

## **Right to Life with Dignity also includes Right to Die with Dignity**

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### **ABSTRACT**

Here my question is whether or not Right to life with dignity includes Right to life with dignity. If the answer is yes, then why a cancer patients who were already in their last stage needs to suffer tons until their death. In such cases active euthanasia is that the only choice, for getting relief from the pain of cancer. Someone who is already sick and relies on alternative for everything in this case how can we say that he is living his life with his dignity? In cancer (last stage), most of the patients died in worse conditions, where neither they can bear the pain of the diseases nor their family can watch their beloved in such an intolerable pain for such a protracted time. In such cases death with dignity is last choice for the relatives further as for the patients to finally get relived from the pain. There is a necessity of Active Euthanasia for such patients.

### **INTRODUCTION**

The term Euthanasia is from Greek words “eu” means that “well or good” and “thanatos” means that- “death” means good death. “The term Euthanasia commonly implies an intentional termination of life by another at the specific request of the one who desires to die. Euthanasia is mostly outlined because the act of killing an incurably ill person out of concern and compassion for that person's suffering. It is typically known as mercy killing, however several advocates of euthanasia define mercy killing more precisely as the ending of another person's life while not his or her request. Euthanasia, on the opposite hand, is commonly separated into two categories: passive euthanasia and active euthanasia. In several situations, active euthanasia can be considered murder or homicide, whereas passive killing is accepted by skilled medical societies, and by the law under certain circumstances.” According to the definition given by Merriam Webster for Euthanasia, “the act or practice of killing or

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permitting the death of hopelessly sick or injured individuals in a relatively painless way for reasons of mercy”.

Again consistent with definition given in Oxford Dictionaries, Euthanasia means, “The painless killing of a patient suffering from an incurable and painful disease or in an irreversible coma”.

So, from the above definition we can interpret that Euthanasia is the practice of killing one person who is suffering from some kind of serious painful illness, so that he can get relief from his pain on the ground of mercy and sometime even it is known as mercy killing also.

### **Constitutional Validity of Right to Die in India**

Article 21 of Indian Constitution grants Right to life solely. Consistent with Article 21 says, “No person shall be deprived of his life or personal liberty except according to procedure established by law”. Right to life under Article 21 doesn't embrace Right to die. The question relating to Right to die initial time comes before Bombay High Court in State of Maharashtra v. Maruty Sripati Dubal<sup>3</sup>. And here during this case court declared that Right to Life includes Right to die, so creating Section 309 of Indian legal code, 1860 that makes attempt to suicide as punishable offence unconstitutional. However Supreme Court in Gyan Kaur v. State of Punjab<sup>4</sup>, held that Right to life doesn't embrace “Right to die” or “Right to be killed”. Right to life is a natural right & right to die is not a natural right and nobody features a right to finish their life in unnatural manner. It absolutely was solely when the case of Aruna Ramchandra Shanbaug versus Union of India<sup>5</sup>, Supreme Court in its judgment declared that Passive Euthanasia is legal in India.

Even in India whether it is a Voluntary Euthanasia, Involuntary Euthanasia or Non-Voluntary Euthanasia whatever the case may be is not acceptable and is prohibited here and it is a punishable offence under Indian Penal Code except the passive Euthanasia.

### **Right to Life with Dignity**

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<sup>3</sup> 1987 Cri LJ 743.

<sup>4</sup> 1996)2 SCC 648.

<sup>5</sup> (2011) 4 SCC 454

Right to life with dignity means that, someone is enjoying his life in a dignified manner. Means that something that is not only a mere existence and not just like the manner that animal used to do. Now here lies my question, that whether a person who is bed ridden and obsessed on others for his each basic wants e.g. last stage cancer patients in that cases whether he can be said that he is enjoying his life with dignity. A person, who even can't eat with his own hand, can't move from his bed, can't even stand or walk for washroom, in such cases we can't say that the person lives with dignity, despite the fact that his relatives love him a lot and taking good care also but still nobody can like such kind of life.

Right to life under Article 21 does not include right to die. But once terminally ill patients like cancer patients is aware of that he has only few days in his hand to relish his life, in that cases whether Right to die with dignity ought to be allowed? i.e. death with no pain and suffering. So, that he could not suffer the pain and lose his self- confident and respect. A person who is suffering with some deadly diseases in those cases he must have the right to die with dignity. Depending on other during old age is something different but depending on other due to some deadly diseases which nobody wants in their lifetime.

Even that, looking at your loved ones dying with pain is also unendurable. Where person become helpless and also the time becomes worse for him to watch his beloved dying with pain except one can become the silent spectator or become the witness of the last breath taken by his friend. And it is seen that blood oozes out from nose, mouth, ears and from genital organ of the body in some cases of cancer patients throughout their last breath that is that the most painful and pathetic time of the life of the patient as well as for the beloved. As we tend to all understand that the pain that the cancer patients feel throughout their last breath is unendurable which time no drugs works to scale back that pain. So, such time becomes like penalisation for the beloved further for the patient.

### **Countries Where Right to Life also Include Right to Die with Dignity**

Recently, the California Government, Jerry Brown, has signed the California's right-to-die bill into law, permitting terminally ill citizens of the country to finish their own lives with the assistance of their doctor. According with this new law a terminally ill patients will get medical care for ending their lives as long as they have been given six months or less to live by 2 doctors, provided a written request and 2 oral requests at least fifteen days apart and are deemed mentally capable of creating choices regarding their own health. Montana, Oregon,

Vermont and Washington have also legalized the practise, whereas aid-in-dying is presently in disputes' in New Mexico's courts.

The California bill was passed due to Brittany Maynard, the 29-year-old resident of San Francisco Bay Area who gained national attention for her call to move to Oregon to take advantage of the state's longstanding aid- in-dying law. Maynard had been diagnosed with terminal brain cancer, however as a California resident, could not pursue end-of-life choices at home.

It was within the year 2002, when Netherlands became the 1<sup>st</sup> country to legitimize killing and assisted suicide. But it impose some strict condition that one must check before permitting some for Euthanasia as well as for assisted suicide i.e. the patient must be suffering unendurable pain, their illness must be incurable, and also the demand must be created in "full consciousness" by the patient.

### **Active and Passive Euthanasia**

The Supreme Court of India in, Aruna Ramachandra Shanbaug vs. Union of India had made a transparent distinction between Active and Passive euthanasia. In Active euthanasia something is to done to finish the life of patient e.g. injecting the patient with a deadly substance e.g. Sodium Pentothal that causes the person to travel in deep sleep in a few seconds and the person dies painlessly in sleep, so it amounts to killing someone by a positive act so as to finish suffering of person in a state of terminal illness. It is treated as a criminal offense across the globe except wherever permissible by legislation. In India too, active euthanasia is prohibited and a criminal offense under Section 302 or 304 of the IPC. Doctor assisted suicide is a crime under Section 306 IPC (abetment to suicide). Passive euthanasia involves withholding of medical treatment or withholding life support system for continuance of life e.g., withholding of antibiotic where while not doing it, the patient is probably going to die or removing the heart–lung machine from a patient in coma. Passive euthanasia is legal even while not legislation provided some conditions and safeguards are maintained. The core purpose of distinction between active and passive euthanasia as noted by Supreme Court is that in active euthanasia, something is to be done to finish the patient's life whereas in passive euthanasia, something is not done that may have preserved the patient's life.

Again Passive euthanasia is divided into voluntary and non-voluntary. Voluntary euthanasia is where the consent is taken from the patient. And in non- voluntary euthanasia, the consent is inaccessible on account of the condition of the patient for instance, once he is in coma.

### **Medical Treatment to Terminally ILL Patients (Protection of Patients and Medical Practitioners) Bill 2006**

The preamble of the Bill starts with “A Bill to provide for the protection of patients and medical practitioners from liability in the context of withholding or withdrawing medical treatment including life support systems from patients who are terminally-ill”.

Under section 2 (m) of Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill 2006, “terminal illness” means – (i) such illness, injury or degeneration of physical or mental condition which is causing extreme pain and suffering to the patients and which, according to reasonable medical opinion, will inevitably cause the untimely death of the patient concerned, or (ii) which has caused a persistent and irreversible vegetative condition under which no meaningful existence of life is possible for the patient. This is the high time to introduced Right to die with dignity under Article 21 of Indian constitution in cases of terminally ill cases and additionally all the diseases which might be or which fall under the category of Sec.2 (m) (i) should be inserted.

Even it is found that approximately 1300 individuals died everyday in India because of Cancer and in 2014 close to five Lakhs individuals died because of cancer. And also the treatment of cancer is extremely expensive that only wealthy people can afford and not by the poor individuals. So, in this case we can imagine the situation of the family whose beloved is suffering by cancer and they are unable to give treatment to them because of its expenses. And if it is last stage then nothing can done except bearing the pain.

### **CONCLUSION AND SUGGESTION**

Someone who is born in world will also die in the future. This is the universal truth, where there is life, there is death. No one will get away from death. However one thing which everyone deserves in his life is Right to life as well as Right to die with dignity. Nobody should be deprived from this right.

I think this is the proper time when Right to die with dignity should be allowed under Article 21 for terminally unwell patients. Even a medical committee should be organized to debate and judge the diseases which might be fall under “Terminally ill” class. And for those diseases “right to die with dignity” through Doctor Assisted Suicide should be allowed. So that, the terminally unwell patients can dies by not facing any suffering and pain. Lastly, it’s time to amend Article 21 of Indian Constitution and to incorporate Right to die with dignity in it.

