
AN ANALYTICAL STUDY ON EUTHANASIA IN INDIA AND ITS CONSTITUTIONAL VALIDITY

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ABSTRACT

Euthanasia has been made lawful in India completely in March 2018 by the Supreme Court of India whereas choosing the Common Cause Case. The court not as it were recognized the legitimacy of killing but moreover permitted living wills and defined rules on this matter. In any case, this travel toward legalizing Euthanasia in India was stamped by contentions, and suppositions both for and against its lawfulness endure. The central talk about rotates around whether the Right to Life incorporates the Right to Pass on. Given India's one of a kind framework of Run the show of Law, it gets to be pivotal to audit the conclusions of different researchers to decide the legitimacy of the Incomparable Court's activity. In the nonattendance of a clear law particularly tending to Euthanasia, requirement can be challenging. Furthermore, concerns exist approximately the potential abuse of helpless segments of society, given India's seen powerless Run the show of Law. This article digs into the concept of Euthanasia, analysing its lawful parameters over diverse nations around the world. It moreover centres on contentions both for and against wilful extermination in India, pointing to get it the legitimacy of Euthanasia laws in the Indian setting.

Keywords: Euthanasia, right to privacy, passive euthanasia, suffering, supreme Court of India.

INTRODUCTION:

The concept of euthanasia has been debated for centuries, with varying cultural and ethical perspectives. The ancient Greeks, particularly the philosopher Aristotle, discussed the concept of "mercy killing" for those with incurable diseases. The Roman Empire had laws permitting the exposure of unwanted infants, a practice that could be seen as a form of passive euthanasia.

From the time of birth, a person has some basic human rights. Right to life is one of the basic human rights that every person gets which is the most important thing through which they can enjoy their other rights. Every time a question arises that when a person has the right to live whether that person has the right to not live which means whether he has the right to die as his fundamental right. This brought the evolution of euthanasia. Euthanasia is a practice of intentionally ending a life in order to get relief from the pain and suffering. Euthanasia has been categorized in three types: voluntary, non-voluntary and involuntary. Euthanasia can be divided into active euthanasia and passive euthanasia. Active euthanasia is a deliberate act to purposely kill and terminally ill patient using numerous means. Passive euthanasia means when a person is under medical treatment and removing him from that so that he can be relieved out of the pain and in his life.

On 9th March 2018 in India the supreme court legalized passive euthanasia. But active euthanasia is not been legalised in India. After the Supreme Court of India legalised and gave the permission with dignity that right to die is the fundamental right. Then to many hurdles were been brought by the religious communities.¹ They were against the right to die. Many of the patient who was suffering from pain requested the government and set them to bring policy related to passive euthanasia. In the Hindu religion at a Gathas Means suicide which means intention to voluntary kill which was been prohibited under this culture. Even in India the Muslims also do not favour euthanasia but still they have not made any statement that what is the reason that they are against it. Muslims said that and they believe that one has the only right to die when the God decide that he should die. As stated by Sunnis and Shias that Killing a person through passive euthanasia or active euthanasia will be considered as an act of

¹ Editor_4. 'Supreme Court Simplifies Procedure to Withhold Life Support of a Terminally Ill Patient; Modifies Guidelines given in 2018 Euthanasia Judgment'. *SCC Times* (blog), 25 January 2023. <https://www.sconline.com/blog/post/2023/01/25/supreme-court-simplifies-procedure-to-withhold-life-support-of-a-terminally-ill-patient-modifies-guidelines-given-in-2018-euthanasia-judgment-legal-research-legal-news-updates/>.

disobeying God. Even the Indian Christians are against euthanasia especially the Catholic Bishops. Even they think that When the God calls then only a person must end his life. Albeit 80% of the passings overall happen in centre and low-pay nations like India, there is less attention to end-of-life care (EOLC) for individuals with constant, genuine, reformist, or progressed life-restricting ailments, including dementia. EOLC includes great correspondence, clinical dynamic, contact with clinical groups and families, complete evaluation of and particular meditations for physical, mental, profound, and social necessities of patients and their parental figures. The latest things in India are inspected, including ambiguities among EOLC and wilful extermination. Future headings incorporate defining a public EOLC strategy, offering fitting types of assistance and preparing. The therapist ought to engage in this interaction, with significant obligations in giving great quality EOLC to patients with both life-restricting actual ailments and extreme mental issues, supporting their guardians, and guaranteeing nobility in death.

The legal framework around euthanasia in India has primarily evolved through court decisions rather than specific legislation. This highlights the sensitive and complex nature of the issue, balancing the right to life with the right to die with dignity.

The journey towards legal recognition began with the case of Aruna Shanbaug (2011)². In this case, a nurse who had been in a vegetative state for decades, her family petitioned the court to allow her to die. While the court did not grant the request, it did acknowledge the principle of "mercy killing" in specific circumstances. This judgment laid the groundwork for further legal developments.

The Supreme Court's decision in Common Cause (2018) marked a significant step forward. The court upheld the right of terminally ill patients to refuse life-sustaining treatment, effectively recognizing passive euthanasia. It also introduced the concept of "advance directives" or "living wills," allowing individuals to express their wishes regarding their medical treatment in advance.

Right to Die with Dignity:

Article 21 of the Indian Constitution recognizes the right to life as fundamental. Courts have

² Garg, Rachit. 'Aruna Ramchandra Shanbaug vs. Union of India & Others (2011)'. *iPleaders* (blog), 13 September 2024. <https://blog.ipleaders.in/aruna-ramchandra-shanbaug-vs-union-of-india-others-2011/>.

interpreted this to include the right to die with dignity. The question arises: Should terminally ill patients be allowed to choose the manner of their death? Is a person's wish to die more significant than legal prohibitions?

Balancing Autonomy and State Laws:

The ethical dilemma lies in balancing individual autonomy against societal norms and legal restrictions. While some argue for the "right to die," others view euthanasia as morally unacceptable. Passive euthanasia requires informed consent, which may be influenced or coerced. Ensuring ethical practices and preventing malpractices remain critical. Some view euthanasia as equivalent to murder, while others advocate for the right to die with dignity.

The issue of euthanasia, particularly passive euthanasia, has been a subject of intense debate and legal scrutiny in India. While active euthanasia remains strictly prohibited, the Supreme Court has, in landmark judgments, recognized a limited right to passive euthanasia under certain circumstances. The Supreme Court's decision in *Common Cause (2018)* marked a significant step forward. The court upheld the right of terminally ill patients to refuse life-sustaining treatment, effectively recognizing passive euthanasia. It also introduced the concept of "advance directives" or "living wills," allowing individuals to express their wishes regarding their medical treatment in advance. However, the court also imposed strict conditions. To qualify for passive euthanasia, a patient must be terminally ill or in a permanent vegetative state. The decision must be made voluntarily, and the patient must be mentally competent at the time of making the decision. Additionally, the decision must be supported by a medical board and a court-appointed guardian. The Supreme Court's guidelines have been subject to debate and criticism. Some argue that they are too restrictive, limiting the right to choose one's own death to a narrow set of circumstances. Others contend that they are necessary to prevent abuse and ensure that vulnerable individuals are not coerced into ending their lives. Despite these criticisms, the legal recognition of passive euthanasia in India represents a significant development in the country's approach to end-of-life care. It acknowledges the importance of individual autonomy and the right to a dignified death, while also seeking to balance these rights with the broader ethical and societal concerns surrounding euthanasia. As the law continues to evolve, it is likely that the debate over passive euthanasia will remain a complex and contentious one. The challenge will be to find a legal framework that strikes a balance

between individual rights and societal interests, ensuring that the principle of mercy killing is applied with compassion and justice.

While comparing with other countries in some country's euthanasia is legal whereas in other countries it is treated as a crime. There are some countries where the public conversation goes over the moral, ethical and legal issues of euthanasia. Those who are against main argue and those who are not against may defend Euthanasia. These are the countries which have legitimized Euthanasia the Netherland, Belgium Oregon and Washington in USA, Switzerland and India (only passive Euthanasia). Netherland was the first country which legalized euthanasia. In Belgium euthanasia was adopted in the year 2001. Belgium gave only permission to those patients who are adult. And after that the rest of the countries.

2)Significance of the study:

The study can provide insights about the legality of euthanasia and what are the scenarios it can be used the study on euthanasia in India holds significant importance due to its impact on legal, ethical, and societal dimensions India faces challenges in providing adequate palliative care and pain relief to terminally ill patients. This Research could assess how legalizing euthanasia impacts end-of-life care practices, resource allocation, and the availability of palliative services.

3)LITERATURE REVIEW:

1)In the study titled “**Euthanasia in India: A Review on Its Constitutional Validity,**” the author, Jayanta Boruah, examines the legal landscape surrounding euthanasia in India. So, in this paper the author speaks and discusses euthanasia and its possible applications indifferent occasions of a living person since his or her birth. The author speaks that the purpose of suicide and euthanasia is self-destruction but there is a clear difference between these two things. He speaks about five categories of euthanasia and various ways for its application. He speaks that the supreme Court has spoken about euthanasia in India and has cleared the doubts. He speaks that in India passive euthanasia is legal. ³

³ Boruah, Jayanta. 'Euthanasia in India: A Review on Its Constitutional Validity'. SSRN Scholarly Paper. Rochester, NY, 16 May 2021. <https://papers.ssrn.com/abstract=3868357>.

2) Vinod k Sinha, s Basu, Sujit sarkhel, 2012,

So, the authors say that the care and the quantity of life issues in patients with their illness like advanced cancer and age had become a very big concern. Already there is such a big issue and another issue that have been erased is euthanasia or mercy killing for the people who want to terminate their life means for the people who are suffering from a big disease because of which they are unable to live they are opting to die. Physician assisted suicide make the people feel that instead of living with such a big pain they can choose a painless death. The aim of the authors in this paper is to analyse about euthanasia in India and they have concluded by saying that proponents and the opponents of euthanasia are as active in India as in the rest of the world.⁴

3) Agila s, dhanasekar. m, 2018, the authors who say that every time the term euthanasia I have started an argument and many individuals are for or against it. It has been one of the most important moral talks. It speaks about the independence of an individual right that he wants to live or die. In this article they try to cover the good things of euthanasia and to show the Indian people about it as a socio lawful picture. In this research paper they explain about it and its foundation in traditional reasoning. They have concluded by saying that those ill patients who cannot live with the pain should get the right to die. ⁵

4) Dr Sanjeev kumar tiwari, ambalika Karmakar, 2015, the term euthanasia has often been a big debate and the people are against it. Euthanasia is a very old issue. The term euthanasia means good death for easy death. Which means a painless death which is given to those patients who are suffering with the pain and feel that instead of being with this pain it is better to die. Here the authors have spoken about the types of euthanasia. In this paper they tried to speak about euthanasia in a simple manner and what are its legal and moral complexity which is been spoken all over the world. They have concluded by saying that euthanasia is a sensitive and emotive subject.⁶

5) Rateesh sareen, 2019, so you are the author who says that euthanasia is a way through which a patient can die who is suffering from pain. Euthanasia issue because of the quality of more

⁴ Vinod k Sinha, s basu, Sujit sarkhel, 2012, euthanasia an Indian perspective, Doi : 10.4103/0019-5545.99537

⁵ Agila s, dhanasekar. m, 2018, a study on legalising euthanasia in India, volume 120 number 5 ,ISSN: 13 14-3395.

⁶ Dr sanjeev kumar tiwari, ambalika Karmakar, 2015, concept of euthanasia in India A socio legal analysis, ISSN: 2348- 8212 .

than one course of direction and has been legitimized on different grounds. The universal profile proliferators firmly advocate as the sole goals of human life and contract wilful extermination as they accept that life is a valuable endowment of God and it is God just who has privilege to remove it. an attempt has been taken to legalize euthanasia.

6) Vaibhav goel,2008, where the author says that survival is no doubt a very valuable thing but sometimes there are some painful things which become the reason to end life. Euthanasia means that when a patient cannot handle the pain then he can end his life. Here the authors speak about euthanasia and explain about euthanasia and the types of euthanasia. In many countries euthanasia has been legalized and in India passive euthanasia has been legalized. But it does not mean that suicide can be compared with euthanasia. Suicide is a different thing where a person gets depressed and wants to end the life which is illegal and in India in IPC, they have provided the punishment for attempt of suicide euthanasia is something in which a person cannot live his life with the pain means the ill patients so that they can end up their life.⁷

7)M A Shaikh, anil kamal,2011, so here the author have taken opinion of University students about euthanasia from 4 different cities of Pakistan. so from that they are found that many of the peoples specified euthanasia as a drug of heavy dose given by the doctors to the patient who was suffering from some pain and they get relief and die. Some students did not a great they said that some new or modern things like medicine should be brought so that even those people who are suffering use them and survive instead of dying. They have concluded by saying that many students have supported euthanasia.⁸

8)Tanuj Kancha, Alok atreya, kewal kishan,2015, Aruna Ramachandran Shanbaug inhaled her last following 42 years of being in a constant vegetative state. Wilful extermination in any structure isn't allowed in India and it was distinct in the year 2011 that an appeal was recorded in the court that increased the discontinuation of the forcible feeding with an nasogastric tube and the solicitation for her quiet passing. What followed was a series of contention and counter contention identifying with euthanasia. The pit full death of Aruna isn't the finish of an

⁷ Bhartiya, Prof Vaibhav Goel. 'Euthanasia – A Dignified End of Life! Page 45-64'. Accessed 9 October 2024. https://www.academia.edu/4930108/Euthanasia_A_Dignified_End_of_Life_page_45_64.

⁸ M a Shaikh,anil kamal, 2019,believe about euthanasia among University students: prospective from Pakistan, doi: 10.26 719/ 2011-17 10.794.

individual it might be stopping point for abs rules and enactment on euthanasia in India. ⁹

9) Sanjeet Bagcchi,2015, to attend who don't into the essence of India's killing decision has kicked the bucket at 67 years old from pneumonia. Aruna Shanbaug passed on at the King Edward Memorial Hospital, Mumbai, where she had lived until 1973 when a rough rape caused broad neurological harm and left her in a vegetative status for the following 42 years. In 2011 the Supreme Court of India accepted a supplication for leniency murdering of Shanbaug. In this case the court said that a few instances of wilfulness extermination could be authorised in specialist some happened to document a case in court. ¹⁰

10) Alope Mazumder, archisman Mazumder,2015, so in this they spoke about that the honourable Supreme Court of India on 9th March 2018 legalized passive euthanasia in India through which a person can come out from the life support which is been given in the ICU and can end his life. This decision was made after the case of Aruna Shanbaug. They have conducted a study based on euthanasia among the students and they got a good response about the legalization of euthanasia in India. ¹¹

11) Pradeep Singh, Avtar Singh Gill, Vikram Lakhan, pal Pankaj Gupta, Vinod Kumar,2020, killing is a late talk point nowadays in India. Barely any social orders like Jainism as of now encapsulated in a flu killing allowed by Supreme Court of India on 3rd March 2018 to an individual who is over the age of 18 years different kinds of killing are there however just passive will fullness extermination will be allowed according to the law to critically ill patient who give advanced clinical mandates to getting specialist end his life in a stately way. Advanced clinical Bering giving by the patient outcome to painful make reference to under which conditions latest wilful extreme nation out to be controlled by the following lawful convention. ¹²

12) Vibhu Agrawal,2011, euthanasia has been a champion among the most discussed moral issue as of late .it has been battered for quite a long time over its moral and legitimate. Wilful

⁹ Tanuj Kancha, Alok atreya, kewal kishan, 2015, Aruna: is her demise the end of the road for legalization on euthanasia in India?, article no 10.1007/s11948-015-9687.

¹⁰ Sanjeet Bagcchi, 2015, those who do debate on euthanasia in India dies after 42 years in vegetative status, doi:10.1136/BMJ.h2806

¹¹ Alope Mazumder, archisman Mazumder, 2015, acceptance of legalization of you can Asia in India and change of medical miracle survival among medical students, doi: 10.595 8/097 3-9130 .2019.00 191.9.

¹² Pradeep Singh, Avtar Singh Gill, Vikram Lakhan ,pal Pankaj Gupta, Vinod Kumar, 2020, Euthanasia, doi: 10 .18009 / IG etv.v601.5.

extermination has been filled with debates with contention for and against it. Benevolence modelling has been viewed as the solitary reasonable choice when all Life care intersection missed the mark regarding guaranteeing a superior life for critical ill patient or for the patient who are in determined vegetative state. The right to life which has been stated under article 21 cannot be taken out. The point of this paper is to clarify the situation with wilfulness extermination and to investigate the part of legal executive in its sanitation in India.¹³

13)Raghvendra Singh Shekhawat, Tanuj Kanchan, Punit Setia, Alok and kewalKrishna,2017, the lawful and good legitimacy of wilfulness extermination has been addressing in various circumstances.in India the situation with euthanasia is the same. It was the Aruna Sabo case that stood out enough to be noticed and driven the supreme Court of India to start definite consultation on the since quite a while ago disregarded issue of wilfulness extermination. Understanding the significance of this issue and thinking about the progression and growth coming prosecution under the watchful eyes of various courts in the same manner the ministry of health and family welfare Government of India gave a public notification on May 2016 that welcome assessment from the resident and the concerned partners on the proposal draught bill entitled the medical treatment of treatment till ill patient's bill. ¹⁴

4)Research Gap:

The above literature delves into the concept of euthanasia, examining its legal parameters across different countries worldwide. It also focuses on arguments both for and against euthanasia in India, aiming to understand the validity of euthanasia laws in the Indian context. Despite the Supreme Court's landmark decision in the Common Cause Case, India lacks specific legislation addressing euthanasia comprehensively. A research gap exists in understanding the practical challenges of enforcing euthanasia guidelines without a clear legal framework. How do healthcare professionals navigate this ambiguity? What are the obstacles faced in implementing living wills effectively? Euthanasia is deeply intertwined with cultural, religious, and ethical beliefs. Further research could explore how these factors influence public opinion, medical practice, and legal decisions. Investigating the cultural nuances specific to India—such as family dynamics, societal expectations, and spiritual perspectives—would

¹³ Vibhu Agrawal, 2011,euthanasia in India and analytical study, ISSN: 2456- 9704.

¹⁴Raghvendra Singh Shekhawat,Tanuj Kanchan ,Punit setia,Alok and kewalKrishna, 2017,euthanasia global scenario and its status in India, doi.org/ 10.100 7/s 11948 -017-9 946-7.

enhance our understanding of euthanasia's acceptance or resistance. Euthanasia laws must safeguard vulnerable populations, including those who may be coerced or lack informed consent. Research could delve into the potential exploitation of marginalized groups, ensuring that legal provisions protect the rights of all individuals equally.

5) OBJECTIVE OF THE STUDY:

- To know the legal status about euthanasia in India
- To identify is there any need for legal framework and Change in Existing policy framework on Euthanasia in India
- To promote improvement in the quality and availability of hospice/palliative care, and effective methods of controlling pain and suffering.
- To develop and build compassionate care community services as alternatives to “mercy killing.”
- To educate the public on the harm and risks associated with the promotion of euthanasia and assisted suicide through the use of pamphlets, information seminars, media campaigns and research articles.

6) Hypothesis

The limited legal recognition of passive euthanasia in India, while a significant step, does not fully align with the constitutional principles of individual autonomy, dignity, and the right to life. A more expansive recognition of the right to die with dignity, subject to appropriate safeguards, is constitutionally permissible.

7) Research questions

- What are the scenarios Euthanasia can be used?
- What is the Legal status of euthanasia in India?
- Whether the existing policies and Frameworks are sufficient to bridge the gap between the passive and Active Euthanasia?

- Whether there is a need for urgent redressal?

8) Research Methodology

Doctrinal methodology used in the study and the analytical research type is applied. The present study is based on Secondary data collection. The secondary data was collected by various published sources like Census Report, NSS Report, Economic Survey, Demographic and Health Surveys, Human Development Report, Books, Journal, Magazine etc.

SCHEME OF THE STUDY

Chapter 1

Definition of Euthanasia and Historical Background

Euthanasia refers to deliberately ending someone's life, usually with the aim of relieving suffering. Euthanasia (from Greek: *εὐθανασία*, lit. 'good death') refers to the practice of intentionally ending life to eliminate pain and suffering. The word itself combines "eu" (meaning "well" or "good") with "thanatos" (meaning "death").

Euthanasia aims to provide a relatively painless way for individuals suffering from incurable diseases or incapacitating physical disorders to end their lives. The intention is to relieve suffering and allow a dignified death. Euthanasia raises complex ethical questions related to autonomy, compassion, and the right to die with dignity. Legal frameworks vary across countries, with some allowing euthanasia under specific circumstances while others prohibit it outright. Euthanasia is often referred to as "mercy killing" or "assisted suicide." Mercy killing implies ending suffering out of compassion, while assisted suicide involves providing the means for an individual to end their own life. In some countries, euthanasia is legally permitted, but it remains a contentious issue globally. Recent cases have highlighted the importance of balancing compassion with legal and ethical considerations. Euthanasia is practiced to alleviate the intense pain and distress experienced by individuals who are terminally ill or enduring unbearable conditions. It offers an alternative to prolonged suffering and allows for a relatively peaceful and dignified passing. The decision to pursue euthanasia involves a delicate balance between respecting an individual's autonomy (their right to choose) and showing compassion toward their suffering. It acknowledges that some patients may prefer a timely and painless end

rather than prolonged agony.

Types of Euthanasia:

Active Euthanasia: Involves a doctor directly administering a lethal substance to end a patient's life. Passive Euthanasia: Often involves withholding or limiting life-sustaining treatments, allowing natural death to occur. Voluntary euthanasia occurs when a conscious patient actively seeks assistance in ending their life. Nonvoluntary euthanasia is typically decided by close family members when the patient is unconscious or permanently incapacitated.

Historical Background

The concept of euthanasia has been debated for centuries, with varying cultural and ethical perspectives. The ancient Greeks, particularly the philosopher Aristotle, discussed the concept of "mercy killing" for those with incurable diseases. The Roman Empire had laws permitting the exposure of unwanted infants, a practice that could be seen as a form of passive euthanasia.

During the Middle Ages, the Christian Church generally opposed euthanasia, emphasizing the sanctity of life. In the 19th and 20th centuries, the emergence of medical advancements and the rise of social welfare movements led to renewed discussions about euthanasia. The Netherlands became the first country to legalize voluntary euthanasia in 2002, followed by Belgium in 2002 and Luxembourg in 2009. Several other countries, including Switzerland, Canada, and Australia, have legalized euthanasia or assisted suicide under specific conditions. The debate over euthanasia continues today, with arguments for and against it centred on issues of individual autonomy, quality of life, and the role of healthcare providers.

CHAPTER 2

Legal Recognition of Passive Euthanasia:

The legal framework around euthanasia in India has primarily evolved through court decisions rather than specific legislation. This highlights the sensitive and complex nature of the issue, balancing the right to life with the right to die with dignity¹⁵.

¹⁵ <https://academic.oup.com/medlaw/article-abstract/19/4/646/1075627>. Accessed 7 Oct. 2024.

The landmark judgment in the case of *Aruna Ramchandra Shanbaug v Union of India* (commonly known as the Aruna Shanbaug case) by the Indian Supreme Court in 2011 permitted "passive euthanasia" under certain circumstances¹⁶. This decision recognized the right of terminally ill patients to die with dignity. The concept of euthanasia, particularly passive euthanasia, has been a subject of intense debate and legal scrutiny in India. While active euthanasia remains strictly prohibited, the Supreme Court has, in landmark judgments, recognized a limited right to passive euthanasia under certain circumstances.

The journey towards legal recognition began with the case of Aruna Shanbaug (2011). In this case, a nurse who had been in a vegetative state for decades, her family petitioned the court to allow her to die. While the court did not grant the request, it did acknowledge the principle of "mercy killing" in specific circumstances. This judgment laid the groundwork for further legal developments.

The Supreme Court's decision in *Common Cause* (2018) marked a significant step forward. The court upheld the right of terminally ill patients to refuse life-sustaining treatment, effectively recognizing passive euthanasia. It also introduced the concept of "advance directives" or "living wills," allowing individuals to express their wishes regarding their medical treatment in advance.

However, the court also imposed strict conditions. To qualify for passive euthanasia, a patient must be terminally ill or in a permanent vegetative state. The decision must be made voluntarily, and the patient must be mentally competent at the time of making the decision. Additionally, the decision must be supported by a medical board and a court-appointed guardian.

The Supreme Court's guidelines have been subject to debate and criticism. Some argue that they are too restrictive, limiting the right to choose one's own death to a narrow set of circumstances. Others contend that they are necessary to prevent abuse and ensure that vulnerable individuals are not coerced into ending their lives.

Despite these criticisms, the legal recognition of passive euthanasia in India represents a significant development in the country's approach to end-of-life care. It acknowledges the

¹⁶ <https://academic.oup.com/medlaw/article-abstract/19/4/646/1075627>. Accessed 7 Oct. 2024.

importance of individual autonomy and the right to a dignified death, while also seeking to balance these rights with the broader ethical and societal concerns surrounding euthanasia.

As the law continues to evolve, it is likely that the debate over passive euthanasia will remain a complex and contentious one. The challenge will be to find a legal framework that strikes a balance between individual rights and societal interests, ensuring that the principle of mercy killing is applied with compassion and justice.

CHAPTER 3

Recognition of Right to Die with Dignity:

The concept of the “right to die” is an evolving one in India. In 2018, the Supreme Court explicitly recognized the right to die with dignity as an integral part of the right to life. This recognition paved the way for legalized passive euthanasia¹⁷.

The debate revolves around whether an individual should have the autonomy to choose when their life becomes unbearable or not worth living. Proponents argue that this right should be inherent in the broader right to life. **The Recognition of the Right to Die with Dignity**

The right to die with dignity, a concept that has been debated for centuries, is increasingly gaining recognition in various legal systems around the world. This right, often associated with the principles of autonomy, compassion, and the right to choose one's own death, has been the subject of intense legal and ethical scrutiny.

The recognition of the right to die with dignity is rooted in the broader concept of individual autonomy, which posits that individuals have the right to make their own choices about their lives, including decisions about the end of their lives. This principle is enshrined in many international human rights declarations and treaties, such as the Universal Declaration of Human Rights.

However, the specific legal and ethical implications of the right to die with dignity vary widely across different jurisdictions. Some countries, such as the Netherlands, Belgium, and Canada, have legalized euthanasia or assisted suicide under specific conditions. These laws typically

¹⁷ <https://academic.oup.com/medlaw/article-abstract/19/4/646/1075627>. Accessed 7 Oct. 2024.

require that the individual making the request be terminally ill or suffering from an incurable condition, that the decision be made voluntarily and with sound judgment, and that there are safeguards in place to prevent abuse.

Other countries, such as Switzerland, have adopted a more restrictive approach, allowing assisted suicide only for individuals who are mentally competent and facing unbearable suffering. In these countries, the decision to end one's life is typically made privately, without the involvement of healthcare professionals.

The legal recognition of the right to die with dignity is often accompanied by ethical debates. Critics argue that allowing individuals to end their lives prematurely undermines the sanctity of human life and could lead to abuse. They also raise concerns about the potential for coercion and undue pressure on vulnerable individuals.

Proponents of the right to die with dignity counter that it is a fundamental human right that should be respected, particularly for individuals who are suffering from incurable conditions. They argue that it allows individuals to maintain control over their own deaths and to choose a dignified end to their lives.

The recognition of the right to die with dignity is a complex and evolving legal and ethical issue. While some countries have made significant strides in this area, the debate over the scope and limits of this right continues. As societies grapple with the challenges of aging and the increasing availability of life-extending technologies, the question of whether and when individuals should have the right to choose a dignified death will likely remain a subject of intense discussion and debate.

CHAPTER 4

Ethical Considerations and Socio-Economic Factors

Euthanasia confronts us with the tension between respecting an individual's autonomy and safeguarding their well-being. Advocates argue that competent adults should have the right to make decisions about their own lives, including choosing when and how to die. However, this autonomy must be balanced against potential vulnerabilities (such as depression or coercion) and societal interests (such as preventing harm). Euthanasia is often seen as a compassionate

response to unbearable suffering. The ethical question revolves around whether prolonged suffering justifies intentionally ending a life. Assessing suffering is inherently subjective. What one person considers unbearable may differ from another's perspective. Physicians grapple with their duty to promote well-being (beneficence) while avoiding harm (non-maleficence). Euthanasia challenges medical professionals' values—some may prioritize preserving life, while others emphasize relieving suffering. Religious and cultural backgrounds significantly influence views on euthanasia.

Ethical discourse must respect diverse perspectives, recognizing that not everyone shares the same beliefs. Euthanasia discussions intersect with healthcare budgets. Prolonging life through intensive care can strain resources. Ethical decisions involve balancing individual needs with societal priorities. How do we allocate limited resources fairly? Euthanasia debates highlight gaps in palliative services. Improving access to quality end-of-life care is crucial. Vulnerable populations may face unequal access to palliative care, impacting their end-of-life experiences.

Chronic illnesses and end-of-life care can impose significant financial burdens on families.

Some argue that legalizing euthanasia provides an option for families facing financial hardship. However, this raises concerns about coercion.

Legalizing euthanasia may affect insurance policies. How do insurers handle end-of-life decisions? Legal frameworks must address liability issues for healthcare providers and ensure informed consent. Euthanasia remains controversial. Individuals may fear judgment or stigma if they express a desire for assisted dying. Ethical discussions should focus on informed public discourse, dispelling misconceptions. Euthanasia discussions involve ethical dilemmas related to suffering, autonomy, and compassion. Balancing these factors is crucial. Socio-economic factors, such as access to healthcare, quality of life, and cultural beliefs, play a role in shaping opinions on euthanasia. These factors further complicate the “right-to-die” debate¹⁸.

CHAPTER 5

Public Awareness and Legislative Implications

The Aruna Shanbaug case brought euthanasia into the media spotlight, sparking public

¹⁸ <https://academic.oup.com/medlaw/article-abstract/19/4/646/1075627>

discussions and galvanizing both supporters and opponents. The Supreme Court's call for legislation on euthanasia emphasizes the need for nuanced and deliberated laws that address the complexities of this issue¹⁹. The issue of euthanasia, particularly passive euthanasia, has been a subject of intense debate and legal scrutiny in India. While active euthanasia remains strictly prohibited, the Supreme Court has, in landmark judgments, recognized a limited right to passive euthanasia under certain circumstances.

The journey towards legal recognition began with the case of Aruna Shanbaug (2011). In this case, a nurse who had been in a vegetative state for decades, her family petitioned the court to allow her to die. While the court did not grant the request, it did acknowledge the principle of "mercy killing" in specific circumstances. This judgment laid the groundwork for further legal developments.

The Supreme Court's decision in *Common Cause* (2018) marked a significant step forward. The court upheld the right of terminally ill patients to refuse life-sustaining treatment, effectively recognizing passive euthanasia. It also introduced the concept of "advance directives" or "living wills," allowing individuals to express their wishes regarding their medical treatment in advance.

However, the court also imposed strict conditions. To qualify for passive euthanasia, a patient must be terminally ill or in a permanent vegetative state. The decision must be made voluntarily, and the patient must be mentally competent at the time of making the decision. Additionally, the decision must be supported by a medical board and a court-appointed guardian.

The Supreme Court's guidelines have been subject to debate and criticism. Some argue that they are too restrictive, limiting the right to choose one's own death to a narrow set of circumstances. Others contend that they are necessary to prevent abuse and ensure that vulnerable individuals are not coerced into ending their lives.

Despite these criticisms, the legal recognition of passive euthanasia in India represents a significant development in the country's approach to end-of-life care. It acknowledges the

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importance of individual autonomy and the right to a dignified death, while also seeking to balance these rights with the broader ethical and societal concerns surrounding euthanasia.

As the law continues to evolve, it is likely that the debate over passive euthanasia will remain a complex and contentious one. The challenge will be to find a legal framework that strikes a balance between individual rights and societal interests, ensuring that the principle of mercy killing is applied with compassion and justice.

CHAPTER 6

Comparison of Euthanasia Law in India and Other countries:

As per the legal status of euthanasia is concerned, it is even treated as a synonym of homicide committed by the patients and even West's Encyclopaedia of American Law regarded it as a criminal offense of homicide. While the Judicial interpretation holds homicide as any intervention committed to ending a life to get relief from intolerable suffering. However all euthanasia are not criminal offenses, some legal kinds of euthanasia are regarded as justifiable and excusable euthanasia. The University of Washington stated that euthanasia is an act of the physician where lethal is injected into the patient's body to end up his/her life. While in the United States, withdrawing medical facilities with the consent of the patient with the motive of ending up that patient's life is almost held to be legal. In some countries like Netherlands and Belgium even though it has been made legal yet it is considered a homicide but it is not prosecuted if the physician meets some legal conditions. Australia, however, became the first country to make euthanasia legal bypassing the Rights of the terminally Ill Act 1996 but subsequently, it was again made illegal by the Euthanasia Laws Act 1997. In Canada, on the other hand, the Courts gave primacy to the State's interests over individual interests and upheld in several cases active euthanasia as well as physician-assisted euthanasia as illegal but still permitted voluntary withdrawal of medical treatment. And in Switzerland, euthanasia is illegal but physician-assisted suicide has been held legal since 1942. The following table will highlight the legal status of euthanasia in different countries.

Netherlands:

The Netherlands permits both euthanasia and assisted suicide. Euthanasia and assisted suicide were effectively legalized through the use of the defence of necessity in prosecutions

(primarily) against doctors providing euthanasia. Patients' suffering must be unbearable, with no prospect of improvement. It need not be related to a terminal illness and can include loss of personal dignity or fear of deterioration.

Belgium:

Belgium also allows both euthanasia and assisted suicide. Patients' suffering must be constant and unbearable, resulting from a serious and incurable disorder. No requirement for a terminal illness diagnosis.

Luxembourg:

Luxembourg permits both euthanasia and assisted suicide. The legislature changed the law to allow these practices.

Switzerland:

Switzerland permits assisted suicide if the person assisting acts unselfishly. Switzerland does not require a terminal illness diagnosis for assisted suicide.

Colombia:

Colombia permits euthanasia. The courts took the lead in changing the law based on human rights claims.

Canada:

Euthanasia and Assisted Suicide: Canada will permit both euthanasia and assisted suicide from February 2016 (slightly earlier in the province of Quebec). Patients must have a grievous and irremediable medical condition causing enduring and intolerable suffering.

United States (Specific States):

Five US states Oregon, Washington, Vermont, Montana, and now California—permit assisted dying. Patients must be terminally ill.

India:

Legal Status: Euthanasia and assisted suicide are illegal in India. **Section 309 of the Indian Penal Code** Attempt to commit suicide is still considered an offense. The right to die with dignity remains a topic of debate, but legislative change has not occurred yet.

CHAPTER 7**Case law and Judicial Interpretation**

The landmark judgment in the case of *Aruna Ramchandra Shanbaug v Union of India* (commonly known as the Aruna Shanbaug case) by the Indian Supreme Court in 2011 permitted "passive euthanasia" under certain circumstances²⁰. This decision recognized the right of terminally ill patients to die with dignity. Interpretation of Statutes is the art of understanding the true meaning of legal provisions within a statute. When judges encounter statutory language, they must decipher its intent and purpose. The issue of euthanasia, particularly passive euthanasia, has been a subject of intense debate and legal scrutiny in India. While active euthanasia remains strictly prohibited, the Supreme Court has, in landmark judgments, recognized a limited right to passive euthanasia under certain circumstances.

The journey towards legal recognition began with the case of Aruna Shanbaug (2011). In this case, a nurse who had been in a vegetative state for decades, her family petitioned the court to allow her to die. While the court did not grant the request, it did acknowledge the principle of "mercy killing" in specific circumstances. This judgment laid the groundwork for further legal developments.

The Supreme Court's decision in *Common Cause (2018)* marked a significant step forward. The court upheld the right of terminally ill patients to refuse life-sustaining treatment, effectively recognizing passive euthanasia. It also introduced the concept of "advance directives" or "living wills," allowing individuals to express their wishes regarding their medical treatment in advance.

However, the court also imposed strict conditions. To qualify for passive euthanasia, a patient must be terminally ill or in a permanent vegetative state. The decision must be made

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voluntarily, and the patient must be mentally competent at the time of making the decision. Additionally, the decision must be supported by a medical board and a court-appointed guardian.

The Supreme Court's guidelines have been subject to debate and criticism. Some argue that they are too restrictive, limiting the right to choose one's own death to a narrow set of circumstances. Others contend that they are necessary to prevent abuse and ensure that vulnerable individuals are not coerced into ending their lives.

Despite these criticisms, the legal recognition of passive euthanasia in India represents a significant development in the country's approach to end-of-life care. It acknowledges the importance of individual autonomy and the right to a dignified death, while also seeking to balance these rights with the broader ethical and societal concerns surrounding euthanasia.

As the law continues to evolve, it is likely that the debate over passive euthanasia will remain a complex and contentious one. The challenge will be to find a legal framework that strikes a balance between individual rights and societal interests, ensuring that the principle of mercy killing is applied with compassion and justice.

CHAPTER 8

Suicide vs Euthanasia

While both suicide and euthanasia involve the intentional ending of one's life, there are key distinctions between the two. Suicide is generally understood as an individual's decision to end their own life, often driven by despair, hopelessness, or mental health conditions. Euthanasia, on the other hand, is a medically assisted termination of life, typically at the request of the individual, with the intention of relieving suffering. Suicide is often seen as a private act, motivated by personal reasons, while euthanasia is usually a public act involving healthcare professionals. Additionally, euthanasia often requires specific medical conditions or criteria to be met, whereas suicide can be motivated by a range of factors.

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permitted “passive euthanasia” under certain circumstances²¹. This decision recognized the right of terminally ill patients to die with dignity. The concept of euthanasia, particularly passive euthanasia, has been a subject of intense debate and legal scrutiny in India. While active euthanasia remains strictly prohibited, the Supreme Court has, in landmark judgments, recognized a limited right to passive euthanasia under certain circumstances.

While suicide and euthanasia are distinct concepts, they share some legal similarities, particularly in how they are treated in certain jurisdictions.

1. Legal Ambiguity

Lack of Criminalization: In many jurisdictions, suicide is not criminalized. Similarly, euthanasia is often legal only under specific circumstances, leading to nuanced legal frameworks that can be ambiguous.

2. Consent Considerations

Informed Consent: Both concepts involve the issue of consent. In euthanasia, explicit consent is required, while in cases of assisted suicide, informed consent is also critical. In some jurisdictions, there is a focus on ensuring individuals are making autonomous decisions.

3. Judicial Interpretation

Rights-Based Arguments: Legal discussions surrounding both often invoke constitutional rights, such as the right to privacy or autonomy, suggesting that individuals should have the authority to make decisions about their own lives and deaths.

4. Mental Health Focus

Mental Health Considerations: Both cases may involve assessments of mental health. Legal frameworks for euthanasia often require evaluations to ensure the individual is making a rational choice, similar to how suicide prevention laws emphasize mental health support.

5. Public Policy Debates

²¹ <https://academic.oup.com/medlaw/article-abstract/19/4/646/1075627>. Accessed 7 Oct. 2024.

Ethical and Moral Considerations: Both suicide and euthanasia provoke significant ethical discussions regarding the value of life, the role of medical professionals, and societal responsibilities towards individuals in distress.

6. Potential for Legal Precedents

Influence on Law: Legal decisions in one area can influence the other. For example, a ruling favouring the right to die in euthanasia cases may impact societal views and legal interpretations surrounding suicide.

While legally distinct, suicide and euthanasia share similarities in their treatment under the law, particularly concerning consent, mental health considerations, and the ethical debates surrounding both issues. These similarities highlight the complexity of addressing end-of-life decisions in legal contexts.

CHAPTER 9

Future Perspective of Euthanasia

Globalization has significant implications for the discourse on euthanasia, impacting legal, ethical, and social dimensions across different countries

More countries may legalize euthanasia and assisted dying as societal attitudes shift towards viewing these practices as compassionate choices for those with terminal illnesses or unbearable suffering.

The future of euthanasia is a complex and contentious issue, shaped by a confluence of legal, ethical, and societal factors. While the debate over the right to die with dignity has gained momentum in recent years, significant challenges and uncertainties remain.

One of the key challenges facing the future of euthanasia is the need to balance individual autonomy with broader societal concerns. While proponents argue that individuals should have the right to choose the circumstances of their own death, critics raise concerns about the potential for abuse, particularly among vulnerable populations. Striking a balance between these competing interests will be crucial in shaping the future of euthanasia.

Another important consideration is the role of medical professionals in end-of-life decisions. As healthcare advances and the availability of life-extending treatments increases, the role of doctors in providing guidance and support to patients facing terminal illnesses becomes increasingly important. Ensuring that medical professionals are adequately trained and equipped to handle these complex situations will be essential.

The future of euthanasia is also likely to be influenced by technological advancements. As new medical treatments and technologies emerge, the definition of "terminal illness" may evolve, potentially expanding or narrowing the scope of eligibility for euthanasia. Additionally, the development of artificial intelligence and other advanced technologies could raise new questions about the nature of consciousness and the definition of life itself, further complicating the debate over euthanasia.

The societal and cultural context in which euthanasia is debated will also play a significant role in shaping its future. As societies become more diverse and multicultural, there may be increasing differences in attitudes and beliefs about death and the right to die. These differences will need to be carefully considered as policymakers and lawmakers seek to develop inclusive and equitable euthanasia policies.

Finally, the future of euthanasia will likely be shaped by international trends and developments. As more countries legalize euthanasia or assisted suicide, there may be increasing pressure on others to follow suit. However, there may also be concerns about the potential for "death tourism" as individuals from countries with restrictive laws travel to jurisdictions where euthanasia is legal.

Overall, the future of euthanasia will likely involve complex interactions between legal, ethical, and social dimensions, reflecting evolving societal values.

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CHAPTER 10

Conclusion and Suggestion

Conclusion:

Euthanasia as a form of mercy killing or peace of death has brought a lot of conversation among the people and some of them are for and against it. It can be concluded by saying that who are at a great pain should have the right to choose and end their own life. The Supreme Court of India have given legalization for passive euthanasia which means that it has given the permission to the patient who was suffering from pain to choose right to die. Killing is ethically difficult since it keeps patients from getting their entitlement to lead a daily existence, makes a grave threat to the specialist patient relationship and subverts the advancement that clinical schools have accomplished. Besides, sanctioning wilful extermination is deceptive as it makes pressure inside the clinical crew and has a high chance of fizzling. Then again, a few groups guarantee that euthanasia ought to be authentic on the grounds that it satisfies individuals' entitlement to pass on, lessens families' financial burdens and fills in as another conscious treatment of the intellectually sick. At last, this examination of wilful extermination uncovers that the general public overall should practice some duty regarding such a movement. As such, rather than rushing to fault doctors of the dangers of killing, the community should initially

consider the job that key figures like experts and attorneys play in legitimization of wilful extermination. Further, it is fundamental for the general public to give close consideration to the effect and unintended ramifications of authorizing killing. In conclusion, the future of euthanasia is a complex and uncertain landscape. While significant progress has been made in recent years, significant challenges and uncertainties remain. Addressing these challenges will require careful consideration of legal, ethical, societal, and technological factors. As the debate over the right to die with dignity continues, it is essential that policymakers and healthcare providers work together to develop a framework that respects individual autonomy while also safeguarding vulnerable populations and promoting a compassionate and dignified approach to end-of-life care.

As the law continues to evolve, it is likely that the debate over passive euthanasia will remain a complex and contentious one. The challenge will be to find a legal framework that strikes a balance between individual rights and societal interests, ensuring that the principle of mercy killing is applied with compassion and justice.

Suggestions:

Apex court should focus upon the distress of the patient and his quiet exit from life while permitting the equivalent to make sure the option of the right to die with respect is the positive development of a privilege to life under the abatement of article 21 of the Constitution. After the Supreme Court decision done for passive euthanasia making it legal should be welcomed as and law and the people should be for and not against of it. The Parliament should try to make a law issue guidelines and implement it as soon as possible. It would be useful in making the circumstance understood. The debate surrounding euthanasia in India is complex and multifaceted. While the Supreme Court has recognized a limited right to passive euthanasia, there is still room for improvement in the legal framework and its implementation. Here are some suggestions:

Legal Framework

- Consider expanding the eligibility criteria for passive euthanasia to include individuals suffering from severe, irreversible, and untreatable conditions, not just those in a permanent vegetative state or with terminal illnesses.

- Provide clearer guidelines for medical professionals involved in euthanasia cases, outlining their responsibilities, ethical considerations, and potential legal liabilities.
- Implement robust safeguards to prevent abuse and ensure that vulnerable individuals are not coerced into ending their lives. This could include mandatory independent reviews, counselling services, and waiting periods.

Implementation

- Make the process of accessing euthanasia more accessible and less burdensome for patients and their families. This could involve streamlining the application process, reducing bureaucratic delays, and providing adequate support services.
- Increase public awareness about the legal and ethical aspects of euthanasia, promoting informed decision-making and reducing stigma.
- Encourage open and transparent discussions about euthanasia, involving healthcare professionals, legal experts, ethicists, and members of the public.

Societal and Cultural Factors

- Challenge societal taboos and misconceptions surrounding death and dying, promoting a more compassionate and accepting attitude towards end-of-life decisions.
- Invest in and expand access to palliative care services, providing comprehensive support for individuals with terminal illnesses and their families.
- Uphold the principle of individual autonomy, allowing individuals to make their own choices about their end-of-life care.

By addressing these areas, India can develop a more comprehensive and compassionate approach to euthanasia, ensuring that individuals have the right to a dignified and peaceful end to their lives.

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- The Indian Constitution

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- Websites of Law Schools and Legal Research Institutions in India
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