**MERCY KILLING – ‘A BOON OR A BANE’**

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 **ABSTRACT**

A human being cannot avoid four things in his life birth, death, disease and old age. When the person gets trapped in the web of these four unavoidable things then the situations might appear for the weak minded, which may force a person for self-destruction and when he ends his life by his own it is termed as a ‘suicide’. When a person is terminally ill and is going through a fatal and incurable disease and there are no possible chances of a person getting cured than the person himself might ask to kill him in order to prevent him from further suffering this is called ‘Euthanasia’ or commonly known as ‘Mercy Killing’. This paper seeks to disclose what mercy killing is and its legalization in various nations. In India how the Mercy Killing practice is accepted by several religions and what are the contradicting reasons for some religions. The classification of mercy killing in five categories namely Active, Passive, Voluntary, Involuntary and Non-Voluntary and its variegated applications in different nations[[1]](#footnote-2). These afar the conception of sociologists pertaining Mercy Killing, its legal applicability in India in view of the Constitution of India, Indian Penal Code and other laws in prevalence, therefore laws of other nations in the world are also taken in scrutiny. Further the case of *Aruna Ramchandra Shanbaug* is discussed in detail as it is the reason behind the legalization of Passive Euthanasia in India, also other cases which raises questions regarding validity of section 309 of Indian Penal Code are also discussed in brief.This paper also makes one understand what are the arguments in favor and against the legalization of mercy killing, these are argued on the basis of constitutional provisions, religious books, professional code of ethics and most importantly considering the patient’s self-belief. The reason behind legalizing such controversial act is not development or moving ahead but it’s for the humanity which is the key matter, people also compared mercy killing with that of the ‘suicide’ but it does not make any difference in the legalization of mercy killing, rather just being a part of against argument, as the learned man can very well differentiate amongst the both and thereby knows what is correct and what is not. The argument that, whatever karma serves we have no option than accepting it as it works on his principle of ‘what goes around, comes around’ this is quite correct but there is a problem hereby, looking at someone who is going through the enormous pain and suffering and we holding capacity to help him but you doing nothing is again what fouls your karma and mercy killing is what making one free from the material sufferings by offering him peaceful death for mercy reasons. Henceforth, mercy killing is one of the most perplexing issues which world faces present-day. Some developed nations have given nod to the ‘passive euthanasia’ and India too has joined them and has legalized passive euthanasia by laying some rules and regulations to be followed.

**KEY WORDS:** Mercy Killing, Euthanasia, Passive euthanasia, Suicide, India.

**INTRODUCTION**

If life was predictable it would cease to be life, and be without flavor, the purpose of our lives is to be happy. Everyone loves to revel in the fruits of life until he dies. But there comes a time when the person feels like ending up everything and eventually wants to give up on his life by unnatural means. Now this harbinger the abnormality, when a person desires for unnatural death. This unnatural death can be of two types- first is ending up the life by our own performance which is termed as ‘Suicide’ and second, is by ending the life of a person by others, though on the appeal of the late, this is called ‘mercy killing’ or ‘euthanasia’.

Euthanasia is essentially affiliated with the people who are incorporated with fatal illness or with the ones who have become incapacitated and don’t want to continue their rest of the life suffering. The right to live and die peacefully should be allowed to those people going through the intense pain which may be due to incurable disease or broken body part. There are several types of euthanasia which we will discuss below but here are the two prominent types of euthanasia termed as active and passive ones. Active euthanasia or mercy killing is said to be when the medical professionals or any other person intentionally uses something such as lethal injection which causes the patient to die. Passive euthanasia is said to be when the patient dies because of omissions such as not doing something required to keep the person aliveor stop doing something which is keeping the person alive(for instance disconnecting a feeding tube or switching off life-support machines). The Supreme Court of India has passed the judgement related to this in the case of ***Aruna Ramchandra shanbaugv. Union of India & Ors.[[2]](#footnote-3)***and has authorized and permitted ‘passive euthanasia’ in India getting influenced by the Dutch as Netherlands[[3]](#footnote-4) and England has allowed this long back and thereafter this mercy killing has grabbed full attention of all the nations and has put them in the mode of debate ‘whether to permit euthanasia in their nation as well or not’.

**DISTINCT FORMS OF EUTHANASIA OR MERCY KILLING**

In accordance with the Black’s Law Dictionary (8th edition) euthanasia in its basic term means to give a death or bring about the death of a patient who undergoes incurable disease or is in the worst condition, especially a painful one, for the reasons of mercy. The word ‘euthanasia’ in its literal meaning means “good-death” or “easy-death” this was framed by an English philosopher and statesman Sir Francis Bacon in early 17th century. Simply, euthanasia refers to the practice of killing a person in a painless manner and thus releasing the person from an intolerable pain, suffering and misery. Mercy killing is defined as the supervision of drugs with the straightforward motive of ending the patient’s life, at the patient’s request[[4]](#footnote-5). Hence, the basic aim behind this mercy killing is to offer a less painful end to the life of a person and thereby preventing him from suffering further as the only end result of the suffering would be the death so it’s better to end his suffering today[[5]](#footnote-6). There are distinct forms of mercy killing such as:

* Passive or Negative (letting the sufferer die)
* Involuntary
* Non-Voluntary
* Active or Passive
* Voluntary

***Passive or Negative Euthanasia***: Thepassive euthanasia is said be when the person dies due to medical professionals’ abstinence from doing something necessary to keep the person alive, or when they stop providing the person something due to which he is still alive. In this doctors are not precisely killing a person but, it is like doctor is not trying to save him[[6]](#footnote-7). For instance, Switching of Ventilator, not providing with food, not carrying out life-increasing operations and stop giving drugs which are keeping him alive[[7]](#footnote-8).

***Voluntary Euthanasia***: It is said to be voluntary when the suffering patient itself gives the permission for taking away his life. It is mainly concerned with the right to choice of the pain bearer patient, who chooses to die peacefully than living with the suffering.

***Non- Voluntary Euthanasia***: The non- voluntary euthanasia is opposite to that of Voluntary euthanasia, hereby, the person is not in a condition to inform whether he wants to continue living or he wants to die instead, this generally happens when the patient is in a coma and has lost his control on his senses to choose and in this case it is often the family members decision which is considered.

***Active Euthanasia***: This refers to killing the patient painlessly for the merciful reasons, and this is done through the lethal dose of medication given by a doctor.[[8]](#footnote-9)

***Involuntary Euthanasia***: This can also be termed as a Murder, as in this type the competent patient wants to survive but he is given the death against his wish, the person is still in the situation where he has full motivation to bear with all the pain and live his life, but he is forcefully by other relatives or doctors killed.[[9]](#footnote-10)

**DIFFERENCES OF OPINIONS ON EUTHANASIA, BASED ON RELIGIOUS SCRIPTURES**

India being the secular[[10]](#footnote-11) country with diverse religions and countless beliefs has expressed differences of opinions on the hot topic “Euthanasia or Mercy Killing”. Every religion has its own followers and they believe on their religious scriptures and these scriptures are ought to present different viewpoints on Euthanasia based on their beliefs, morals and values.

The religious scriptures mainly describe about the way of life one should opt for, the way of dealing with the problems and sufferings in life, the way to have faith on the almighty and it also explains that the death of a living being is inevitable and one who has taken birth on this planet is likely to have a death too, and laws of life and death are not something which the humans are new to, they by very means are known to them. Many scriptures such as Bible, Quoran and the Rig-Veda mentions about the death by suicide i.e. self-destruction. In India, the history of Vedic age is satiate with several examples of suicides committed on religious grounds.

Numerous people based on their different religions gave their opinions on euthanasia such as some Hindus were of the opinion that patient’s request for mercy killing should not be considered as it will cause the body and soul of the patient to depart from each other at an unnatural time & thus, will affect the karma of both doctor and patient adversely[[11]](#footnote-12). Some Hindusbelieved that euthanasia is not good for another reason that is breaches the teachings of Ahimsa (causing no damage). Whereas, some Hindus supported the mercy killing by saying that helping the sufferer to get rid of his sufferings by the way of giving death is a good deed. When the Govardana and Kulluk were writing description on Manu they inspected that a person may undertake the mahaprastha i.e. great departure on a route which ends in death when he is going through some incurable disease and miserable suffering or when he meets with a great catastrophe, and that it is not against Vedic rules which disallow suicide.[[12]](#footnote-13)

Hereby, we see that there are two contradicting views of **Hindu** community on Mercy Killing, they are: -

* Some considers that it’s the fulfillment of moral obligation, by killing the person for mercy reasons as it is a great help to the person who is terminally ill.
* While some considers it as the hurdle in the god’s plans and believes one should not disturb the timing of cycle of death and rebirth. And they further say that it is not a good thing to do to someone and whoever supports in the Euthanasia carries on the left out karma of that dead person.

The same view also argues upon the usage of artificial life-support machines which keeps the person alive for more time than the actual time, they say it is wrong. However, they further contradict that the use of life-support machine for the temporary purpose of saving the person would not be wrong. The death which comes while the person is in consciousness is only considered as an ideal death.

**Muslims** completely opposes Mercy Killing. They consider human life as a sacred life which is a given by Allah, and he is the only one who has right to take it back[[13]](#footnote-14) and therefore humans should not interrupt in this. Mercy killing and suicide are not permitted in Islam they are explicitly forbidden “destroy not yourselves. Surely Allah is ever merciful to you” they also have saying for the suicide that “whoever commits suicide by something will be punished with the very same thing in the(hell) fire.[[14]](#footnote-15)

**Christians** are by and large against the Mercy killing. The disagreement is usually dependent on the argument that the human life is a gift from almighty and the human beings are images of the god. Birth and death is the part of human life and life is created by god, so we should accept and honor them. Hence, no person should try to take away the life of the person even the person himself gives the consent to die[[15]](#footnote-16).

**Sikhs**obtain their ethics mainly from their holy book, Guru Granth Sahib, and the Sikh code of conduct i.e. The Rehat Maryada. With the knowledge obtained from these scriptures they did not allow suicide and euthanasia and rejected them by addressing that suffering which the person going through is because of his karma, and human being should accept it without any lament and should act best in the situation which he is given by karma.

**LEGALITY OF ‘RIGHT TO DIE’ IN DIFFERENT NATIONS**

Euthanasia is been a hot topic throughout the world in the later part of 20th century, it has demanded efforts of the various governments of various countries to change their laws pertaining to ‘right to die’ as it is equally significant as that of “right to life” and moreover we can say that right to life already includes right to die as right to life has an extended meaning i.e. it is not limited to just living a normal life but it talks about living a dignified life[[16]](#footnote-17) and euthanasia also pin points the same aspect that the patient who is terminally ill is not able to live a dignified life and thus he has right to have a peaceful death which will prevent him from further sufferings in this world[[17]](#footnote-18). But, leaving apart this facts, lets focus on what various nations has to tell about euthanasia and legality of the same in their countries. The following are the countries with the legal status of euthanasia:

**CHILE**:

Chile has legalized ‘passive euthanasia’ since 2012 through the regulation of patient’s right. But it does not allow suicide and Active euthanasia and therefore recently in 2019 the bill regarding the legalization of Active euthanasia and suicide is being addressed by congress.[[18]](#footnote-19)

**COLOMBIA**:

Columbia’s constitutional court in 1997 gave the judgment by 6:3 majorities that it will not be considered as crime when a person takes the life of a terminally ill patient with the authorization of the patient[[19]](#footnote-20). And they further defined the diseases which will include in the definition of ‘terminally ill’ patient, namely **AIDS, Cancer, Kidney or Liver failure**.

**DENMARK**:

The Denmark parliament has appointed goodness panels over the years that have advised against the legalization of euthanasia each time, though it is still not forbidden and the survey held in 2003 showed around 41% of deaths committed by doctors in order to save a patient from further pain and freeing him from this worldly suffering.

**FINLAND**:

The Passive euthanasia is legalized in Finland but Active is still illegal.

**IRELAND**:In Ireland doctors are not permitted to actively get involved in someone’s death it is said to be illegal, however they are permitted to remove the ventilators and other treatments on the patient’s request.

**ISRAEL**:

The Israel Penal Law restrains euthanasia, active euthanasia is being rule out by both Jewish Law and Israel Law, but in severe cases the passive one is permitted in Israel but not at all in Jewish Law.

**AUSTRALIA:**

Australia legalized mercy killing by passing the Rights of the Terminally III Act, 1996. This legalization was done after the case of *Wake v Northern Territory of Australia[[20]](#footnote-21)* by the Supreme Court of Northern Territory of Australia, this was again rendered as illegal after the new legislation i.e. the Euthanasia Laws Act, 1997 as the earlier one was repealed.

**NETHERLANDS**:

Netherlands become the first European country in 2002 to legalize euthanasia and assisted suicide[[21]](#footnote-22). Mercy Killing there is supervised by the “termination of life on request and assisted suicide Act, 2002.

**UNITED STATES:**

Mercy Killing in US is declared completely illegal by the Supreme Court in the cases of *Washington v. Glucksberg[[22]](#footnote-23) and Vacco v. Quill[[23]](#footnote-24)*.

**CANADA:**

In Canada the severely ill patients are allowed to refuse the ventilators and other life sustaining treatments but they don’t have any right to ask for mercy killing or assisted suicide[[24]](#footnote-25), and if they are caught in this specialist supported suicide they will be held liable under Criminal Code of Canada as per Section 241 (b). In the case of *Sue Rodriguez v. British Columbia* (AttorneyGeneral)[[25]](#footnote-26), the Supreme Court of Canada gave the judgement that the individual interest would be overruled by the state’s interest.

**BELGIUM**:

In May 2002, mercy killing was legalized in Belgium by ‘Belgian Act on euthanasia’[[26]](#footnote-27), and this is almost an image of a Netherlands legalization of mercy killing.

**STATUTORY ASPECTS OF MERCY KILLING IN INDIA**

The Indian Constitution is the mixture of several constitutions around the world and therefore the Mercy Killing also has to be looked after by the courts by referring it to several other nations who have taken some decisions regarding the same. Henceforth, India has the statutory provisions which talks about the Mercy Killing after evaluating the decisions taken by the foreign nations.

The Section 300 of the Indian Penal Code, 1860 states about the ‘Murder’ and this section is applied when the doctor possess an intention to kill the patient and does so. However, if the doctor happens to do so after the valid consent of the patient the exception 5 to the Section 300 would be considered and at the same time the Mercy Killer or the Doctor or anyone who has committed the death of the patient will be held punishable under Section 304 of the same code for culpable homicide not amounting to murder. However, this exception 5 to the sec 300 of IPC will only apply to the deaths done by the patient’s consent that is ‘Voluntary Euthanasia’ and not to the ‘involuntary and non-voluntary euthanasia’, they will be held illegal under Section 92 of Indian Penal Code. There is no ‘Right to die’ provided by the Indian Constitution but still some people argues that, the Constitution guarantees ‘Right to Life’ under Article 21[[27]](#footnote-28) which also includes right to die and thereby, the Mercy Killing is legal in India, so this misunderstanding was corrected after the famous case of *Gian Kaur v. State of Punjab[[28]](#footnote-29)*which was led by five judges bench, the judgement of this case made it clear that ‘right to life’ which is given under Article 21 does not inhere in the ‘right to die’ by any means, the court adhered that Article 21 assures the ‘protection of life and personal liberty’ and by no sweep of the intelligence can ‘end of life’ be included into it.

The Indian Medical Council Act, 1956 prescribes the professional conduct and all the p’s and q’s with ethics for the medical practitioners, under section 20A with section 33(m), when dealing with cases where euthanasia is to be given thought. Here inside this Act ‘Euthanasia’ is being considered as unprofessional except in the situations where the ventilators or life supporting machines are only used for sustaining the cardio-pulmonary actions of the body. In those particular cases only the doctors are subjected to remove the life supporting systems.

In the case of Gian Kaur[[29]](#footnote-30) the ‘Attempt to commit Suicide’ Section 309 of the Indian Penal Code was recognized as constitutionally correct but with the growing knowledge of the correct and incorrect it’s the time for the parliament to strike out this section as it has become archaic. As the person attempting suicide is already trap in the web of misery, depression, anxiety and is already getting tired of the punishment given by the life and therefor he is willing to suicide so at that time instead of putting him behind the bars for one or more year he needs the help, so the very fact of state of mind of the person attempting to suicide should be looked after and the law pertaining to this should be altered or strike of, this was held by the Delhi High Court in the case of *State v. Sanjay Kumar Bhatia[[30]](#footnote-31)*. The Bombay High Court in *Maruti Shripati Dubal v. State of Maharashtra[[31]](#footnote-32)*scrutinized the constitutional legitimacy of this section 309 of IPC and it resulted that this section is in violation of Article 14 and Article 21 of the Constitution.

**ARUNA SHANBAUG’S CASE- A REVOLUTIONARY CHANGE IN INDIA**

Aruna Ramchandra Shanbaug was working as a nurse in the King Edwards Memorial Hospital in Mumbai. One day when she was changing her clothes in the basement of the hospital, a ward boy of the same hospital named Sohanlal Bhartha Valmiki saw her and he assaulted her, for the reason he had an argument with her for not granting leave to him and thereby on November 1973 he strangulated Aruna with the help of dog chain around her neck[[32]](#footnote-33). This brutal act of Valmiki left Aruna with no oxygen supply to her brain and due to which it left her blind, deaf, paralyzed and in a vegetative state for more than 4 decades.

Her surviving with no body part functioning was not only hard but also tearing apart, she was not even able to eat whole meal, from the day she was being brutally assaulted, to the day she left her body, she was living on the mashed food that too she was given able to have through the nose.[[33]](#footnote-34) She could not perform the basic functions of human being such as walk, talk, eat, and moreover her hands and legs were not at all functioning.

The disheartening thing happened in 1974 when the Aruna’s miscreant Valmiki was charged for attempted murder and robbery of Aruna’s earrings and not for the ‘rape’, actually judges did not even consider it as a rape as it wasn’t done through the vagina but through anal as she was bleeding out of periods, therefore she was being sodomized. Valmiki was sentenced for 7 years of imprisonment[[34]](#footnote-35) and was freed in 1980 and he still does not accept that he raped her.

Looking at the critical situation of Aruna a writ petition was filed in The Supreme Court and a medical health board was asked to report on Aruna’s health but at first the supreme court denied the need for euthanasia but later when she died at 66 years due to severe pneumonia, The Supreme Court On 9 March 2011 held that the people had a right to die with dignity, allowing ‘Passive Euthanasia’ with guidelines[[35]](#footnote-36).

The guidelines laid by the court in lieu of passive euthanasia are:

* The permission of enacting Mercy Killing should be given by either the parents or the spouse or any near relative or in absence of all of these the decision of next friend is also considered valid. Even the doctors who is looking after the patient can take the decision but it should be in a good interest of the patient.
* Next, after having approval of any person from above, it needs the further approval of the High court concerned as established in *Airdale’s case* (supra)[[36]](#footnote-37) as it is beyond the understanding of any person if the decision is taken to do some fraud or mischief by the relatives or any other person in order to inherit the property or other material benefits out of it.

 **ARGUMENTS IN FAVOUR OF LEGALIZING MERCY KILLING**

From Ram’s jalsamadhi to Mahatma Gandhi and Vinod Bhave’s fast till death (where Bhave left his body), Mercy Killing existed in an Indian civilization. The judicial body of India has also outlook Mercy Killing from a compassionate bend, which is manifested from the viewpoints of judges in the cases which deals with ‘right to suicide’[[37]](#footnote-38).

Mercy Killing is to mercifully kill a person who is tired of his terminal illness and incurable disease and there is nothing left in his life apart from suffering and he fills that life is not anymore worth living. Now the problem lies in that how one can conclude that his life is not anymore worth living, therefore the term ‘mercy killing’ or ‘euthanasia’ is too ambiguous. This euthanasia has been a hot topic of debate since years, nations are debating whether they should legalize it or not as they have both pros and cons as that of a coin has two sides. The arguments favoring mercy killing are listed below:

1. Article 21 of the Constitution provides with ‘right to life and personal liberty’ and life is further broaden in its meaning with right to live a dignified life[[38]](#footnote-39) at least if the person cannot live a highly dignified one, he should have a minimum dignity to live and if that minimum dignity also drains away then there’s no point in life to live rather he should be given a right to end his life.
2. As India has permitted the passive euthanasia[[39]](#footnote-40) similarly, the admirers of active euthanasia also contends that active euthanasia must also be permitted. As speaking in favor of the legitimizing euthanasia it will bring out the person from overwhelmingburden, pain, suffering and only death seems to render him relief from this material disease. Moreover, this increases the pressure on hospitals and doctors as they have to denote their time, service, medicines on such patients who does not possess even a single sign of recovery and which makes all the efforts to go into vain. And in place of serving these incurable patients the efforts should be made to cure the patients who are having capacity to get well and have signs of recovery. Henceforth, the choice has to be made between the patient who is beyond recovery and the one have the capacity to get cure and be saved, the latter should be preferred as the former will die in any circumstance. So, the wise needs to choose to save energy, time and money.
3. The family and friends would be freed from the mental agony, when the patient would be relieved from a lingering death which has caused miserable pain to not only the sufferer but also to the close ones of him. The patient living a life with unbearable pain, enormous suffering and zero motivation is not at all worth surviving.
4. Not legalizing mercy killing would lead to forcing the people to live miserable life unwantedly and which would amount against the article 21 i.e. right to life with dignity and personal liberty[[40]](#footnote-41). The personal liberty here should be exercised over the society’s liberty as the individual going through the painful phase knows more what it feels like to be in a cage of life where he cannot even die peacefully due to society’s pressure. And one should try to understand the fact that the whole life human opts the favorable things to live his life in such a manner that he does not fall prey to the death and even does everything in protection of his life[[41]](#footnote-42), so when he himself opts for death we need to understand that how much painful it would be for him to live a life, in front of which death sounds better to him.

 **ARGUMENTS AGAINST LEGALIZING MERCY KILLING**

1. The people of religious beliefs and medical and legal professions does not consider mercy killing as a weapon to stop the suffering and granting ‘right to die’ rather they believe mercy killing is granting of ‘right to kill’. It’s such a contrary statement but it’s totally in contradiction to medical code of ethics[[42]](#footnote-43). Their ethics shout for caring, healing, curing and nursing the patient and not ending life of the patient in the name of mercy killing and for the mercy reasons. ‘The Ayurveda’, ‘the modern science’ is progressing day by day and are trying to find medicines for each and every disease as *where there is problem, there is solution* and thereby many diseases which were incurable before are getting cured today, so in place of killing the patient out of incurable disease one should strengthen him both mentally and physically to cope up with his life. Moreover, the decision of ending the patient life is not always taken by himself but the relatives also play the crucial role here. Thus, it may be possible that the relatives of the patient observe good chance of pressurizing him and seeking out material benefits out of his death and therefore induces him to euthanasia and provokes him to kill himself by making him feel as a burden in the family both economically and mentally by enacting undue influence[[43]](#footnote-44).
2. Even after legalization of the euthanasia the critical thinking question arises that if the person is to end his life out of sympathy and compassion, who could prove it otherwise? Even if the person is fatal, terminally ill, incurable and in a miserable situation what determines the criteria of suffering, who decides that what level of pain he is going through and at what level he has the ‘right to die’? who decides that the patient is not worth surviving anymore? Is it a medical professional or is it a close relative? And even if any of them assures that it is out of compassion that he has to end his life in order to get relief from the intolerable pain and further suffering what is the proof? Isn’t there a great risk? It is, it might not always happen that doctors and relatives act in patient’s best interest. For instance, it may be the case that medical professionals are waiting for any organ transplant, or for the empty bed likewise relatives might also look after their personal interests such as inheriting property, get relief from a burden, stop expenses etc…
3. The ‘slippery-slope’[[44]](#footnote-45) is the other great reason for opposing the legalization of euthanasia as we have right now legalized ‘passive euthanasia’ in India, as following the principle of slippery-slope it will lead to legalization of even the greatly unjustified acts such as voluntary euthanasia and non-voluntary euthanasia, which will anyway degrade the level of living the life.
4. The one famous argument is ‘*if you cannot give life to somebody, you have no right to take it from somebody’.*
5. This life is a gift of the supreme personality of godhead and one should not disrespect the gift given by him by interfering in the cycle of birth and death planned by him, and moreover if one is going through the vulnerable pain and enormous suffering its because of his karma which he needs to bare anyhow and he cannot be altered from it as the universal principle is applied of ‘*what goes around, comes around*’.
6. Even though the state would not explicitly state the real meaning of legalizing euthanasia but in real meaning it just offers an alternative to the people who were accessing welfare for illness or unemployment, or to pensioners, to refugees and people with disabilities. If it were legalized, why not then reiterate that such people have ‘euthanasia counselling’ back they receive treatment or any benefits?

**SUGGESTIONS**

After going through every small detail investigation[[45]](#footnote-46) and full-fledged analysis of what the whole against and in favor arguments mentioned above had to cater, the only thing which the people and most importantly judiciary is afraid of is ‘what if the legalization of Euthanasia or Mercy Killing would be misused for some immoral and criminal purpose’, fear of misuse is what leading to all these arguments.

The judiciary is afraid of only one thing that legalization of euthanasia will render so much power in the hands of the ‘Doctors’ and it may happen that the doctors take ill advantage of it. This fear of misusing such vast powers stems largely from the fact that the unrestricted power is placed in the hands of non-judicial personnel i.e. doctors in this case. This is out of the reason that we do not shirk from placing enormous powers in the hands of judges who has an authority to decide if the person can live or has to be awarded death sentence or life imprisonment. But what’s flabbergasting is, we are afraid of giving powers to those (doctors) in whose hand’s we would not otherwise be afraid of placing our lives. What society has problem with is Doctor with a fatal injection and not one with a scalpel.

This is out of suggestion that the person who is terminally ill and is suffering from incurable disease who’s end result is only death and there is no medicine of it and patient has no motivation to continue his life and shows no recovery since long time should be allowed to die peacefully as it is out of merciful reasons.

The risk of fear of misuse of powers can be done away with specific guidelines and proper preventive measures such as:

1. The patient whose brainstem does not register any impulses, and has no spontaneous respiratory and circulatory functions can be stopped given life-supporting machines by the doctors.
2. The mercy killing request should be done by the patient who is not able to bear any pain anymore and there is no likely recovery in long time.
3. The dose of medicines should be increased by the physician in order to cure the person who is terminally ill and its object should be to relieve the person from distress and pain, even if the result out of increase in dosage is patient’s death.[[46]](#footnote-47)
4. The person should be given death according to medical practices such as firstly, the injection should be given to comatose the patient than later by the second injection should be given to stop the heart.[[47]](#footnote-48)
5. The patient who wants to die for merciful reasons must be clearly known to two things:

First, he completely should be aware of what is going to happen with him.

Second, he should be aware of all other kinds of treatment.

1. The person should ask for mercy killing repeatedly so that it could be held that he really desires to die[[48]](#footnote-49).

**CONCLUSION**

Every such law in order to get applicable and enforceable by law has to go through the opposition, abuse and disappointment from various people who did not want their lives to be taken. And the most flabbergasting aspect is that such abuse may be easily undetected. Therefore, although the mercy killing appears to be morally and practically admissible its all-inclusive practicability seems to be impossible.

The back in 2011 in the case of ***Aruna Ramchandra shanbaugv. Union of India & Ors.[[49]](#footnote-50)***The Supreme Court of India legalized ‘Passive Euthanasia’ which is different from that of the ‘suicide’ which is completely illegal per se laid down in the case of Gian Kaur[[50]](#footnote-51), but ‘active euthanasia’ is still not permitted by the Supreme Court.

In lieu of the arguments above I personally believe that the voluntary euthanasia should also be legalized in India and the legislative body should make some laws regarding the same so that the fear of misuse can be overcome and rules safeguarding euthanasia can be held useful for doing merciful. Further, if the suggestion given above are adhered to then misuse of mercy killing will be reduced to a great extent which will anyway help our nation to give the fundamentals rights to its citizens in the real sense, as written provisions in the Constitution will not enforce by it own, we are the ones who needs to ensure that it is implemented till the roots, thereby, India will be not just on paper be sovereign but also in its real meaning be sovereign.

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