

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*



## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **EFFECT OF GLOBALISATION ON THE CONCEPT OF EUTHANASIA**

AUTHORED BY - PRIYANKA

LLM (Batch 2023-24)

IILM, GREATER NOIDA

## **EUTHANASIA**

### **ABSTRACT**

*This term paper is prepared to analyze the Law of euthanasia in Indian and the World. Euthanasia is a very burning and debatable issue in the world because this issue is linked with the human life. This term paper is prepared on the legal framework and precedence in india and world. Object of this paper to analyze what can be further improvement in legal aspect and how the euthanasia is necessary for the patient terminally ill or in a vegetative state. This paper will analyze a journey of euthanasia, how it started and it has been settled to some extent In India and World. This paper will also analyze what are the legal hurdle before the concept of Euthanasia. This paper will not only discuss euthanasia in human perspective but also in respect of animal.*

*The purpose of this research paper is also to analyse the status of euthanasia in the world and impact of international laws and judgments of foreign countries on the Indian law and Indian Judiciary. In my view, judicial globalization has not only helped to Link the world but also helped in access of foreign legal materials which has now become much easier on account of the development of information and communication technology, it has also did the help in cross-fertilization of ideas amongst students, scholars, professors and Jurists, they have got chance to engage with other foreign countries and share ideas of development of laws. From India, students used to go Foreign Countries for higher studies in law, which has resulted in innovation in law. Being the sovereign country, though international law and decisions are not binding on India, but same has the persuasive nature on the Indian Law and Judiciary. Many provisions and clauses of Indian Law and Constitution has been borrowed from foreign country with some modification. In the era of globalization, I am of the view that judicial dialogues should not be*

*suspended between countries, it is correct that there is no doubt that foreign precedent do not have binding nature on Indian Judiciary, but to some extent it helps to improve laws. These precedents are of high persuasive value.*

*Through this research work, I will also touch the concept of animal euthanasia, which is not new but but also not developed concept in India and World. Clinical trial on animals, demands animal euthanasia. Because for our benefits, for human wellbeing, we can not leave animals in deserted situation for dying. Not only clinical trial, but disaster, outbreak, old age etc also demands animal euthanasia, which is not painful for animals. By animal euthanasia, human tries to alleviating the suffering of animals.*

## **INTRODUCTION**

“Euthanasia’ or mercy killing or dignified killing dealing with the concept of causing or hastening of death particularly of incurable or terminally ill patients on voluntary request is one of the most perplexing issues which the judiciary and the legislatures all over the world have been facing today”.<sup>1</sup> It has been a long journey in respect of Right to Die and Euthanasia in India. In “P. Rathinam v. Union of India”, Supreme Court held that Article 21 of The Indian Constitution i.e. “Right to live” includes “Right not to live”<sup>2</sup>.

Court also held:

- Suicide attempt has no beneficial effects on society i.e. not affecting the society. But this holding has counter arguments. Suicide affects mentally to family. They have emotions with the person who commits suicide or want to be euthanized.
- Act of suicide is not against public policy, religion, or morality.

But the Judgment was overruled by Supreme Court itself by Bench consisting of Five Judges namely Justice Verma, G. N. Ray, N. P. Singh, Faizen Uddin and G. T. Nanavati, in <sup>3</sup>Giyan Kaur v Sate. of Punjab. Supreme Court overruled the <sup>4</sup>P. Rathinam v Union of India and held it does not include “right to die”. In recent past, right to die and euthanasia has been a controversial issues for legalizing the same. Euthanasia is controversial because it includes the deliberate

---

<sup>1</sup> Ritika Bansal, Euthanasia, appeal & mercy killing.

<sup>2</sup> 1994 SCC (3) 394

<sup>3</sup> JT 1996(3) SC 339

<sup>4</sup> JT 1994(3) SC 392

killing of the patients on his or his relative request. This issue came before the Supreme Court in <sup>5</sup>Aruna shanbaugh v Union of India case. The apex court, in its landmark judgment laid the founding stone for the Passive Euthanasia.

**“I die for Death, Death knocks, but comes not”<sup>6</sup>**

These were the opening words which struck to the mind of Justice Markandey Katju while delivering the landmark judgment in Aruna Ramachandra Shanbaugh Case. The court granted the passive euthanasia in India. Euthanasia is one of the most debatable and discussable issues which world is facing today. The “euthanasia” word has taken the origin from the ‘Greek’ word, and means ‘Good Death’.

**EUTHANASIA CATEGORIES:**

- Voluntary Euthanasia.
- Non Voluntary Euthanasia (e.g. In coma or not able to give consent).
- Involuntary Euthanasia
  - Passive Euthanasia.
  - Active Euthanasia.

**Passive Euthanasia:**

- e.g. dialysis patient, not giving the dialysis to patient,
- Life saving medicines withdrawn i.e. antibiotics
- In cancer, chemotherapy not done etc.
- In TB, medicines not given.
- In AIDS, anti retroviral medicines withdrawn.

The whole world is looking towards the concept of Passive Euthanasia. Active Euthanasia is an offence and punishable in all over the world except where it is specifically made legal. In India “active euthanasia” has been proscribed under Indian Penal Code by Section 302 (Murder) or at least 304 (“Culpable Homicide”) of the Code as the case may be. But in most of the country passive euthanasia and physician assisted suicide euthanasia concept has been accepted and legalized by the law.

---

<sup>5</sup> AIR SC 2011 1290

<sup>6</sup> AIR SC 2011 1290



### **Passive Euthanasia:**

Basically there is withdrawal of life supporting system. Justice A. K. Sikri in *Common Cause v Union of India* (Supra) has termed life supporting system with a phrase ‘**Prolongs life with no dignity.**’

## **LEGAL ASPECTS IN INDIA: LAW AND PRECEDENCE**

There is no statutory provision in our country as to the legal procedure for withdrawing life support to a person in a permanent vegetative state or who is otherwise incompetent to take a decision in this connection. The constitution bench of Supreme Court in “*Gian Kaur v. State of Punjab*” held that euthanasia and assisted suicide are not lawful in India. The Court held that euthanasia could be made lawful only by Legislature.

“In <sup>7</sup>*Aruna Ramchandra*, Supreme Court observed that passive euthanasia should be permitted in our country in certain situations. A decision has to be taken to discontinue life support either by the parents or the spouse or other close relatives, or in the absence of any of them, such a decision can be taken even by a person or a body of persons acting as a next friend. It can be taken by the doctors attending the patient. However, the decision should be taken bona fide in the best interest of the patient.”<sup>8</sup>

<sup>9</sup>“The Protagonist of euthanasia on the view that existence in the persistent vegetative state is not a benefit to the patients of a terminal illness being unrelated to the principle of ‘sanctity of life’ or the right to live with dignity is of no assistance to determine the scope of Article 21 for deciding whether the guarantee of the right to life therein includes the right to die. The right to life including the right to live with human dignity would mean the existence of such a right upto the end of natural life. This also includes the right to a dignified life upto the point of death including a dignified procedure of death.” 241<sup>st</sup> Law commission of India has recommended for the recognition of the Passive Euthanasia by Law.

---

<sup>7</sup> (2011) 3 SCALE 298 SC

<sup>8</sup> Ibid

<sup>9</sup> Mayank Madhaw, *Criminal Law I*, 6.36, Singhal's Law Publications, Fifth Edition, 2018-19

## **ARTICLE 21 OF INDIAN CONSTITUTION, ARTICLE 6 OF ICCPR, SECTION 309 INDIAN PENAL CODE 1860**

In India <sup>10</sup>Article 21 of Indian Constitution gives the right to live with dignity. But this right does not include “right to die” as held in “Gian Kaur” case (Supra). If someone commits suicide and survives then he/she will be punished under <sup>11</sup>section 309 of the I.P.C. Other legal aspect for the euthanasia are in section 302 and 304 of the I.P.C. if there is intentional killing of the patient then it is punishable as murder in 302 or at least under 304. The language of Article 21 of Indian constitution is different to the Article 6 of ICCPR. Article 6 says “Every human being has inherent right to life. This right shall be protected by law.

No one shall be arbitrarily deprived of his life” In Indian constitution talks about the ‘Procedure established by law’ and this is nothing but a due process. Due process means devoid of arbitrariness. Mere making law is not due process or procedure established by law but it should have some reasoning and reasonable cause behind it. Life in terrorist and specific offences lives being taken by state by death penalty provision. So Article 21 of the constitution is not absolute.

### **What does arbitrariness means:**

- Individual will or Individual Decision, Judgment
- Whimsical
- Discretionary, against the rule of law.
- Capricious
- Uncertain
- Unreasonable/ Unreasonable
- Uncontrolled by law (Uncontrollable)
- Abusing unlimited power etc.

So if the law for euthanasia is reasonable, has been framed with proper guidelines or for the wellbeing of the person then it is not hit by the Article 21 of Indian constitution or by the Article 6 of ICCPR. Euthanasia is a debatable concept before the world. But must discussed and problematic concept is of non voluntary euthanasia. In non voluntary euthanasia, patient is euthanized against his will. Because in non voluntary euthanasia, patient is in almost dead state

---

<sup>10</sup> The Constitution of India 1950.

<sup>11</sup> Indian Penal Code 45 of 1860

or “vegetative state” or in non communicating state.

This absentness in consent in non voluntary euthanasia invites the motive, intentional killing and arbitrariness. To stop this, there is a need for proper guidelines and norms. Another concept of euthanasia is physician assisted suicide. This is also punishable in India under section 306 (Abetment of Suicide) in I.P.C. In Physician Assisted Suicide, in the presence of witnesses, poisonous substance is given after satisfying the patient in soundness accepting this.

### **ASSISTED SUICIDE:**

Assisted Suicide can be done by lethal Injection as well. After being satisfied that patient is allowing to end his life. An injection is injected to him or He will be asked to inject the same in his body himself.

“The Treatment of Terminally Ill Patients bill, 2016” recognize passive euthanasia and also permits for physician assisted suicide under clause 5(3). But this act has not been passed by parliament.

### **MENTAL HEALTHCARE ACT 2017:**

Section 309 of Indian Penal Code (Attempt to Suicide) has been a debatable section in the past and current. This section proscribes and punished the person if he commits the suicide. But section 115 of the Act has partly diluted this section by giving medical treatment to the person who survives the suicide.

*<sup>12</sup>S. 115: “Presumption of severe stress in cases of attempt to commit suicide. Sub clause (2) of the Section mandates, that appropriate government shall have a duty to provide Care, treatment and rehabilitation to person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide”.*

Section 115 starts with a “non obstante” provision, reference to S. 309 of penal code.

*Section 115 (1)<sup>13</sup> “Notwithstanding anything contained in section 309 of the Indian Penal Code any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.”*  
*So there will be a “Shall Presumption”, unless contrary proved. This presumption is rebuttable.*

---

<sup>12</sup> Section 115, mental healthcare Act, 2017, Act 10 of 2017

<sup>13</sup> Ibid

After mental health bill, now state has responsibility to treat survival of suicide to give mental treatment. Mental Healthcare Act has decriminalized the attempt to die by suicide, thereby reducing further stress on the survival/victim. It is pertinent to mention that in recent introduced bill for the replacement of Indian Penal Code, 1860, by The Bharatiya Nyaya Sanhita, 2023, attempt to suicide provision has been deleted and new provision for attempts to commit suicide with the intent to compel or restrain any public servant from discharging his official duty has been proscribed.

## **CURRENT POSITION IN INDIA**

“Bench In the Common Cause v Union India, held that Right to live with dignity also includes the smoothening of the process of dying in a case of a terminally ill patient or a person in Persistent vegetative state with no hope of recovery. Living will is a written document that allows a patient to give explicit instructions in advance about the medical treatment to be administered when he or she is terminally ill or no longer able to express informed consent.”<sup>14</sup>

### **<sup>15</sup>Common Cause v Union of India**

- 5 Judges bench of Hon’ble Supreme Court comprising of Hon’ble Justices Dipak Mishra C.J, A.K Sikri, D.Y. Chandrachud, Ashok Bhushan and A.M. Khanwilkar, JJ unanimously delivered the landmark judgment authored by Justice Deepak Misra and held the concept of “Advance Directive” for the Passive Euthanasia.
- Living Will this is also termed as “Advance Directive”. Directions in advance.
- This “Advance Directive” shall be witnessed to two witnesses before the Judicial Magistrate of first class. Judicial magistrate shall attest the same and shall be signed by him also.
- When case will appear- Medical board- Head of Particular department will prepare the report regarding the passive euthanasia, whether to allow it or not. This medical board shall be comprised of at least four experts.
- This report (Whether negative or positive) will be sent to collector of the concerned district.
- Collector will form the separate medical board.
- This separate medical board will decide whether to allow the euthanasia or not. (If denied

---

<sup>14</sup> Right to die with dignity, Available at <https://www.livelaw.in/breaking-right-die-dignity-fundamental-right-sc-allows-passive-euthanasia-living-will-issues-guidelines/> (Last Visited on 24 April, 2019)

<sup>15</sup> WP (CIVIL) No. 215/2015

then remedy is to go under Article 226 of the Indian constitution by way of writ). Because it has been held that “Right to Die includes Right to die with dignity.”

- Report of the medical board formed by Collector shall be final. So if it is in affirmative action, then execution would be by State. i.e. State Killing. Ultimately state is vested with power to allow the euthanasia or not. Hospital Medical Board will act as only advisory board. Whether to allow it or not. Ultimately collector's medical board is the final authority.
- Now recently Constitutional Bench of Hon'ble Supreme court of India comprising of K. M. Joseph, Ajay Rastogi, Aniruddha Bose, Hrishikesh Roy, C T Ravikuma, JJr has modified these guidelines for making it less cumbersome for citizens. The SC has simplified these guidelines. Hon'ble Supreme court has modified the guideline that the attestation of living will can be done by a notary or a gazetted officer to be sufficient for its validity, earlier it was supposed to be attested by Judicial Magistrate and countersigned by him only. Furthermore, now records of living will shall be part of national health record and accessed by Indian hospitals, earlier it was kept district court concerned. Now primary board to assess the health and condition of the patients shall be comprised of 3 doctors, including treating physician and two other doctors with five years of experiences in the specialty, earlier it was comprised of at least four experts from general medicine, cardiology, neurology, nephrology, psychiatry, or oncology with overall standing of at least 20 years. Now, primary and secondary board has to take decision within 48 hours, earlier there was no time limit for decision on withdrawal of life supporting system. Now secondary board has to be formed by hospital with medical experts, earlier collector concerned had been given responsibility and hospital board opinion was advisable only in nature. After this recent modification, euthanasia procedure has become less cumbersome and less time taking and state through collector has not been given power for killing patient.

## **TYPES OF EUTHANASIA**

- Child Euthanasia.
- Euthanasia in pregnant woman: when there is threat to mother or child. The Medical Termination of Pregnancy Act, 1973.
- Mental patients Euthanasia
- Adult patients Euthanasia



- Euthanasia Animal.

## **NEW CONCEPT OF ANIMAL EUTHANASIA**

**Euthanasia- Animal:** Our debate and discussion has been confined only to the euthanasia with respect to Human Being only. But a new concept has been evolved in European Country i.e. Animal Euthanasia. After, during or before use in testing, animal may be euthanized. For medical research, gene editing, drug testing, animals are the first subject. Before the successful testing or research it causes the deformity in the animal body. And ultimately they die with painful death. To stop such painful prolong death euthanasia is necessary.

## **HOW ANIMAL EUTHANAISED**

- BY: intravenous injection
- very high dose of Pentobarbital or Sodium (Na+) thiopental. Or
- Injecting the drugs directly in heart chamber or body cavity.
- Shooting for the big animals, elephant, deer, horse etc.
- By gas anaesthetics or
- By Carbon Dioxide Chamber.
- Isoflurane and Sevoflurane used to killed small animals.

## **Prohibited and Inhumane Methods of Animal Euthanasia**

- Eletrocution- Hanging
- Stunning
- Hypothermia
- Formalin Injection
- Burning
- Chloroform
- Air embolism
- Cynide administration
- Chloral hydrate injection
- Decompression
- Rapid freezing

But some animal activists has criticized this euthanasia. They are supporting to eradicate the root cause i.e. not to allow the animals in medical testing. But this can not be possible in my opinion. Because for the betterment and scientific development of world and for human welfare this is necessary to test the medicines on animals. Because medicines or new research can not be test on human beings directly.

In my opinion, animal euthanasia should be in a manner which is not painful for them. Painful killing of animals in the name of animal euthanasia violates their rights, animals are also have their body, they also have feelings. Animals also have their rights. They have right to live with no pain, no suffering. They have freedom from hunger and thirst, discomfort, pain, express normal behavior, and free from fear and distress. Therefore, animal euthanasia must be performed by qualified veterinarians/doctors who have understanding of animal behavior, anatomical landmarks and equipment and drugs used for the humane euthanasia of animals. In humane killing of animals violates their rights. It has been seen that during outbreak in birds and animals, they are killing in a brutal manner in inhumane way with realizing their pain. Inhumane mass killing during out break demands euthanasia procedure which is less painful.

### **Why there is need of Animal Euthanasia**

- To stop spread of disease at the time of outbreak like bird blue, flu, swine flu, corona virus outbreak etc.
- Old age associated disease, poor and bad mobility, ir-recoverability of normal state and health. It has been seen that old age pets are usually left on road by family.
- Incurable disease due to bacteria, virus, fungi etc., disease which is contagious, communicable and can spread swiftly.
- Starvation, inability to consume food, accident specially street dogs and animals.
- Animal mutilated during research.
- Gene editing resulting abnormalities in body of animals which is incurable.
- Sufferings after disasters/survival of cyclone, earthquake, disaster, violence, outbreak etc.

### **REASON FOR EUTHANASIA**

- Terminal illness e.g. Cancer.
- Rabies.
- Behavioural Problems.

- Old age
- Illness and broken limbs
- Lack of homes
- Animal Testing
- Deformed birth e.g. Microcyphelis.

## **RELIGIOUS ANGLE**

- Christianity – says,
  - Euthanasia is a crime and this is an aggression against the God.
- Buddhism-   Buddham saranam gacchami  
                  Dhammam saranam gacchami  
                  Sangham saranam gacchami

Buddhism believes in non violence and asks to go with Buddha, through his non violence path. Buddhism says that euthanasia is an act against life. Violence against life, crime against life.

- Jainism- Mahavira varadhamana, explicitly allows a shravak to end his life for getting the Moksha.

At the religious point of view, self killing and killing by euthanasia is a violence against God. This is the God who has created living creature and this is the God has only paramount right to destroy.

## **PRINCIPLES BEHIND EUTHANASIA**

- Injury- Prolong illness cause the emotional and psychological injury to the family. If the patient is in a almost dead position from where no return to the normal human life. Then if euthanasia is not allowed it would caused the psychological and emotional injury to the near ones.
- Financial Loss/Revenue Loss; If a person is in “vegetative state” then in such case family would have financial burden for his treatment for a long period. Health Insurance is common for common man. Then in these cases also insurance company has to bear financial burden for him. A long life without the improvement on hospital bed not only causes the revenue/ financial loss to the family for life supporting system but also affects the insurance policy.
- Organ donation; can save others life. A dying person can save many others by donating his/her organs. In the world where humans organs are in big demand and is in scarce in

number. Then in such situations organ donation from the person who is in vegetative state is a good principle. This has been seen that scientifically human organs are being developed in animal bodies. Line recent development is in pancreas case. This has been developed naturally in pig with genes/DNA editing. But this scientific development has risk factors as well. Organs which are being developed in animal bodies might get affected with the disease animals have. So Euthanasia can be a alternative to fulfill the demand of organs. Deficiency of organs is major problem.

- Cognitive ability, etc.

### “FOREIGN LAW

S.No.	Country	Assisted Suicide	Suicide	Euthanasia
1.	Netherland	Legal (Medical Assisted)	-	Legal
2.	Switzerland	Legal (Medical Assisted)	Illegal	-
3.	Belgium	Legal	-	Legal
4.	Egypt	Illegal	Legal	Illegal
5.	Myanmar	Illegal	Illegal	Illegal
6.	Rwanda	Illegal	Legal	Illegal
7.	South Sudan	Illegal	Illegal	Illegal
8.	South Africa	Illegal	Legal	Illegal
9.	Sudan	Illegal	Illegal	Illegal
10.	Canada	Legal	Legal	Legal
11.	USA	Legal (Some States)	Legal	Illegal
12.	Bangladesh	Illegal	Illegal	Illegal
13.	Bhutan	Illegal	Legal	Illegal
14.	India	Illegal	Legal	Legal (Passive)
15.	Belgium	Legal	Legal	Legal
16.	UK	Illegal	Legal	Legal (Passive)
17.	Australia	Legal (Victoria State)	Legal	Illegal
18.	New Zealand	Illegal	Legal	Illegal
19.	Brazil	Illegal	Legal	Legal
20.	Colombia	Legal (Medical Assited)	-	Legal

“

Netherland, Luxembourg, Belgium allows both euthanasia and assisted suicide for anyone who faces unbearable suffering that has no chance of improvement and cure and is irresistible. In united states of America, states have different laws in different states. Euthanasia has been allowed in Washington, Oregon and Montana. In Albania, euthanasia is allowed is consented by 3 family members of the person. In Switzerland, assistant suicide is allowed but same has been proscribed if done with some selfish motives.

### **The Right to Life of Animals**

With regard to Article 21, the Supreme Court notably held:

“Every species has a right to life and security, subject to the law of the land, which includes depriving its life, out of human necessity. Article 21 of the Constitution, while safeguarding the rights of humans, protects life and the word “life” has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view “life” means something more than mere survival or existence or instrumental value for human beings, but to lead a life with some intrinsic worth, honor and dignity.”

### **Constitutional Safeguards of Animals**

Article 48 of Indian Constitution: “The State shall endeavor to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughterr, of cows and calves and other milch and draught cattle”.

Article 48 A: “The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country”.

Article 51 (g) : “to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures”.

## **CONCLUSION:**

Our debate should not be confined with respect to human being only. Animals are also the living creature of the God. Reforms should be made in India not to strengthen law only just to human euthanasia but also to animal euthanasia. Because animal before, during and after use in testing are being left with their deformed body.



Passive euthanasia law has been settled by common cause case (Supra), but progressive step should be taken towards active euthanasia as well. Because there are many cases where humans are living with undignified life without food, home, cloths. I am of the opinion that right to life with dignity and right to die under article 21 of The Constitution of India, should be extended for the inclusion of animals. Under article 21 word 'person' has not been prefixed with human, so the definition of person u/A 21 of Indian Constitution should be extended for animals also. The Indian constitution is not silent for animal rights. Article 51 of Indian Constitution enshrines the rights of animals and all living creature. Article 51 of Indian Constitution provides animal protection by guaranteeing sympathy to every single living creature.

The globalization of judiciary has resulted in adopting progressive laws in India. In my opinion concept of euthanasia, which was foreign to India at one point of time, has been accepted in India with reasonable and rational modifications. Globalization has not forced India to adopt international laws but this has played great role towards the improvement and progress in law. Due to persuasive nature of international law and judgments, foreign precedents and laws are adopted in India with flexible modification. This is the beauty of globalization that world is now connect with international law. Municipal law and international law are not distinct to each other, rather both are in a eclipsed and fertilized situation. Therefore, in my opinion, influx ideas and inter-fusion of ideas amongst brain of different countries is necessary for the world. There should be respect of international law and decisions but subject to keeping in mind the sovereignty of the nation.

After the recent amendment in the guidelines of euthanasia passed in Common Cause (Supra) case, I am of the opinion that now modified guidelines are well less cumbersome and less time taking as compare to other. Further, there is now less chance of selfish and intentional killing of patients because primary and secondary boards are comprising of experts. Nevertheless, without prejudice to the decision of Hon'ble Supreme Court of India, I am worried with the recent modification in guidelines for attestation part. The power of attestation has been given to notary officer also. But it has been seen that notary officers are used to do attestation in a mechanical manner sometimes in the absence of witnesses without following the prescribes rules of notary act. Because of this, amendment, there is higher chances of manipulation in the attestation of living will by the notary. In my opinion there is still scope of amendments in guidelines and adoption of new guidelines.

## **BIBLIOGRAPHY**

### **Book:**

Ritika Bansal, Euthanasia, appeal and plea for mercy killing, 2014.

### **Acts**

Mental Healthcare Act, 2017, Act 10 of 2017

The Indian Constitution of India, 1950.

The Indian Penal Code, 1860.

### **Decisions:**

- AIR 1962 SC 779
- AIR 1961 SC
- (1993) All E. R. 82 (H.L.) The Airedale Case.

### **Articles:**

- The Role of Foreign Precedents in a Country's Legal System: Chief Justice K.G.Balakrishnan.
- Euthanasia for animals: A boon or Hindrance to our Society: By Abhishek Kar & Vanshika Kumar.

### **Websites**

[www.livelaw.in](http://www.livelaw.in)

[www.indiankanoon.org](http://www.indiankanoon.org)

[www.google.com](http://www.google.com)

[Indiankanoon.org](http://Indiankanoon.org)