ETHICAL AND LEGAL DIMENSIONS OF MEDICAL PRACTICE: EXPLORING EUTHANASIA AND MEDICAL JURISPRUDENCE

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ABSTRACT

The ethical and legal dimensions of medical practice, particularly concerning euthanasia and medical jurisprudence, are critical and complex fields that challenge healthcare professionals and legal systems worldwide. This paper explores the multifaceted nature of euthanasia, which involves the intentional termination of a patient's life to relieve suffering. The practice raises profound ethical questions, such as the balance between a patient's autonomy and the physician's duty to preserve life and the potential slippery slope towards non-voluntary euthanasia. Different countries exhibit a spectrum of legal stances, from complete prohibition to conditional legalization, reflecting diverse cultural, moral, and legal perspectives. Medical jurisprudence, the intersection of law and medical practice, provides the framework within which euthanasia is debated and regulated. This field encompasses legal principles governing medical ethics, patient rights, and professional responsibilities. Critical legal issues include consent, capacity, and the distinction between active and passive euthanasia. In jurisdictions where euthanasia is permitted, stringent legal safeguards are implemented to ensure voluntary and informed consent, mitigate abuses, and uphold ethical standards. The paper further examines landmark cases and legislative acts that have shaped the current legal landscape. It analyzes the implications of these legal precedents on medical practice, highlighting the ongoing tensions between evolving societal values, legal norms, and ethical principles. By comparing international legal frameworks and ethical guidelines, the paper aims to elucidate the challenges and implications of integrating euthanasia into medical practice. Ultimately, this exploration underscores the necessity for continuous dialogue among medical professionals, ethicists, lawmakers, and society to navigate the ethical and legal complexities of euthanasia. It advocates for policies that are compassionate yet rigorous, ensuring that the practice of euthanasia, where legal, is conducted with the utmost integrity and respect for human dignity. This balanced approach is essential for addressing end-of-life care's ethical dilemmas and legal intricacies.

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INTRODUCTION

"*One should die proudly when it is no longer possible to live proudly" ~ Friedrich Nietzsche*

According to the principles of autonomy and self-determination, every patient has the right to choose their style of treatment, including when and how to die. The codes of medical ethics and patients' rights to autonomy and self-determination are the primary pillars guiding the medical profession. Euthanasia has been a very controversial topic where ethical concern for physicians who are dealing with patients suffering from terminal illnesses like advanced cancer, patients in persistent vegetative states, etc., plays a vital role in deciding whether there is autonomy or where certain rights of the patient are being curtailed. The term euthanasia is derived from the Greek words "EU" and "Thanatos", meaning good death. In other words, "euthanasia is the termination of the life of the terminally ill patients at their request or in their interest". Proponents of euthanasia feel that every individual, by the right of autonomy, is entitled to choose his quality of life as well as death. However, critics argue that hat the request for euthanasia made by a terminally ill patient is devoid of autonomy and is not done in a sound and rational mind. There is a clear opinion on whether this practice is ethical or, by making this practice legal, the medical code of conduct is being curtailed. Euthanasia is a very debatable issue and has raised many questions on ethics and morality as to whether terminating the life of a person who is suffering from an incurable and painful disease is devoid of self-autonomy. Euthanasia and assisted suicide are illegal in India while terminating the life support of an individual is lawful. On the other side, passive euthanasia, which is permitted in India, is the withholding of medical care or the life support system in order to prolong life. The paper argues that passive euthanasia stands as the most reliable type of euthanasia, taking into account ethical and legal concerns. Within the context of medical jurisprudence, the investigation of euthanasia includes a comprehensive analysis of its moral, legal, and practical aspects. The legal environment surrounding euthanasia is complex and dynamic, with many jurisdictions taking differing stances that range from outright bans to rigorously regulated legalization. This paper explores the perspectives of various stakeholders like patients, families, healthcare professionals, policymakers, and ethicists. Understanding diverse viewpoints will help establish a sophisticated discourse around passive euthanasia and promote knowledgeable decision-making in the medical and legal domains. Given the complex ethical, legal, and

practical issues surrounding euthanasia, the main aim is to promote a broader knowledge of this divisive topic and its effects on healthcare policy, practice, and society at large.

LITERATURE REVIEW

The research paper titled "*Euthanasia -Ethical and Legal Perspectives*" by Dr. Amit Patil[1] examines the intricate moral and legal issues related to euthanasia. The study deftly handles the many philosophical debates, moral theories, and legal issues surrounding the hotly debated subject. The paper thoroughly summarises the arguments put out by supporters and opponents alike, providing a fair evaluation. The paper demonstrates a deep comprehension of the subject topic, as demonstrated by the integration of pertinent literature and legal precedents. However, certain points, like the examination of cultural and theological viewpoints on euthanasia, may need more clarification. Even though the paper includes arguments from several points of view, a more thorough discussion of counterarguments could improve its comprehensiveness.

Another research paper titled *"Dying with Dignity: Case for Legalising Physician-Assisted Suicide"* by Stanley Yeo[2] offers a thorough defence of the legality of physician-assisted suicide. It critically investigates various moral, ethical, and legal issues related to end-of-life choices. The study explores the autonomy of individuals in choosing how they want to die, how to alleviate pain, and how medical professionals can help provide compassionate end-of-life care. Yeo's paper, supported by scientific data and ethical reasoning, probably presents a provocative viewpoint on a divisive topic. Before making a firm decision about the legalization of physician-assisted suicide, it is essential to take into account competing arguments and any unforeseen effects.

The paper *"What Is the Great Benefit of Legalizing Euthanasia or Physician-Assisted Suicide?"* by Ezekiel J. Emanuel[3] provides a thorough analysis of the arguments in favour of and against allowing PAS and euthanasia. Emanuel critically assesses arguments favouring legalization, paying particular attention to problems with patient autonomy, suffering relief, and healthcare cost control. He emphasizes how complicated these activities' cultural, legal, and ethical ramifications are. In addition to highlighting potential concerns like abuse, a decline in

[1] Dr Amit Pati, Euthanasia -Ethical and Legal Perspectives. DYPJHS. 1. 7-10, (2013)
[2] Stanley Yeo. "Dying With Dignity: Case for Legalising Physician-Assisted Suicide." Journal of the Indian Law Institute, vol. 50, no. 3, 2008, pp. 321–38. *JSTOR*.
[3] Ezekiel J Emanuel. "What Is the Great Benefit of Legalizing Euthanasia or Physican-Assisted Suicide?" Ethics, vol. 109, no. 3, 1999, pp. 629–42. *JSTOR*.

confidence in medical professionals, and the undermining of palliative care initiatives, Emanuel's analysis emphasizes the need for complex considerations that go beyond basic ideas of autonomy and compassion. He challenges proponents of legalization to present convincing data showing that there are important advantages that exceed these drawbacks.

The paper "*Ethics and Euthanasia*" by Joseph Fletcher[4] offers an insightful exploration of the moral implications surrounding the divisive topic of euthanasia. In an effort to bring light to the murky ethical waters surrounding euthanasia, Fletcher critically investigates a range of philosophical, moral, and practical views regarding the ethics and ramifications of the practice. His research explores ideas like autonomy, pain, quality of life, and the sanctity of life, providing light on the difficulties that arise while making end-of-life decisions. In order to clarify the ethical issues surrounding euthanasia, Fletcher's paper traverses several ethical theories, such as situation ethics and utilitarianism. He assesses the effects of euthanasia legalization on medical personnel, patients, families, and society at large. Furthermore, Fletcher emphasizes the value of empathy and compassion in resolving the moral conundrums associated with euthanasia.

RESEARCH METHODOLOGY

It is a Doctrinal method of research in which various articles, websites, research papers, and editorials are referred to. The study starts with introducing various arguments that will be presented in the research paper; further, by reviewing multiple articles, one gets an idea of what euthanasia is all about; at last, euthanasia and medical jurisprudence are further explored, acknowledging the ethics and legality of the same. The main aim of the research paper is to promote a broader knowledge of this divisive topic and its effects on healthcare policy, practice, and society at large.

EUTHANASIA AND MEDICAL JURISPRUDENCE

Everyone wants to live life to the fullest and for as long as possible. However, there are situations in which the same person wants to take their own life. A person can take their own life in one of two ways: via suicide or by euthanasia. In India, the former is strictly prohibited, whereas the latter is up for debate. Euthanasia is defined as "mercy killing" or "easy death."[5]

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[4] Joseph Fletcher, "Ethics And Euthanasia." The American Journal of Nursing, vol. 73, no. 4, 1973, pp. 670–75. *JSTOR*.

[5] *Supra* note.1

The way that medicine has viewed euthanasia has also changed throughout time. The early Renaissance saw a paradigm change that made it possible for the human body to be used as a natural experiment subject, which led to the idea that euthanasia was not such a serious spiritual sin. Euthanasia movements were sparked by growing support for the practice in North America and Europe, as well as by developments in technology and human rights theory. This caused several nations to renounce laws designed to punish those who make suicide attempts.

The term "euthanasia" has taken on several connotations over time, including "a good death," "assisted dying," and "death with dignity." Such extremely broad terminology has also resulted in misleading application of the phrase, which has caused its meaning to subsequently change. The first obstacle to any reform may be seen in the ethical and moral quandary surrounding euthanasia, which places both the protection of human life and individual liberty in the same category. Perhaps the most important defence against euthanasia is the Hippocratic oath's "do no harm" clause, which obligates physicians to treat patients to the fullest extent possible. Both the Indian Medical Council and the World Medical Organization have given it some thought. The counterargument to the Hippocratic Oath is that the "not harm" principle ought to be construed to provide a rational interpretation of what constitutes injury to a patient. In this case, a patient's extreme pain may actually do more harm than good, as it may force him to endure longer than necessary to pass away peacefully and honourably.

The World Medical Association defines euthanasia as "a deliberate, intentional action with the explicit aim of ending the life of another person under the following circumstances:

Journal of Legal Research and Juridical Sciences

- The subject is a knowledgeable, capable individual who has an incurable illness.
- Who willingly requested to end his life.
- The one taking action is aware of the person's condition and desire to end their life, and they are acting with the purpose of doing so.
- The deed is performed without any selfish gain and with compassion.[6]

[6] Laws of Manu, translated by George Buhler, Sacred Books of the East by F. Maxmuller (1967 reprint). Vol. 25, page – 206

TYPES OF EUTHANASIA

Active and Positive Euthanasia

Active euthanasia is to intentionally end a patient's suffering and end their life in a painless manner for compassionate reasons. Here, the patient is actively put to death by the physician by giving them a lethal medication. It typically occurs when a patient's caregiver recognizes that the patient is suffering from an incurable illness and, motivated by love, chooses to relieve the patient of their pain. Legal prohibitions on active euthanasia differ from those on passive euthanasia based on the circumstances and case.

Passive or Negative Euthanasia

The process of passive or negative euthanasia expedites death by altering the type and degree of care provided to the patient. This is done to let nature take its course and the patient die. Usually, it is accomplished by stopping the patient's life-sustaining treatment, which causes the patient to pass away. It is passive in that the doctor isn't aggressively killing the patient; rather, the patient is only being passively deprived of life. Simply said, it involves taking out life-supporting equipment like a ventilator or respirator, quitting medicine and medical treatments, taking out the feeding tube, etc. Occasionally, family members ask the doctor to release a critically ill patient when there is no chance of recovery. At the family's request, the doctor releases the patient, who passes away within a few days. Some families are removed from the ventilator because they are unable to pay for the patient's care. This is not considered an act but rather an omission to struggle[7].

Journal of Legal Research and Juridical Sciences

Voluntary Euthanasia

When euthanasia is carried out directly at the patient's request and with their consent, it is referred to as voluntary euthanasia. This refers to the deliberate administration of lethal drugs to end the patient's pain, which is both incurable and unbearable; in other words, the termination of life is fully justified on medical grounds and primarily concerns the patient's right to choose to end their life, which is in everyone's best interests.

[7] Kenneth R. Stevens, Emotional and Psychological Effects of Physician-Assisted Suicide and Euthanasia on Participating Physicians, The Linacre Quarterly, 73:3, (2006).

Involuntary Euthanasia

When a patient undergoes involuntary euthanasia, their life is taken against their will and without their consent since they are not competent to make such a request. The goal is to relieve the patient of their agony and terminal sickness but without the patient's request or consent to end their life. In most cases, this occurs when the patient loses all mental and bodily abilities, leaving only their physical body functioning. In this instance, there appears to be no chance for the patient's recovery. Utilitarian principles underpin involuntary euthanasia as well, as it advances social welfare.

Assisted Euthanasia

The term "assisted euthanasia" describes the Act of taking a person's life with a doctor's help. The aforementioned euthanasia technique can be combined in a multitude of ways, many of which are morally questionable. Some countries allow assisted suicide in certain forms, including passive euthanasia.

Physician-Assisted Suicide

"Physician-assisted suicide" is the term used to describe active, voluntary aided suicide in which a medical professional helps a patient end their life. The doctor provides the patient with the tools needed to end their own life, including an abundance of drugs.

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The euthanasia debate is not only contentious but also brings up several legal, psychological, societal, and economic difficulties. It has been a concern for humanity from the beginning of time and is now fundamental to the intersection of law and bioethics. Proponents of euthanasia point to the right to self-determination and the ridiculousness of prolonging life without meaning or dignity, while opponents argue that palliative care should come first and that legalizing euthanasia would go against the concept of the sanctity of life.

ETHICS & EUTHANASIA

Euthanasia is a difficult and generous practice that has irrevocable repercussions for the practitioner. As a result, there is a never-ending debate over the ethics of this practice. The primary goal of euthanasia as a medical procedure is to provide patients who suffer from excruciating and incurable illnesses the freedom to end their suffering. This has led to further discussion about the meaning and significance of life and death for those affected. In this context, it is important to note that, in addition to the physical suffering experienced by the

patient, family and friends of patients in permanent vegetative states also experience severe emotional and psychological suffering. Adversities can manifest as depressive symptoms, helplessness sentiments, or fear of dying. The few nations that have authorized active euthanasia, like Belgium and the Netherlands, also use the procedure selectively, only using it as a last resort in cases where no other medical intervention is conceivable to improve the patient's condition.

Euthanasia, however, has frequently faced opposition on ethical grounds, mainly because of the drastic ending of life that is connected with it, which in turn becomes a reflection of unnatural human meddling with natural processes. The idea of life is revered greatly throughout all civilizations and faiths, regardless of location or beliefs, and is seen as sublime and sacred. Additionally, many religious groups tend to hold that euthanasia is not a moral practice or an individual's right because life is something that one has been endowed with and should be respected. Therefore, the main argument used by those opposed to legalizing active euthanasia is the sanctity of life at all costs, which is mainly based on arguments from the Christian and Islamic faiths, which forbid suicide in any form. On the other hand, those in Favor of the practice contend that doctors have a moral duty to end the suffering of terminally ill patients, but they also emphasize the importance of an individual's autonomy in making life-and-death decisions. Euthanasia's ethicality can, therefore, be defended or contested while bearing in mind the patient's welfare, his or her freedom, and the essentials of life.[8]

Journal of Legal Research and Juridical Sciences

Most people view euthanasia as a moral and ethical problem. "I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice." The Hippocratic Oath is the main ethical norm for all physicians and explicitly condemns procedures that resemble euthanasia. I won't offer someone a lethal medication if they ask for it, nor will I recommend doing so. In the same way, I refuse to prescribe an abortion to a lady. I shall protect my life and my craft in holiness and purity. Based on the fundamental principle of "no harm," the Hippocratic Oath is arguably the most important defence against euthanasia. The World Medical Association deemed euthanasia to be unethical, regardless of whether the patient or their close family members requested it. The Medical Council of India (MCI) saw euthanasia as an act that is unethical. On certain occasions, nevertheless, a group of

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[8] Turanjanin, Banović. ―Euthanasia: Murder or Not: A Comparative Approach‖. Iran J Public Health. 2014 Oct; 43(10): 1316–1323.

doctors rather than just the treating physician should decide whether to remove supportive devices[9].

The counterargument to the legendary Hippocratic Oath is predicated on the understanding that the oath's core precept is to "do not harm." It all boils down to the definition of "harm." It may be more detrimental for society to keep a patient alive while they are experiencing excruciating pain or significant mental suffering than to let them pass away. One option that was suggested was physician-assisted suicide, which was said to uphold human dignity, respect individual choice, and even be a profoundly humanizing act.[10]

BENEFITS OF LEGALIZING EUTHANASIA

- Respecting individual autonomy: Euthanasia legalization respects people's autonomy by recognizing their right to make choices about their own lives, including the decision to put an end to suffering and pass away with dignity. It enables patients who are nearing the end of their lives to take charge of their care and prevent unnecessary suffering. The notion that individual autonomy is not a sufficient justification is embodied in the safeguards incorporated into most proposals for legalization. The key safeguards require (1) that the patient initiate and freely and repeatedly request euthanasia;(2) that there be missing pain or uncontrolled physical suffering that cannot be relieved except by euthanasia; and (3) that a second physician consult on the case to be sure of the patient's prognosis and that the patient is acting voluntarily and understands his or her decision[11].

- Relief from unbearable suffering: Patients who are suffering from a terminal illness that is causing them to suffer unbearably physically, psychologically, or in terms of their dignity may find relief through euthanasia. It provides a kind and considerate choice for people with terminal illnesses who have little chance of recovery.

- Encouraging openness and regulation: Making euthanasia legal enables open scrutiny and regulation, guaranteeing that decisions about ending a life are conducted within a

[9] India M council of I. NO. MCI-211(2)/2007-Ethics/MEDICAL COUNCIL OF INDIA NEW DELHI. Minutes of the meeting of the Ethics Committee held on 12 2008.
[10] Sinha VK, Basu S, Sarkhel S. Euthanasia: An Indian perspective. Indian J Psychiatry. 2012 Apr;54(2):177-83. doi: 10.4103/0019-5545.99537. PMID: 22988327; PMCID: PMC3440914.
[11] *Supra* note. 3

Journal of Legal Research and Juridical Sciences

defined legal framework. By doing so, it may be possible to stop abuses and guarantee that euthanasia is carried out morally and with the necessary protections in place, like informed permission and medical consultation.

- Respecting different cultural and religious perspectives: Laws pertaining to euthanasia can take into account different cultural and religious perspectives on death and dying. Legalization gives people the freedom to make decisions that are consistent with their own values and beliefs, regardless of whether they would rather seek euthanasia, palliative care, or intensive medical treatment.

HARMS OF LEGALIZING EUTHANASIA

- Possibility of abuse: One of the biggest worries is the possibility of abuse, in which susceptible people could feel compelled to choose euthanasia by monetary, psychological, or other forms of compulsion from relatives, caretakers, or medical professionals.
- Fear of a "slippery slope": It is possible that the criteria for euthanasia would eventually stray from what was originally planned, which could result in cases where euthanasia is carried out on people who may not have truly wanted it or for whom it is not suitable.
- Effect on vulnerable populations: The legalization of euthanasia may have a disproportionately negative impact on some groups, including the elderly, the disabled, and those with mental illnesses. These groups may experience pressure from society to terminate their life early because of stigma, inadequate resources, or feeling onerous.
- Loss of the sanctity of life: Euthanasia opponents contend that legalizing the practice diminishes the inherent worth of human life and could lead to a society in which life is regarded as expendable, especially for those who are thought to have a lesser quality of life.
- Impact on palliative care: If euthanasia is legalized, funds and attention may be drawn away from palliative care and other end-of-life programs that help terminally ill patients feel less pain and more supported. This could make it more difficult to provide everyone with high-quality end-of-life care.

Journal of Legal Research and Juridical Sciences

- Psychological impact on healthcare providers: Participating in euthanasia operations may cause moral pain or psychological injury, particularly for those who have ethical or personal objections to assisted death[12].
- Legal and ethical difficulties: Determining who is eligible for euthanasia, obtaining informed permission, and protecting against abuse and prejudice are only a few of the difficult legal and ethical issues that come with legalizing euthanasia. Strong regulatory structures and deliberate thought are needed to resolve these problems.

LEGALITY OF EUTHANASIA

Euthanasia is currently permitted in the Netherlands, Belgium, Luxembourg, and Canada. Active euthanasia is still prohibited in the majority of nations. However, passive euthanasia is widely permitted everywhere. Conversely, many nations, including Montana, Switzerland, Oregon, Washington, and Washington, have decriminalized physician-assisted suicide. Following is an overview of the few countries on the legality of euthanasia.

Netherlands: The Termination of Life on Request and Assisted Suicide (Review Procedures) Act of 2002[13] permits active voluntary and physician-assisted suicide under specific circumstances. Physicians who "have complied with requirements of due care mentioned in the Act"[14] and report the situation are protected from criminal punishment under the Act. Adults and children older than twelve years old may undergo euthanasia.

Australia: Australia's laws prohibit active voluntary euthanasia, physician-assisted suicide (PAS), and aided suicide in general. All Australian states have criminal laws that forbid assisted suicide and euthanasia, and the common laws of South Australia, Victoria, and New South Wales also uphold this prohibition. The "Rights of Terminally Ill Act (1995)"allowed PAS and euthanasia in the Northern Territory for a while. With the passage of the Act in 1996, the Northern Territory became the first jurisdiction in the world to lawfully allow PAS and active voluntary euthanasia. With the passage of the "Euthanasia Laws Act 1997," the Federal

[12] *Supra* note.3

[13] Walsh D, Caraceni AT, Fainsinger R, Foley K, Glare P, Goh et al. Palliative medicine. 1st ed. Canada: Saunders; 2009. Chapter 22 - Euthanasia and Physician-assisted suicide; 110-115.

[14] Legemaate J. The Dutch Euthanasia Act and related issues. J Law Med. 2004 Feb; 11(3): 312-323.

Journal of Legal Research and Juridical Sciences

Government invalidated this Act in 1997, shortening its lifespan. This Act prohibited states from passing laws allowing assisted suicide or euthanasia.[15]

USA: The "Death with Dignity Act" was approved in Washington in 2008. Even though the US Supreme Court heard challenges to these acts, they have persisted. Both of the acts above allow a competent patient who is terminally sick and without hope to ask their doctor for fatal medication. They must acquire the agreement of two doctors and submit two verbal and one written application, both of which must be accompanied by a witness. In terms of carrying out the duty, the doctor does not give the deadly medications; instead, the patient does. These laws expressly forbid euthanasia, which is the practice of giving a patient fatal medication by someone else.[16]

India: Euthanasia is a contentious issue with significant ethical and legal implications in India. In terms of ethics, the concept of beneficence stresses the alleviation of suffering, whereas the principle of autonomy highlights the individual's freedom to make decisions regarding their own life and death. Nonetheless, India's legal systems have always been constrictive, and the Supreme Court has always carefully established precedents. The moral conundrum surrounding euthanasia was brought to light by the historic Aruna Shanbaug case in 2011[17], in which the Court permitted passive euthanasia under certain conditions. This decision recognized the significance of honouring patients' desires and ending needless suffering. Following that, end-of-life decision-making was further addressed in 2018 with the enactment of the "Living Will" or Advance Medical Directive, which gives people the freedom to decline medical treatment if they become incapacitated. Active euthanasia and physician-assisted suicide are still illegal despite these legal developments, which reflects the ongoing discussion about how to strike a balance between protecting people from potential abuses and honouring their right to autonomy. Euthanasia is, therefore, a complicated topic in India that is influenced by both changing legal interpretations and ethical norms, underscoring the importance of giving individual rights and society values due thought.

PASSIVE EUTHANASIA- AN OVERVIEW

Passive euthanasia involves the desire to expedite death in the patient's best interest, much like all other forms of euthanasia. The difference between passive and active euthanasia is that the

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[15] *Supra* note 8
[16] *Supra* note 8
[17] Aruna Ramachandra Shanbaug v. Union of India, (2011) 15 SCC 480

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former speeds up death by not providing a treatment that would have postponed it; for example, passive euthanasia involves the doctor not providing life-prolonging medical care to the patient or postponing it. Not administering medicine or carrying out a procedure that would have prolonged the patient's life are two examples of passive euthanasia.

Therefore, for passive euthanasia to take place, the following three conditions must be satisfied:

- Treatments that prolong life are being stopped or withheld.
- The principal objective of treatment withdrawal or withholding is to expedite the patient's demise.
- The principal objective of treatment withdrawal or withholding is to expedite the patient's demise.

The patient's best interest was served by hastening his death since it was inevitable that he would pass away eventually. Nevertheless, not all circumstances in which life-prolonging medication is denied or discontinued equate to euthanasia. As we've seen, the goal of passive euthanasia is to safeguard patients' interests in situations where there's a chance their condition could deteriorate to the point where they'd prefer to pass away rather than live. However, there are further justifications for stopping or postponing treatment.

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Legal precedents and ethical standards endorse passive euthanasia, which is considered a reliable method. By letting people die naturally without invasive medical procedures, it ethically respects human autonomy and dignity. The courts acknowledged the freedom to refuse medical treatment in seminal instances such as *Quinlan v. New Jersey*[18] and *Cruzan v. Director, Missouri Department of Health*[19], which upheld the moral precept of patient self-determination. When compared to active euthanasia, passive euthanasia reduces the possibility of medical error and misuse. Active euthanasia raises questions about protecting vulnerable people because it involves the delivery of fatal chemicals, which increases the possibility of errors or coercion. By contrast, passive euthanasia minimizes the possibility of abuse or wrongful death by withdrawing or withholding treatment, which is compliant with medical ethics.

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[18] Quinlan v. New Jersey 70 N.J. 10; 355 A.2d 647 (1976)

[19] Cruzan Cruzan v. Director Missouri Department of Health, 1990 SCC OnLine US SC 123

LEGALITY OF PASSIVE EUTHANASIA- INDIA

In India, the practice of passive euthanasia is a noteworthy advancement in the provision of end-of-life care, signifying an acknowledgement of personal autonomy and the entitlement to pass away with honour.

The Supreme Court declared the right to die with dignity to be a fundamental right in a landmark decision in March 2018 in *Common Cause (A Regd. Society) v. Union of India*[20],

This was not always the case, as before March 2018, the practice of passive euthanasia was illegal in India. Physicians who participated in or caused euthanasia would fall under Section 300 of the Indian Penal Code, 1860, Exception 5[21], as long as they had the necessary purpose of killing the patient in question. It is important to note that this is all that matters. In the ruling above, the Supreme Court of India declared that its instructions and directives would remain in force until a law or other effective legislation was introduced.

The Chief Justice of India (CJI) decided that the "living will" should be allowed since a person cannot be forced to suffer in a vegetative state if they do not want to live, against the opinions of the four judges on the Bench.

In the Aruna Shanbaug case[22], the Supreme Court acknowledged passive euthanasia in 2011. Through the case, the Apex Court made it possible for patients who were unable to make an educated decision for themselves to no longer receive life-sustaining care.

Journal of Legal Research and Juridical Sciences

The 2005 Public Interest Litigation (PIL) that the nonprofit organization "Common Cause" brought served as the basis for the ruling. Prashant Bhushan argued this matter in Court. The NGO requested that the Court recognize a "living will" and vehemently maintained that a terminally ill person should have the freedom to refuse life support in order to prolong her period of agony and to avoid further suffering when a medical professional certifies that the patient has reached the point of no return.

[20] Common Cause v. Union of India, (2018) 5 SCC 1
[21] Section 300 (ex.5), Indian Penal Code, 1860
[22] *Id* at 16

On October 11, 2017, the Bench in this historic case had previously reserved its decision. The Bench held that under Article 21 of the Indian Constitution[23], the right to life could not be separated from the right to die in peace.

The Supreme Court heard arguments in Gian Kaur v. State of Punjab[24] in support of legalizing euthanasia in India. One of the main points of contention was that the "right to life" guaranteed by the Indian Constitution also included the "right to die." Nevertheless, the argument was dismissed by the Supreme Court, which ruled that the right to life guaranteed by Article 21 of the Indian Constitution does not include the right to die and so cannot be interpreted to mean the same thing. Thus, the Supreme Court declines to declare euthanasia to be unlawful.

GOVERNMENT ENDORSEMENT AFTER THE LEGALIZATION

Following a speech in the Rajya Sabha, the Government of India declared in a press release on December 23, 2014, that it was endorsing and revalidating the judgment law about passive euthanasia. According to the Indian government, the Supreme Court of India made an effort to establish thorough guidelines for handling situations involving passive euthanasia, even if it dismissed a plea for mercy killing in a specific case. Consequently, the issue of ruthless murders was brought up with the Ministry of Law and Justice, and it was determined that since the Supreme Court had previously established the rules, those rules had to be adhered to. Currently, no laws have been made on this topic, and everyone must abide by the Supreme Court's decision in the aforementioned case, Common Cause (A Regd. Society) v. Union of India.

Journal of Legal Research and Juridical Sciences

The Court's ruling invalidated the practice of actively ending life by lethal injection. Given that euthanasia is not prohibited by law in India, the Supreme Court declared that its ruling takes effect immediately and becomes enforceable nationwide until the Indian Parliament passes appropriate legislation. India, like the majority of other nations, still prohibits active euthanasia, which includes the use of deadly substances in the process of ending life. There is no Indian law pertaining to euthanasia until and unless Parliament creates legislation; hence, the Supreme Court's rulings are legally binding. The Supreme Court established the ensuing rules:

- The decision to remove life support should be made by parents, spouses, or other close relatives; if they are not present, any friend or group can act in that capacity. It might

[23] Article 21 of Constitution of India, 1950
[24] Gian Kaur v. State of Punjab, (1996) 2 SCC 648

be taken by the patient's physician as well. The choice shouldn't be made arbitrarily, even though it should be made with the patient's best interests in mind.

- The High Court must still approve the decision to remove life support, even though it may be made by doctors or relatives.
- When the Chief Justice of the High Court receives an application of this kind, he or she should promptly call a bench of two judges or more to consider whether or not to grant the application. The Bench will designate a panel of three reputable physicians to report on the patient's condition. Notification of the verdict should be sent to the state and immediate family members. The High Court has the authority to make a decision after hearing from the parties.
- Only those in good mental health are capable of carrying out advance directives. It needs to be optional and free from coercion. When medical care may be stopped or restricted in order to avoid prolonging the dying process or causing pain and suffering, this must be stated in writing.
- The executor should sign the document in the presence of two attesting witnesses, and the Judicial Magistrate of First Class (JMFC) in charge of the jurisdiction should countersign it. Verifying that the paper was signed voluntarily and without coercion is the duty of the witnesses and the JMFC. The JMFC will retain one copy of the document in his office, and another copy will be sent to the jurisdictional district court's registrar for preservation. The JMFC will notify the executor's closest family members if the executor is not present at the time of execution. The local government will receive a copy of the notice.
- In the event that the executor becomes terminally sick and there is no chance of recovery, the treating physician is required to confirm the validity of the execution from the jurisdictional JMFC. If the orders need to be followed, the doctor has to advise the executor, guardian, or close relative about the nature of the sickness, the available medical care, the potential side effects of alternate types of therapy, and the repercussions of not receiving treatment.

- The hospital will establish medical boards made up of the head of the treating department and three or more senior doctors who will meet with the patient's family to determine whether to stop the patient's medical care.
- If the Medical Board confirms that the guidelines should be followed, the hospital is required to notify the collector about the proposal. The collector, three knowledgeable physicians, and the chief medical officer of the district will create an extra Medical Board. The board will assess the patient and may decide to stop the treatment if the patient is unable to speak for themselves. The board must inform JMFC of its decision if it decides to stop the treatment. The JMFC visits the patient and may approve its implementation after reviewing all the details.

India's decision to legalize passive euthanasia signifies a major advancement in end-of-life care as well as an acknowledgement of each person's autonomy and right to a dignified death. The Supreme Court's instructions are intended to offer protection and clarity to patients and healthcare practitioners who are involved in making end-of-life decisions.

In counterargument, although there are ethical and legal justifications for passive euthanasia, several people have reservations about its use in India. Some who oppose passive euthanasia claim that it can be abused or coerced, especially when weaker people—like the elderly or the disabled—feel under pressure to take their own lives too soon. Furthermore, there are worries that the sanctity of life and social perceptions of the worth of human existence may be compromised by the adoption of passive euthanasia. In addition, some opponents doubt the effectiveness of existing legal protections and express concern over the possibility of abuse or misunderstanding of advance directives. Furthermore, the idea of passive euthanasia may be at odds with cultural and religious values, creating moral and ethical conundrums in Indian society. All things considered, these worries draw attention to the intricate moral, legal, and cultural issues related to the practice.

All things considered, the safety of passive euthanasia rests in its conformity to moral standards, careful deliberation, lower chance of medical mishap, and wider social and institutional acceptance. These elements support the idea that passive euthanasia is a more dependable and humane method of providing terminally ill patients with end-of-life care.

CONCLUSION

Euthanasia is a contentious topic, but at its core, it is still the patient's right to autonomy and quality of life. Due to the fact that performing PAS will ultimately fall within their purview and seriously jeopardize the objectives of the medical profession, doctors find themselves at the centre of this moral quandary. Research in medicine has advanced, and we now have better ways to alleviate the agonizing pain that patients who are close to death endure. Such patients can even have their lives artificially extended. Proponents of passive euthanasia place a strong emphasis on the right of individuals to make their own decisions and emphasize their autonomy. They view this method as a dependable way to honour patients' desires while reducing suffering. Counterarguments, on the other hand, warn against compromising the sanctity of life and raise worries about potential abuse and the slippery slope into active euthanasia. Also, the Hippocratic Oath, which historically obligates medical professionals to preserve ethical principles, including preserving life. However, interpretations change in accordance with society's values, which makes modern medical ethics consider how flexible the oath should be. Although the oath acts as a guide, its application in situations involving end-of-life care highlights the fine line that must be drawn between patient autonomy, beneficence, and medical professionalism.

In navigating the complex intersections of ethics, law, and medicine in the context of euthanasia, the research highlights the value of strong legal frameworks and ethical considerations in assisting in the making of difficult medical decisions while maintaining the integrity of the medical community.

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