



LEGAL FOUNDATIONS OF EUTHANASIA: INDIA'S ETHICAL KILLING

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ABSTRACT

The silent art of enduring pain, be it physically or mentally, has been practised by humans for ages. When the person is conscious, he endures pain mentally or emotionally. Moreover, when unconscious, he still does. In particular, when the person is in the condition called 'Brain-Dead', there are rare chances of being brought back to life, and that is the phase when the family members are monetarily forced to pay for the person's medical expenses, which are generally high-priced and under many conditions, the patient wants to end the pain and distress. This phenomenon is inexplicable and is left with the creator or an omnipotent power to return the person back in his conscious state. Scientific and ethical research has been done to prove the effectiveness of the 'mercy killing', practised by the loved ones, providing the dignity and reducing the emotional burden to the patient in this losing situation. Till then, the person is given 'an assisted suicide' with the help of medical assistance and with the consent of the patient's family. Currently, laws have been made for the actual practice of providing euthanasia to those who terribly require it. Some countries have legalised euthanasia, some countries have made exceptions, and some countries still there that have not opted for it. In this paper, the emergence of legalisation in India has been emphasised, which deals with the implementation of 'Passive Euthanasia', which was once much more needed but was illegal in India.

Keywords: Suicide, Right to Die, Living Wills, Law Commission, Euthanasia.

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INTRODUCTION

Euthanasia is the term derived¹ from the Greek word ‘eu’ and ‘thantos’, which means ‘good’ ‘death’. It is a practice of ending someone’s life by either injecting a lethal drug or withdrawing the person’s external life-supporting system from an irreversible suffering. This is because the person barely has a chance of being in his conscious state. It is like assisted suicide, where the other person provides their support to end the sufferer’s life. It is assisted² by the coordination of the assigned multidisciplinary team and including the assessment run by the ethics community, ensuring no coercion, undue influence, mistake and including free consent of the patient.

The journey of recognition was followed³ in the year 1885, the term of voluntary euthanasia was proposed by the American Medical Association. On January 23, 1906, the legislation of Ohio introduced a bill for the same. In the US, Dr Geory proposed the euthanasia bill in Iowa. Then after formation⁴ of the Voluntary Euthanasia Legislation Society, the focus on euthanasia became even more inclined. Leading to the introduction⁵ to the Bill in the House of Lords in the year 1936, but the bill was defeated with 35 to 14 votes.

Euthanasia, as per the British House of Lords Select Committee on the Medical Ethics, is stated as a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering. In Belgium, the Netherlands, and Dutch Laws the euthanasia is done on the request of the patient themselves by the doctor, especially in Dutch law, assisted suicide is explained diversely and elaborately.⁶ As of now 2025, there are many countries in which euthanasia is decriminalized such⁷ countries are Canada (2016),⁸ Spain (2021),

¹ Yelson Alejandro Picón- Jaimes and others, ‘Euthanasia and assisted suicide: An indepth review of relevant historical aspects’, (2022) 75 *Annals of Medicine and Surgery*

<<https://www.sciencedirect.com/science/article/pii/S2049080122001406>> accessed on 25 August 2025

² Ibid 01

³ Anna Haitt, ‘The History of the Euthanasia Movement’, JSTOR DAILY, 6 January, 2016

<<https://daily.jstor.org/history-euthanasia-movement/>> accessed on 25 August 2025

⁴ Ibid 03

⁵ Ibid 03

⁶ Ajay Kumar and Ors, ‘Euthanasia: A Debate – For and Against’ (2021) 55 *Journal of Postgraduate Medicine, Education and Research* 01

<<https://www.jpmer.com/abstractArticleContentBrowse/JPMER/23986/JPJ/fullText>> accessed on 21 July, 2021.

⁷ TOI Lifestyle Desk, ‘What is Euthanasia and countries where it is legal’, Times Entertainment, 13 April, 2024

<<https://timesofindia.indiatimes.com/etimes/trending/what-is-euthanasia-and-countries-where-it-is-legal/photostory/109259769.cms>> accessed on 25 August, 2022

⁸ Ibid 08

Belgium(2002),⁹ Portugal(2023),¹⁰ New Zealand (2019), Netherlands (2001), Luxembourg (2009),¹¹ Ecuador(2024),¹² Columbia (1997),¹³ Australia (2022) and many more. In India, where several religions and cultures exist, euthanasia is prohibited by every practice except. In the Later Vedic period, where Manusmritis, Vedas, Upnishads and many more rich literary works do not describe the concept of 'Euthanasia'. Instead, all religions do not accept the practice of Euthanasia; all of them state that the body and soul belong to the creator, and he takes them back when he wills.

Euthanasia, 'Right to die' is covered under Article 21 of the Constitution Law, which states that every person has the right to life and liberty to do so of free will. This Article extends to every person irrespective of having citizenship.

TYPES

VOLUNTARY (CONSENT)	NON-VOLUNTARY (NON-CONSENT)
ACTIVE (INJECT)	PASSIVE (WITHDRAW)

Voluntary: Refers to the type where the person's consent is included for the euthanasia's application. It can be verbally or non-verbally imposed. It is inclusive of a minimum of 2 persons, the doctor in charge and the patient themselves for the process of euthanasia. It is also known as the legally-assisted suicide involving the liberty to choose the decision.¹⁴

⁹ The Belgian Euthanasia Act of 2002

¹⁰ AFP in Lisbon, 'Portuguese parliament legalises euthanasia after a long battle', 12 May, 2023 <<https://www.theguardian.com/world/2023/may/12/portuguese-parliament-legalises-euthanasia-after-long-battle>> accessed on 25 August 2022

¹¹ Kusum Rajendra Gandhi, 'Euthanasia: A Brief History and Perspective in India' (2017) 3(2) International Journal of Education and Research in Health Sciences <https://www.researchgate.net/publication/320829903_Euthanasia_A_Brief_History_and_Perspectives_in_India> accessed on 21 July 2025

¹² AP, 'Ecuador's High Court decriminalises euthanasia, following lawsuit by terminally ill patient', *The Hindu* 08 February, 2024 <<https://www.thehindu.com/news/international/ecuadors-high-court-decriminalises-euthanasia-following-lawsuit-by-terminally-ill-patient/article67823926.ece>> accessed on 22 July 2025.

¹³ Patrick Jackson, 'Ecuador becomes second Latin American State to decriminalise euthanasia' *BBC* (7 February 2024 <<https://www.bbc.com/news/world-latin-america-68236545>> accessed on 22 July 2025.

¹⁴ Arval A. Morris, 'Voluntary Euthanasia' (1970) 45 *Washington law review*, 239 <<https://digitalcommons.law.uw.edu/cgi/viewcontent.cgi?article=1895&context=wlr>> accessed on 27 July 2025

Non-Voluntary Euthanasia – When the consent of the patient cannot be taken under some circumstances. Included in the cases such as:¹⁵

1. Case in which the person is in a coma.
2. Case where the person is a minor or an infant.
3. If a person is cognitively impaired or of unsound mind.
4. If a person suffers from an intellectual disability.
5. If the person suffers from serious mental issues, he is unable to decipher what's right or wrong.

Active and Passive Euthanasia: Under active euthanasia, a lethal drug-like substance is injected to end the life of the terminally ill patient, and the drug is slowly run down to the bloodstream, leading to death. Under passive euthanasia, the life-supporting system is withdrawn from the patient, leading to death. There are several methods¹⁶ such as withdrawal of food, water, any other liquids and oxygenation. In US¹⁷ newborns are provided with infanticides to those who have the rare chance to live.

LEGAL PROCEDURES FOR EUTHANASIA IN INDIA

Kerala was the first state to implement guidelines for passive euthanasia after Aruna's case, on terminally ill patients and to adopt the concept of 'Living Wills', known as a document that states the preferences in kinds of treatment a person wants, if he/she develop terminal illness in future. There is a legal procedure¹⁸ which has to be followed, inclusive of a draft, a statement in the presence of two witnesses and attested by a gazetted officer or a notary and at last submission of the document to the state government.

An order¹⁹ was issued by Karnataka's Health Department on January 30, 2025 implemented the ruling of the Hon'ble Supreme Court allowing the terminally ill patients their 'Right to Die'.

¹⁵ Singh S and others, 'Attitude of doctors toward euthanasia in Delhi, India', (2015) 1 *Asian Journal of Oncology* 50.

¹⁶ Brian Clowes and Marisa Cantu, '6 Types of Euthanasia: Is It Ever Justified?', Human Life International, 15 April, 2023 <<https://www.hli.org/resources/types-of-euthanasia/>> last accessed on 20 July, 2025

¹⁷ Ibid 17.

¹⁸ Cherylan Mollan, 'Dying with dignity: Breaking the taboo around 'living wils' in India', *BBC News*, (2 February, 2025) <https://www.bbc.com/news/articles/ckgyq735wnlo> accessed on 20 July, 2025.

¹⁹ Afshaan Yasmeeen, 'In historic move, Karnataka allows dignified death for the terminally ill' *The Hindu* (01 February, 2025) <https://www.thehindu.com/sci-tech/health/karnataka-health-department-issues-order-to-implement-supreme-court-directive-allowing-terminally-ill-patients-to-die-with-dignity/article69163683.ece>

There shall be an institution of Medical Boards, either Primary or Secondary, approved by the appropriate authority and as per the requirements. These boards shall decide and form a report on whether the person is eligible for passive euthanasia and submit it before the Hon'ble High Court.

As per the One Hundred Ninety-sixth (196th) Law Commission Report²⁰ on Euthanasia, it was recommended that there should be an act which ensures the protection of terminally ill patients. The act shall be termed as 'The Medical Treatment of Terminally Ill Patients(Protection of Patients, Medical Practitioners) Act'. This act agrees on passive euthanasia, but under conditions, either consciously or unconsciously. Some guidelines specify the conditions, including permissions from family members, medical councils and the High Court, under the withdrawal of external life-supporting systems.

In August 2012, two hundred and forty first (241)st Law Commission Report- on Passive Euthanasia – a relook was initiated, in which it was proposed that, in addition to the 196th Law Commission Report, there should be no misuse of passive euthanasia and legislation to be made for the same.²¹

JUDICIAL DECISIONS

Aruna Ramchandra Shanbaug vs. Union of India & Ors:²² The case was a historical verdict in which the Supreme Court agreed on the recognition of passive euthanasia, permitting the withdrawal of all the life-supporting treatments, which was ruled on March 07, 2011, where the apex court ruled the acceptance of passive euthanasia. In this case, a woman named Aruna was assaulted while changing her clothes by one of her co-workers named Valmiki, in the King Edward's Memorial Hospital, Mumbai.²³ While struggling, she was strangulated with a dog

accessed on 20 July 2025.

²⁰ Neela V Naik, 'Critical Analysis into the position of Euthanasia Laws in India' (2021) 3(5), *International Journal of Legal Science and Innovation* 426 <https://ijlsi.com/paper/critical-analysis-into-the-position-of-euthanasia-laws-in-india/>

²¹ Shruti Pandey, 'POSITION OF EUTHANASIA IN INDIA: LEGAL PERSPECTIVE', (2022) 2(1) *Indian Journal of Integrated Research in Law*, 15 <https://ijirl.com/wp-content/uploads/2022/01/POSITION-OF-EUTHANASIA-IN-INDIA-LEGAL-PERSPECTIVE.pdf>

²² *Aruna Ramchandra Shanbaug v. Union of India* (2011) 4 SCC 454 (SC).

²³ *The Economic Times*, 'The Aruna Shanbaug Case which changed euthanasia laws in India' (6 March 2018) <https://economictimes.indiatimes.com/news/politics-and-nation/the-aruna-shanbaug-case-which-changed-euthanasia-laws-in-india/the-attack/slideshow/63231069.cms> accessed 17 July 2025.

chain around her neck, resulting in the deprivation of oxygen to the brain, making her unconscious and paralysed for approximately forty-two years.

A petition was filed by her friend stating that she has the 'right to die'²⁴ under Article 21 of the Indian Constitution to end this prolonged state and suffering. The Hon'ble Court stated that providing Active euthanasia shall be an infringement of section 302 & 304 of the IPC. Therefore, the legalisation of passive euthanasia was implemented, but on rare and serious conditions, rejecting the plea of the petitioner.

Common Cause v. Union of India (2018):²⁵ The petition was filed with the demand of including 'RIGHT TO DIE' under Article 21, which states Right to Life. Therefore, if a person has the right to life and dignity, he can die with dignity as well under the same article.²⁶ The Hon'ble Supreme Court allowed the petition and stated that an adult has the right to refuse all medical treatments as well as life-supporting devices. Moreover, the person shall be competent mentally in order to decide and provide the will for the same, and the Right to die with dignity has already been declared in the Gian Kaur Case.

Harish Rana vs. Union of India & Ors. On 2 July 2024:²⁷ The Delhi High Court received a petition for the institution of a medical board for the execution of passive euthanasia. The court observed that there were no external life-supporting systems on which the patient had been kept and was not terminally ill.

Therefore, there was no condition fulfilled for the execution of passive euthanasia. Therefore, the petition was dismissed.

AUTHOR'S ANALYSIS

The author strongly supports the practice of passive euthanasia in India as a prolonged treatment of severely ill patients because the person who upholds the burden of a patient's treatment, be it financially, emotionally and physically, feels exhausted at one moment due to non-responsive behaviour even after those efforts and prolonged sufferings. Therefore, both

²⁴ Tanisha Maheshwari, 'Case analysis of Aruna Ramchandra Shanbaug vs Union of India', Manupatra, 14 July, 2022, <https://articles.manupatra.com/article-details/Case-analysis-of-Aruna-Ramchandra-Shanbaug-vs-Union-of> assessed 17 July 2025.

²⁵ Common Cause v. The Union of India (2018) 5 SCC 1 (SC).

²⁶ Supreme Court Observer, 'Euthanasia and the Right to Die with Dignity' (Supreme Court Observer) <https://www.scobserver.in/cases/common-cause-euthanasia-and-the-right-to-die-with-dignity-case-background/accessed> 17 July, 2025.

²⁷ Harish Rana vs. The Union of India & Ors. (2011) 4 SCC 454

the responsibility holder and to whom he holds the responsibility become worthless if there is no positive outcome or recovery. Although most of the religious and cultural traditions do not follow the concept of euthanasia and it is yet not accepted as a common part of society. In my opinion, there should be proper legislation that legally balances compassion along with safeguards which clearly regulate and focus this practice not misused for personal enmity. Then there shall be much more beyond recognising it under Article 21.

CONCLUSION

Euthanasia provides a pathway to die with dignity and without enduring lifelong pain and being alive on artificial systems. Before 2018, 'Euthanasia' was not considered a part of society, be it legally or religiously. It was given a term as 'suicide' which was forbidden by all the religions and considered an ill act to kill oneself. But over time, it was seen that those people who were in lifelong pain by being kept on the external support system were suffering and enduring with no chance of being better. Then, this issue became highlighted and was considered under Article 21 as the right to die in peace. It was challenging in a country where even suicide is a punishable offence under sections 309 and 306. Even till now, passive euthanasia is allowed but under certain circumstances and by legal procedures. No one is free to opt for it without prior permission from the court. Recently Union Health Ministry drafted²⁸ guidelines on passive euthanasia, which have not been implemented yet, directing the government's focal point towards it. But till now, there is no specific act that directs the process or execution of euthanasia. This can be upsetting because there could be lengthy procedures, monetary expenditures, and, most importantly time time-consuming. The patient could get really frustrated with the repeated hearings and no satisfactory results. The act could specify the exact process and eligibility, making clear and crisp answers.

²⁸ PTI, 'Union Health Ministry comes up with new draft guidelines on passive euthanasia' *The Hindu*, 3 October, 2024 <<https://www.thehindu.com/sci-tech/health/union-health-ministry-comes-up-with-new-draft-guidelines-on-passive-euthanasia/article68700861.ece>> accessed on 2 September, 2025.