiteracy, poverty, unemployment. In that way many people are affected in the deadly diseases where they don't have proper money or proper medical facility to take the medical treatment properly. There are many people who major disease like cancer, AIDS, paralysis etc they are living regular painful life where their relative and medical service provider also affected by their pain and there is no way the stop it without the mercy death.

## Object of the Study

- 1) To appraise of the concept of euthanasia with the positive and negative aspect.
- 2) To study of legality of euthanasia in Indian in the judicial and social view.

## Hypothesis

- 1) No any special law to deal the euthanasia in India.
- 2) Euthanasia should be legalizing in India.



## **General Information about Euthanasia**

Netherlands was the first country in the world to legalize euthanasia after the controversial law on euthanasia came into force on April 2001. The legislation allows patients experiencing unbearable suffering to request for euthanasia and doctors who carry out such followed strict procedures.

In India, euthanasia is an offence covered under section 309 of IPC i.e., attempt to suicide. If it caused by some other person, he will be guilty of the offence of murder or culpable homicide not amounting to murder if the consent of the person seeking euthanasia is obtained.

## **Classification of Euthanasia**

### **A) Voluntary Euthanasia**

Euthanasia conducted with the consent of the patient is termed voluntary euthanasia. Active voluntary euthanasia is legal in Belgium, Luxembourg and the Netherlands. Passive voluntary euthanasia is legal throughout the U.S. per *Cruzan v. Director, Missouri Department of Health*. When the patient brings about his or her own death with the assistance of a physician, the term assisted suicide is often used instead. Assisted suicide is legal in Switzerland and the U.S. states of Oregon, Washington and Montana.

### **B) Non-voluntary Euthanasia**

Euthanasia conducted where the consent of the patient is unavailable is termed non-voluntary euthanasia. Examples include child euthanasia, which is illegal worldwide but decriminalized under certain specific circumstances in the Netherlands under the Groningen Protocol.

The decision can be made based on what the incapacitated individual would have wanted, or it could be made on substituted judgment of what the decision maker would want were he or she in the incapacitated person's place, or finally, the decision could be made by the doctor by their own decision.

### **C) Involuntary Euthanasia**

Euthanasia conducted against the will of the patient is termed involuntary euthanasia. Involuntary euthanasia occurs when euthanasia is performed on a person who is able to provide informed consent, but does not, either because they do not choose to die, or because they were not asked,

Involuntary euthanasia is contrasted with voluntary euthanasia (euthanasia performed with the patient's consent) and non-voluntary euthanasia (where the patient is unable to give their informed consent, for example when a patient is comatose or a child). Involuntary euthanasia is widely opposed and is regarded as a crime in legal jurisdictions, and is sometimes used as a reason for not changing laws relating to other forms of euthanasia.

### **D) Passive and active euthanasia**

Voluntary, non-voluntary and involuntary euthanasia can all be further divided into passive or active variants. Passive euthanasia entails the withholding of common treatments, such as antibiotics, necessary for



the continuance of life. Active euthanasia entails the use of lethal substances or forces, such as administering a lethal injection, to kill and is the most controversial means. A number of authors consider these terms to be misleading and unhelpful.

### **Euthanasia Should be Legalise in India**

In M.S Dubal vs. State of Maharashtra, the Bombay High Court held that right to life under article 21 of the Indian Constitution includes 'right to die'. On the other hand in Chenna Jagadeeswar vs. State of AP, the AP High Court said that right to die is not a fundamental right under Article 21 of the Constitution. However in P. Rathinam's case Supreme Court of India observed that the 'right to live' includes 'right not to live' i.e right to die or to terminate one's life. But again in Gain Kaur vs State of Punjab, a five member bench overruled the P.Rathinam's case and held that right to life under Article 21 does not include Right to die or right to be killed.

Passive euthanasia is legal in India. On 7 March 2011 the Supreme Court of India legalized passive euthanasia by means of the withdrawal of life support to patients in a permanent vegetative state. The decision was made as part of the verdict in a case involving Aruna Shanbaug, who has been in a vegetative state for 37 years at King Edward Memorial Hospital. The high court rejected active euthanasia by means of lethal injection. In the absence of a law regulating euthanasia in India, the court stated that its decision becomes the law of the land until the Indian parliament enacts a suitable law. Active euthanasia, including the administration of lethal compounds for the purpose of ending life, is still illegal in India, and in most countries.

The essence of human life is to be able to live a dignified life but when some law forces you to live in intense pain and humiliation, there is something wrong with our society. Who are we to prolong the life of one who is suffering and has decided without any undue pressure that he would like to be put to rest? Obviously legalization of euthanasia should not include anyone wanting to end their life at the flimsiest of excuses but a patient should be allowed to decide when he has suffered enough.

Apart from the miserable pain, that the patient goes through, the trauma and the emotional turmoil his relatives go through is also immense. To see your close ones suffering and going through pain is not an easy sight. You wish the laws should be changed. After all as an individual, you decide where to marry; you decide where to work, and at the last hurdle of your life, you should be allowed to choose how you want to end your life.

On the other hand, the chances of the legalization being misused are also very high. What if the patient is in coma and is unable to make a decision, should the relatives be allowed to make it? This is the era of family disputes over property and money. People could also get away with cold-blooded murder. Legalizing voluntary Euthanasia would lead to involuntary euthanasia. In this society, full of greed and corruption anything is possible.

Where the use of positive and negative aspect that the euthanasia must be allow on the nature of the case it mean that the patient really suffering from Hugh pain or his situation is incurable in the future or he is in the position not give proper consent about to die just like he is coma that in specific situation patient entitled the euthanasia.

### **Human Right Commission and Euthanasia**

Euthanasia cannot be considered without reference to human rights, but all relevant rights should be included. These will include the right of every person to their life and to the standards of health care appropriate to their illness and, where the provision or equality of the care demonstrably uneven, to the right to distributive justice to protect the equal right of all the sick. No right should be including unless its existence has been validated beyond question.

It's not acceptable to want the law changed to uphold a spurious right or even a genuine right that has been shown cannot be protected. Whatever arguments may or may not be through sufficient to support legalized euthanasia, an appeal to human rights has not been shown to be among them. The claimed rights are either unwarranted misrepresentations of rights, or are 'wants' masquerading as 'right'.

### **Conclusion and Sugestion**

Considering all the information with all positive and negative aspect of the society the euthanasia is necessary. Year to year living on one bed and feeling extreme pain is just like the punishment of the hell. During the implementation of law on euthanasia have to think about the actual situation of the patient, its type of disease future of the patient, availability of medical treatment.

Euthanasia could be legalized, but the laws would have to be very stringent. Every case will have to be carefully monitored taking into consideration the point of views of the patient, the relatives and the doctors. But whether Indian society is mature enough to face this, after all it's a matter of life and death, is yet to be seen.

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