

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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EUTHANASIA AND THE RIGHT TO DIE: LEGAL AND MORAL DEBATES IN INDIA

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Abstract

Euthanasia is complicated and controversial. It contains countless ethical, moral and legal aspects. The term comes from the Greek. The Greek word means "mercy killing" and refers to the act of deliberately ending life in order to relieve pain and suffering. In India, this topic has sparked intensive debate influenced by cultural, religious and moral beliefs. Discourse revolves around the role of the state in individual autonomy, the sanctity of life, and the regulation of death.

Introduction

This paper aims to examine the legal history of euthanasia in India, its current relevance, suggestions for improvement, and critical analysis of ongoing debate.

Types of Euthanasia

- *Active Euthanasia*: It involves deliberately administering a deadly substance or taking direct action to hasten demise, typically under medical supervision. It is a felony under sure situations in international locations like the Netherlands and Belgium.
- *Passive Euthanasia*: involves retreating or refusing life-assist remedies, leading to natural death (e.g., disposing of ventilators or feeding tubes).
- *Voluntary Euthanasia*: occurs when a person of sound mind presents express consent to end their life. Canada and Colombia have legalized voluntary euthanasia, with Canada's excellent court decriminalizing medical doctor-assisted demise in the *Carter vs. Canada (2015)*.
- *Non-voluntary Euthanasia*: Applies whilst someone cannot deliver consent due to mental disability (e.g., coma). own family members or criminal guardians make the choice. It remains arguable due to autonomy worries. The Netherlands permits non-

voluntary euthanasia for infants, while Belgium permits it for minors under particular situations.

Legal History

Traditionally, numerous cultures considered suicide and euthanasia as honourable or important under precise circumstances. In ancient Rome, Norse, and Viking cultures, suicide was visible as a dignified act in certain situations. Eastern samurais practiced “**seppuku**”¹ to restore honour or compensate for failure. In ancient Sparta, publicity involved forsaking infants or elderly people deemed not worthy to live on. A few Inuit, Aboriginal Australian, and historical Chinese language communities abandoned elderly participants at some stage in times of severe shortage.

In India, Jain practitioners sometimes finished Sallekhana, a voluntary act to loss of life, as a religious practice. In the components of Tamil Nadu, Thalaikoothal², an unlawful shape of involuntary euthanasia for the aged, has been practiced as a shape of mercy killing. Despite these ancient practices, most modern societies focus on shielding and being concerned for vulnerable populations.

The felony trajectory of euthanasia in India has developed drastically. The landmark case of Aruna Shanbaug v. Union of India³ marked a turning point, where the preferred court allowed passive euthanasia under strict conditions. The judgment identified the right to die with dignity under Article 21 of the Indian charter. Sooner or later, in 2018, the Supreme Court legalized passive euthanasia and introduced pointers for living wills, reaffirming an individual's right to refuse medical remedy.

In India, the abetment of suicide and attempted suicide are criminal offences under IPC Sections 306 and 309. The constitutional validity of IPC Section 309 became challenged in 1994, in which the preferred court first ruled it unconstitutional under Article 21 (right to life). However, in 1996, the courtroom clarified that the right to life does not encompass the right to die. The judgment emphasized that individuals attempting suicide require assistance in

¹ T. Fus, “Suicide and Culture in Japan: A Study of Seppuku as an Institutionalized Form of Suicide” (1980) 15 *Social Psychiatry* 57, at 63, <https://doi.org/10.1007/bf00578069>.

² P. Chatterjee, “Thalaikoothal: The Practice of Euthanasia in the Name of Custom” (2014) 87 *European Researcher* 2005, at 2012, <https://doi.org/10.13187/er.2014.87.2005>.

³ AIR 2011 SCC 454

preference to punishment and encouraged the repeal of Section 309.

Present Relevance

Euthanasia remains an essential issue in modern-day India, in particular inside the context of terminal ailments, healthcare expenses, and patients' rights. regardless of the prison popularity of passive euthanasia, there are worries concerning its implementation, public recognition, and misuse. The COVID-19 pandemic has in addition highlighted the moral dilemmas surrounding end-of-existence care. Public discourse continues to shape the evolving narrative of euthanasia in India.

The legality of euthanasia in India is a contentious problem, mainly regarding its alignment with Article 21 of the Indian constitution, which ensures the safety of life and personal liberty. over the years, the judiciary has accelerated Article 21's scope to consist of the right to live with dignity, refuse medical treatment, and die with dignity.

Active euthanasia remains prohibited, however the debate persists. The case of Aruna Shanbaug, a nurse in a chronic vegetative state for 42 years, delivered the problem to national interest. In 2011, the ideally suited courtroom recognized passive euthanasia, allowing it on a case-by-case basis with high courtroom approval. However, Aruna did not qualify under the ruling as she had not been declared brain-dead.

Within the 1996 case of Gian Kaur vs. State of Punjab⁴, the court ruled that the right to existence does not encompass the right to die, rejecting euthanasia as an essential right. However, it mentioned that the existence assists in certain conditions could be justified to keep human dignity.

Case Law

Facts of the case:

Aruna Ramchandra Shanbaug used to work as a nurse at the King Edward Memorial sanatorium in Mumbai. On November 27, 1973, she become attacked through a sanatorium purifier who choked and strangled her with a canine chain to save her from resisting a rape try. When the attacker realised that Aruna had changed into menstruating, he sexually assaulted

⁴ AIR 1996 SCC 648

her.

The next day, on November 28, 1973, Aruna was found unconscious at the ground with blood all around her. A cleaner observed her in vegetative state. The strangulation had reduced the oxygen to her mind, inflicting excessive harm to the cortex and a contusion inside the mind stem, in conjunction with an injury to the cervical cord.

In 2009, after 36 years since the incident, a friend of Aruna filed a petition under Article 32 of the Indian charter. For a majority of these years, Aruna had been in a 'permanent Vegetative state,' not able to move her limbs and reliant on mashed food. She became dependent on the KEM sanatorium in Mumbai for her care.

Court- Appointed Medical Doctor's Findings:

In reaction to the petition, KEM sanatorium and Bombay Municipal business enterprise filed a counter-petition, leading to disagreements among the two parties. To further understand the state of affairs, the supreme court appointed a group of three experienced doctors to analyse and provide a report on Aruna Shanbaug's intellectual and physical condition.

The doctors studied her complete clinical records and concluded that her brain was not dead. She exhibited a unique manner of information and reacting to conditions. Additionally, her frame language did not advocate any desire to stop her life. The nursing body of workers additionally showed diligence in taking care of her. As a result, the court docket believed that euthanasia was not essential in this situation.

Issues Raised:

The problems raised in Aruna Shanbaug vs Union of India are:

- Must the withdrawal of life-sustaining systems and manner for a person who is in a vegetative state (PVS) be permissible?
- Does a person's family or subsequent pal have the authority/ right to seek the withholding or elimination of existence-supporting measures if the individual has not made any such request already?
- Whether or not Aruna Shanbaug be declared dead?
- Must the right to Die fall within Article 21 of the Constitution?
- Whether sections 306 and 309 of IPC are constitutionally legitimate?

- Need to euthanasia be approved and what felony issues revolve around it?

Petitioner's Arguments:

A journalist and activist, Ms. Pinki Virani⁵, filed a petition under Article 32 of the Indian constitution in *Aruna Shanbaug vs Union of India*, declaring that the right to life guaranteed by Article 21 encompasses the right to Die with dignity⁶. She argued that people facing terminal ailments or permanent vegetative situations ought to have the proper to end their lives with dignity, alleviating prolonged struggling.

Ms. Virani contended in *Aruna Shanbaug v Union of India* that Aruna, the victim, lacked cognizance, was unable to chew her food and was bedridden for 36 years without a wish of improvement. According to the petitioner, withholding meals could no longer be killing Aruna but assisting her die peacefully.

Respondent's Arguments:

The health center dean advocated euthanasia in *Aruna Shanbaug v. Union of India*, mentioning that the clinic body of workers had been caring for Aruna's fundamental needs for nearly 36 years and could maintain to accomplish that willingly. The respondent emphasized Aruna's age (60) and counselled that she might skip away in the future, making euthanasia needless.

The health center group of workers had advanced a close emotional bond with Aruna, with one member inclined to care for her without pay. They argued towards legalising passive euthanasia, claiming it is able to be abused by family members, undermining societal kindness and love.

The respondent contended in *Aruna Shanbaug vs Union of India* that every individual has the right to life under Article 21 and euthanasia, via definition, involves taking the lives of a living being, making it immoral and inhuman. additionally, they raised the problem of consent, wondering who might provide consent on behalf of Aruna, given her incapacity to specifically consent for withdrawal from existence aid.

⁵Pinki Virani, "Passive Euthanasia is Aruna's Gift", *The Hindu*, May 17, 2015, <https://www.thehindu.com/news/national/passive-euthanasia-is-arunas-gift-pinki-virani/article7220792.ece/amp/> (Last accessed on February 27, 2025).

⁶

Judgement:

The courtroom in *Aruna Shanbaug vs. Union of India* made a clear distinction between active and passive euthanasia. Euthanasia includes the planned and high-quality termination of existence through the management of deadly materials, normally considered a worldwide crime unless approved by regulation. In India, active euthanasia is an instantaneous violation of section 302(2) and Section 304(3) of the Indian Penal Code (IPC). Additionally, doctor-assisted suicide is an offense beneath segment 309(4) of the IPC. on the other hand, passive euthanasia refers to the withdrawal of lifestyles-support systems or medical treatment. The important thing difference lies within the fact that “active” includes a planned action to stop existence, whilst “passive” includes the omission of a motion.

The apex court in *Aruna Shanbaug vs Union of India* laid down particular procedures and suggestions for granting passive euthanasia within the “rarest of rare occasions,” rejecting the petitioner’s plea. It clarified that choices regarding the withdrawal of existence guide could be made employing the high court under Article 226.

Whilst an application is received, the Chief Justice of the High Court has to represent a bench earlier than which a committee of 3 official docs should be referred. a radical examination of the affected person ought to take place and the state and the family contributors ought to be given a word issued by the bench. The high court is needed to make a rapid choice.

Crucial Analysis

In the landmark *Gian Kaur* case, the ideal court had formerly rejected the popularity of the right to die within the right to existence under Article 21 of the Indian charter. This recent judgment marks a historic shift via legalizing passive euthanasia in India, aiming to stop the suffering of patients enduring unbearable and prolonged pain. It acknowledges that, despite advancements in technology, it is vital to remember the fact that people must govern and maintain era, now not the opposite way round. The judgment emphasises that each citizen is entitled to and has the proper to die with dignity.

Worldwide views on Euthanasia

- *The Netherlands*: Criminalised since 2001, with strict due care standards, including voluntary and persistent requests and unbiased clinical critiques.

- **Belgium:** Legalized in 2002, extending rights to terminally sick kids in 2014. allows euthanasia for unbearable suffering, even in non-terminal instances.
- **Canada:** Legalized in 2016 beneath medical assistance in death (MAID), accelerated in 2021 for non-terminal illnesses causing unbearable suffering.
- **Colombia:** Criminalised since 1997, with a focus on affected person dignity and consent.
- **Ecuador:** Decriminalized by way of constitutional court docket ruling, emphasizing the right to a dignified dying.
- **Spain:** Legalized in 2021, declaring affected person autonomy and rights.
- **New Zealand:** Legalized in 2021 under the end of Life choice Act for terminal patients.
- **Switzerland:** prison under strict situations, provided with the aid of corporations like Dignitas.
- **Australia:** Legalized in a couple of states, with regional variations in eligibility and strategies.
- **USA:** Legalized in pick states along with Oregon, California, and Washington.
- **UK:** Prohibits euthanasia however allows passive euthanasia (withholding remedy).
- **India:** Passive euthanasia is allowed below strict recommendations established by using the best court.
- **Most African and Asian international locations:** Euthanasia is generally prohibited because of spiritual and cultural beliefs.

Ethical Considerations and Public Perspective

The debate on euthanasia includes strong ethical issues and diverse public views. World Medical Association (WMA) opposes euthanasia and physician-assisted suicide, defining euthanasia as a doctor deliberately inflicting a patient's dying at their voluntary request. however, the WMA acknowledges that individual physicians can also keep one-of-a-kind perspectives⁷.

An outstanding case that highlights the emotional size of this debate is that of Pamela Bone, an Australian journalist who suffered from myeloma for four years. She supported euthanasia, stating that even as she did not fear death, she feared the suffering that would precede it⁸. Like

⁷ Owens, B. (2018). Was euthanasia dispute behind CMA–WMA split? Canadian Medical Association Journal, 190(46), E1369–E1370. <https://doi.org/10.1503/cmaj.109-5682>

⁸ Euthanasia: Utilitarianism and Morality of Death Essay - 1945 words | Bartleby. (n.d.).

many terminally sick patients, she endorsed the right to die on her very own terms.

Supporters of euthanasia argue that it offers a compassionate manner to relieve insufferable pain and suffering, permitting individuals to die with dignity and preserve control over their lives. In addition, they factor out that euthanasia can lessen prolonged healthcare fees through stopping prolonged medical institution or hospice stays.

Fighters, however, contend that euthanasia is morally incorrect, even in instances of terminal infection. They raise issues about ability abuses, along with coercion or strain on inclined people, and invoke the "slippery slope" argument, fearing that legalizing euthanasia ought to result in involuntary euthanasia. Additionally, they pressure the sanctity of life, maintaining that legalizing euthanasia ought to diminish the inherent value of human lives. Moreover, spiritual, cultural, and moral beliefs similarly shape the complex variety of critiques on this deeply debated difficulty.

Arguments towards Euthanasia:

- *Removing the Invalid:* Fighters argue that euthanasia undermines the cost of lifestyles and promotes discrimination in opposition to people with terminal illnesses. Palliative care gives an alternative through compassionate care.
- *Constitutional issues:* Right to life beneath Article 21 is an inherent right, and euthanasia contradicts this principle. Legalized euthanasia should cause a decline in healthcare investments and great.
- *Intellectual health factors:* Depression and mental ailments often drive individuals to seek euthanasia, highlighting the need for psychiatric intervention in place of termination of existence.
- *Threat of Misuse:* Legalization may additionally result in unethical practices, together with coercion for inheritance.
- *Emphasis on Care:* Advances in clinical technological science can extend life, and palliative care can improve the quality of life even if a remedy is impossible.
- *Commercialization of Healthcare:* Legalizing euthanasia may lead to exacerbating inequalities, leading to passive euthanasia pushed through monetary constraints.

Arguments assisting Euthanasia:

- *Caregivers' Burden:* Euthanasia may relieve households from extended emotional, economic, and physical distress.
- *Proper to Refuse Care:* The felony recognition of a patient's right to refuse life-sustaining treatment supports passive euthanasia.
- *Right to Die with Dignity:* Sufferers with persistent or terminal ailments may also be searching for euthanasia to avoid extended suffering.
- *Promoting Organ Donation:* Euthanasia in terminal cases can facilitate organ transplantation, saving different lives.
- *State's responsibility:* Proponents argue that insufficient government aid for healthcare exacerbates struggling, making euthanasia a compelled choice.

Suggestions

- *Public Consciousness Campaigns:* train residents on their rights concerning living wills and end-of-life care.
- *Felony clarity:* Simplify the technique for passive euthanasia to make sure on hand and honest implementation.
- *Medical education:* Equip healthcare companies with education on moral and legal aspects of euthanasia.
- *Support structures:* increase palliative care facilities and counselling offerings for sufferers and households.
- *Safeguards:* establish robust mechanisms to prevent abuse of euthanasia laws.

Conclusion

The controversy on legalizing euthanasia or health practitioner-assisted death often revolves around four key moral standards: beneficence, non-maleficence, autonomy, and justice. Beneficence emphasizes prioritizing the patient's well-being and relieving suffering. Non-maleficence requires evaluating capacity risks and ensuring that no damage is caused via interventions. Autonomy upholds a man or woman's right to make non-public selections, which includes advance directives or living wills. Justice focuses on fairness, together with the right of entry to palliative care, patient support, and equitable prison frameworks.

A comprehensive felony framework for euthanasia in India is essential due to prevailing

criminal ambiguities, especially around active euthanasia. India can examine from international locations wherein euthanasia is legalized to create laws that balance person autonomy with protections against abuse, ensuring equity and safeguarding susceptible populations. prison improvements have set essential precedents, but effective implementation and public participation are critical. A balanced approach that upholds dignity, compassion, and safeguards towards misuse will foster a humane and just healthcare device.

