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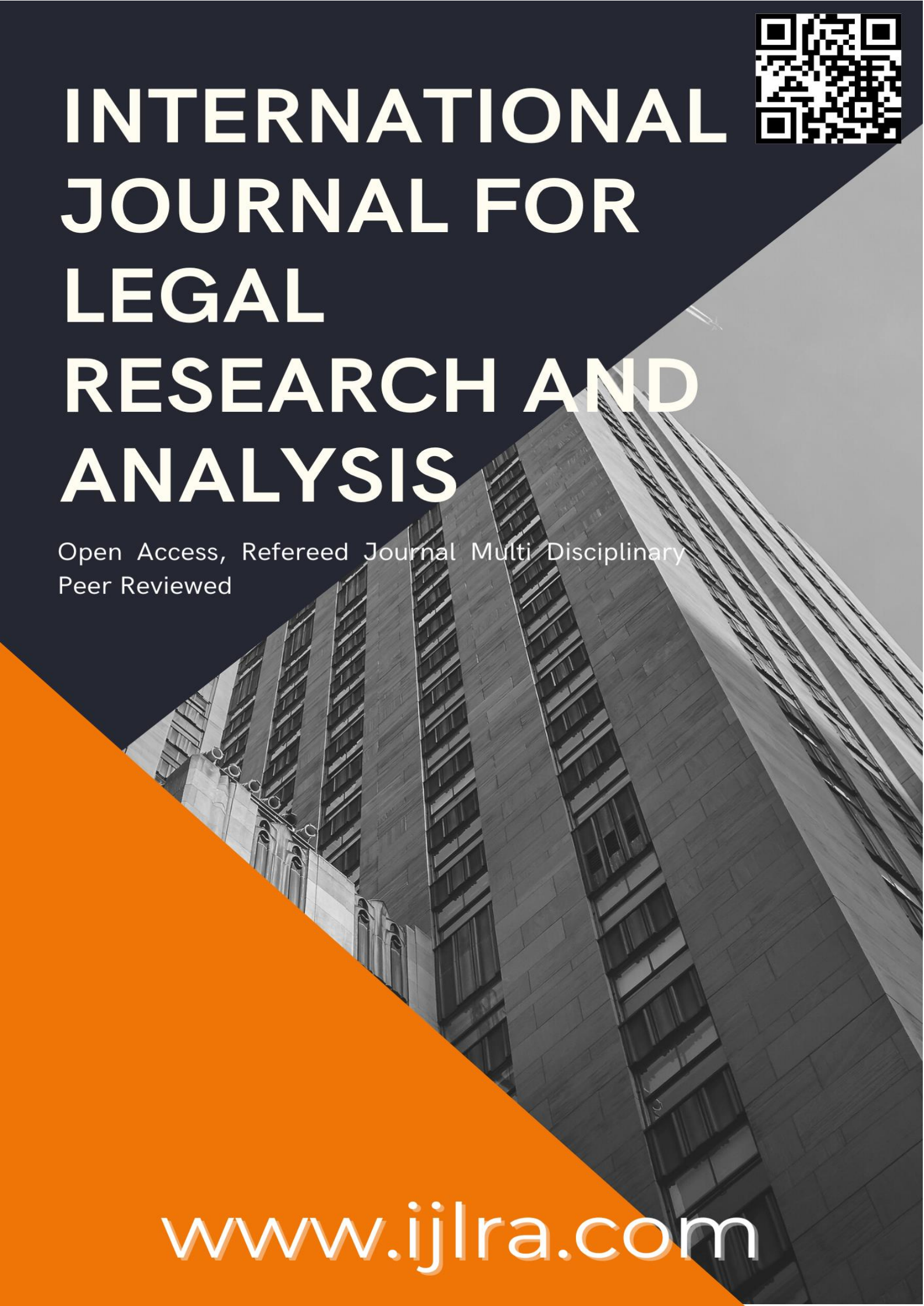

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A COMPARATIVE STUDY OF GLOBAL LEGAL STATUS OF EUTHANASIA

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ABSTRACT

The practice of euthanasia is a widely debated issue across the world and various jurisdictions have recognised different types of euthanasia through laws and/or judicial decisions.

In India, the Supreme Court has legally recognised passive euthanasia as a practice, whereby, physicians withdraw or withhold life supporting measures to terminate the life of a patient in a persistent vegetative state, or is suffering from terminal illness having no hope for recovery, provided the procedure laid down in the judicial precedent(s) including *Common Cause (a Regd. Society) vs Union of India (2018) 5 SCC 1 read with MANU/SC/0089/2023* is followed in the best interests of the patient. These decisions have well-balanced the conflict of interest between a patient's right to life, autonomy, privacy and right to die with human dignity, etc and a guardian or doctor's choice (where patient is unable to decide), regarding further course of action, in respect of patients suffering from terminal illness and there is no hope for recovery. Such acts of doctors are protected against criminal liability and/or medical negligence under the Indian laws, provided good faith and compliance of procedure is established on the part of the doctors.

Although various countries have legally recognised different kinds of euthanasia, but all the regimes regulating euthanasia in India, the United Kingdom (**UK**), the United States of America (**USA**) and Australia have considered 'best interests of the patient' as the basis to take decisions for allowing or refusing euthanasia in each case, thereby, protecting the rights of the patient in question.

The present Article deals with the comparative study of legal status of euthanasia across various jurisdictions including India, Australia, the UK and the USA including relevant judicial precedents in this regard.

Keywords:

Euthanasia, consent, good faith, best interests of patient, right to die with human dignity.

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INTRODUCTION

Euthanasia refers to a practice of terminating a patient's life, with or without the patient's consent, to end the pain and suffering associated with their illness or disease.

Types of Euthanasia	Meaning
A) Involuntary	Refers to terminating the life of a patient against their will.
B) Non-voluntary	Refers to termination of a patient's life without their consent, owing to lack of mental capacity to communicate or freely decide future course of action, etc.
C) Voluntary	Refers to termination of life with clear and informed consent or at patient's request.
D) Active	Refers to active administration, say, of substance, etc to accelerate death of the patient. This form is illegal in India, as it amounts to abetment of suicide.
E) Passive	Refers to process where crucial medical intervention is withheld or withdrawn, to discontinue the life of a patient and relieve them from pain associated with terminal illness or persistent vegetative state (**PVS**), where there is no hope for recovery, provided there is consent of the patient or family members or next of kin, etc[1]. This form is lawful in India, if legal process is followed, else it would amount to medical negligence, breach of duty of care etc. In India, passive euthanasia has been legally recognised through various judicial precedents of the Supreme Court (in short, 'SC').

However, there have been decades-long debates and conflicts regarding whether to allow and in what circumstances to allow the practice of passive euthanasia, as it pertains to a person's right to life, dignity, bodily integrity, etc, on the one hand and a doctor's duty of care to provide treatment to save life, on the other hand.

It is important to note here that every human possesses intrinsic dignity and as such may not be allowed to destroy his or her life. This principle of 'sanctity of life' is found in the nature of right to life under Article 21 of the Constitution, whereby, the inherent right to life of a human being is legally recognised and such right ought not to be deprived with, except according to fair, just and reasonable procedure established by law.

[1] *Common Cause (a Regd. Society) v. Union of India*, (2018) 5 SCC 1.

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The Supreme Court made significant observations in *Common Cause (a Regd. Society) vs Union of India (5-Judge Bench)*[2], recognising that dignity of a human being is essential to preserve the sanctity of life and in *Justice KS Puttaswamy (Retd.) v Union of India (9-Judge Bench)*[3], that right to privacy is the core of human dignity and the right to life under Article 21.

But living a life with human dignity includes living a quality and dignified life. Further, Article 21 provides a person right to privacy that ensures he or she can lead a dignified life and is free to make essential choices and intimate decisions that affects their course of life. Such right to privacy includes right of refusal to prolong medical procedure or terminate their deteriorating life, owing to affordability factors etc.

On the other hand, various scholars believe that the dignity of life would be compromised if there is irreversible illness, leading to imminent and painful death. Thus, if medical treatment cannot provide a cure or restore deteriorating health, such life ought not be prolonged in a vegetative state using artificial methods such as ventilation etc. Further, continuing such contrary to the wishes or decision of the patient would violate their right to privacy, bodily integrity etc. Such acts that are done (i) in good faith, (ii) solely for the benefit of a person, (iii) without any intention of causing death or injury, would be protected under the Indian law[4].

However, the 2002 Indian Medical Council Regulations[5] prohibit the practice of euthanasia except in a case pertaining to "*the question of withdrawing supporting devices to sustain cardio-pulmonary function even after brain death*".

Thus, there are conflicting opinions and debates about whether to allow passive euthanasia, considering the need to bring an end to the pain connected with terminal illness.

The patient may exercise choice to end his or her life and such autonomy would ensure human dignity in the final stage of life. But in cases where patients are incapable of taking a decision, there is a legitimate expectation that State steps in to provide a reasonable order which protects their autonomy as well as balances their right to life and dignified death under Article 21.

IMPORTANT JUDICIAL PRECEDENTS ON EUTHANASIA

A) Gian Kaur v. State of Punjab[6]

The Supreme Court (5 Judge Bench) upheld the constitutional validity of the provisions

[2] *Supra* note 1.
[3] *Justice KS Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
[4] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 30
[5] The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002, Regulation 6.7.
[6] *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648.

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of the Indian Penal Code 1860 (**IPC**), including Section 306, which punishes the act of abetment of suicide and Section 309, that punishes the act of attempt to commit suicide, on the ground that right to life guaranteed under Article 21 includes:

i) Right to live with human dignity
ii) Right to die with human dignity (vis-a-vis patients suffering from terminal illness, whose death is certain and imminent)
iii) But does not include right to die an unnatural death (say, through suicide) that curtails the natural span of human life.

Most importantly, the Bench in this case touched upon the issue of whether euthanasia ought to be legalised in India, in respect of patients suffering from terminally illness or in a PVS condition.

However, the Bench held that with respect to euthanasia, it is the law makers' role to legally recognise such right to die with human dignity, in order to ensure that caution is exercised and acts are performed within the contours of law.

B) Aruna Ramachandra Shanbaug v. Union of India[7]

In this case, the Supreme Court (2 Judge Bench) discussed in detail about active and passive euthanasia, which is summarised below*:*

i) Cases of active euthanasia:

a) Here, an act is done by a physician to end or terminate a patient's life (with the patient's consent), say, by administering lethal medication to the patient.
b) Such acts are violative of Article 21, as SC in *Gian Kaur (supra)* has made observations that the fundamental right under Article 21 i.e. right to life does not involve right to die unnatural death.
c) Further, the said act would constitute penal offence under Section 306 IPC.
d) Furthermore, in case the patient is provided with a substance and with the physician's assistance, the patient consumes the substance, thereby constituting physician assisted death, such acts are also deemed to be an offence under Section 306 IPC.
e) Hence, active euthanasia is considered illegal in India.

ii) Cases of passive euthanasia:

Herein, doctors are 'not' doing an act to save a patient, say, by removing life-support measures, or ventilator support etc:

[7] *Aruna Ramachandra Shanbaug v. Union of India,* (2011) 4 SCC 454.

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a) Provided patient's consent is obtained, who wilfully gives up medical treatment due to pain, or monetary factors, etc. Such cases of voluntary passive euthanasia do not pose legal difficulty.

b) However, where the patient is not in a position to give consent, being in coma or in a PVS condition, etc, their family members or guardian are given the choice thereof. In such cases of non-voluntary passive euthanasia, acts of withdrawal of life saving measures etc for the benefit of the patient, is legally permissible in India, provided the same is exercised in good faith.

Herein, the SC legally recognised passive euthanasia, but the Bench refused to grant the said relief to the Petitioner, as she was being well taken care of by hospital staff (i.e. her next friend), who ought to continue such treatment (till her natural death). Eventually, she passed away due to pneumonia in 2015[8].

C) Common Cause (a Regd. Society) v. Union of India[9]:

A five-Judge Bench of the Supreme Court has recently laid down the procedure to be followed in cases of passive euthanasia in *Common Cause (a Regd. Society) v. Union of India*[10], as modified by another five-Judge Bench of the Apex Court[11], which is the prevailing law in India. The said procedure has been briefly summarised below:

(I) Execution of Advance Medical Directive:

a) By an adult with a sound and competent mind, who understands the consequence of executing an Advance Medical Directive (**AMD**),

b) Voluntarily and in writing,

c) Specify in clear and unambiguous words,

d) About when withdrawal or withholding of medical treatment ought to be done, to avoid delaying of process of death and associated pain and anguish that would put them in a state of indignity.

e) Such directive is revocable at the behest of executor

f) Specify name of guardian(s) or close family relative(s), who would be authorised to act as per the AMD and thereby, refuse or withdraw medical procedure.

[8] Alok Deshpande, "After 42 years in coma, nurse Aruna Shanbaug dies", *The Hindu,* Sept. 23, 2017, *available at* https://www.thehindu.com/news/national/after-42-years-in-coma-mumbai-nurse-aruna-shanbaug-dies/article61470553.ece (last visited on May 12, 2026)

[9] *Common Cause (a Regd. Society) v. Union of India*. (2018) 5 SCC 1.
Common Cause (a Regd. Society) v. Union of India. MANU/SC/0089/2023.

[10] *Common Cause (a Regd. Society) v. Union of India* (2018) 5 SCC 1.

[11] *Common Cause (a Regd. Society) v. Union of India*, MANU/SC/0089/2023.

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(II) Recording of AMD

i) AMD to be signed by executor before two independent attesting witnesses
ii) AMD to be countersigned by Ld. Judicial Magistrate First Class (**JMFC**) so designated by Hon'ble District Judge
iii) AMD to be attested before a Gazetted Officer or notary
iv) Witnesses, notary or Gazetted Officer and JMFC to record their satisfaction about voluntarily execution of AMD
v) JMFC to hand over AMD to person(s) named therein and their family physician
vi) JMFC to hand over copy to the relevant local Government officer or Municipal Corporation or Panchayat etc
vii) Such Government Authority to nominate an official to be custodian of AMD
viii) Executor may choose to add AMD in digital health records, if any.

(III) Giving effect to AMD:

(A) When executor is terminally ill and the health becomes incurable or irreversible and does not possess any longer the capacity for decision-making, then the treating physician once made aware of the patient's AMD ought to act as follows:

i) Ascertain its genuineness from existing digital health records from the custodian of AMD
ii) Satisfy himself or herself of such terminal illness, where there is no hope for recovery
iii) Act upon AMD as per instructions therein
iv) Explain and inform the person(s) named in AMD about such terminal illness, the available alternate health care options, consequences of not being treated and reasons supporting withholding or withdrawal of medical treatment etc.

(III) (B) Hospital to constitute Primary Medical Board constituting:

i) Treating physician,
ii) Minimum two (2) subject medical experts of the relevant speciality having minimum five (5) years of experience in medical field:

The Primary Medical Board ought to visit the patient who is accompanied by his or her guardian or close family relative and form a Preliminary Opinion, in less than 48 hours of reference of case to the said Board, either certifying or not certifying the withdrawal or withholding of medical procedure.

(III) (C) If Primary Medical Board does not certify to carry out AMD instructions-

The person(s) named in AMD have the option to request hospital for referring the patient's case to the Secondary Medical Board for appropriate directions.

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(III) (D) If the Primary Medical Board certifies the AMD instructions:

The Hospital ought to set up a Secondary Medical Board constituting:

I) Registered practitioner from the medical field (as nominated by the Chief District Medical Officer)

II) Minimum two (2) subject medical experts of relevant speciality having minimum five (5) years of experience in medical field (*not being members of Primary Medical Board*)

The said Secondary Medical Board members ought to jointly visit the patient, ascertain the medical condition of executor to expressly give consent, failing which, the Board ought to obtain consent from the guardian nominated in AMD and thereafter, provide an opinion, in less than 48 hours of reference of case to the Secondary Medical Board. The Board may decide either to concur with the Preliminary Opinion of the Primary Medical Board or not to concur with the same.

(III) (E) The Secondary Medical Board ought to endorse the certificate to carry out the AMD instructions.

(III) (F) The Hospital ought to inform the decisions of the aforesaid Medical Boards as well as the consent of the person(s) mentioned in AMD to the Ld. JMFC having jurisdiction in the said case, to withdraw or withhold medical treatment in respect of executor.

(III) (G) The Ld. JMFC ought to give effect to such decision.

[It is significant to note here that the executor may revoke the AMD at any time before the Board's decision is implemented.]

(III) (H) As a result of withdrawal or withholding of medical treatment, once a patient's death is confirmed, the intimation has to be given by Ld. JMFC to the concerned High Court and a copy of the same ought to be maintained in physical and digital formats.

(IV) If the Secondary Board decides not to give effect to AMD (*owing to unclear and ambiguous wordings or instructions in AMD etc)*:

i) The Person(s) named in AMD or treating doctor or hospital staff may file Writ Petition under Article 226 before the concerned High Court.

ii) The High Court (DB) ought to conduct expeditious hearing and approve or refuse to give effect to AMD, considering the 'best interests of the patient'.

iii) The High Court may set up an independent Committee consisting of three (3) experts from relevant domains, inter alia, psychiatry or, general medicine, etc, having minimum 20 years of experience in the medical field (critical care).

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iv) The High Court may constitute a Medical Board for examination of patient and the said Board has to submit a report to the High Court about practicability of giving effect to AMD instructions.

v) The High Court ought to pass order(s) accordingly i.e. to give or not give effect to AMD.

(V) If there is no AMD and the patient is terminally ill and there is no hope for recovery:

a) The Primary Medical Board (constituted by hospital) ought to discuss with family physician, if any, the family members or next friend or guardian of the patient about the terminal illness, advantages and disadvantages of withdrawal or refusal of medical procedure, record minutes of discussion and take their written consent.

b) The Primary Medical Board ought to form a Preliminary Opinion, within 48 hours of case reference to the said Board.

c) *To follow same procedure as (III) (B)-(H) and (IV) mentioned hereinabove.*

(VI) If Primary and/or Secondary Medical Board do not concur on withdrawal or withholding of medical treatment (*in absence of AMD*)

The nominee or family member of a patient or the treating staff or hospital to follow the *same procedure as (IV).*

GLOBAL LEGAL STATUS OF EUTHANASIA

The following is a comparative study of the legal status of euthanasia across the UK, the USA and Australia:

The UK

In *Airedale NHS Trust v. Bland*[12], the House of Lords made certain observations regarding assisted dying as follows:

Brief Facts

In this case, one, Anthony Bland suffered injuries during a football match that left his brain completely damaged and he got into a PVS condition i.e.:

a) He became incapable of voluntary movement,

b) He felt no pain, unable to communicate etc

c) He was living with aid of artificial support.

[12] *Airedale NHS Trust v. Bland*, (1993) 2 WLR 316.

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Observations

The House of Lords observed that doctor(s) ought to act in the 'best interest' of the patient and reasonably conclude about whether to continue giving artificial medical support or not. Otherwise, it would constitute battery and trespass on patient's body.

Further, the doctor's decision ought to be assessed based on test laid down in *Bolam v. Friern Hospital Management Committee*[13]: i.e. if a doctor has acted as per standard of practice accepted by a reasonable medical body skilled in that field, such doctor is not negligent.

The House of Lords observed that:

I) If a patient refuses treatment or

II) If the patient is not in a condition to express his wishes,

it would be lawful for the doctors acing in his or her 'best interest', to discontinue the treatment.

Order: Hence, in this case, by applying the *Bolam test (supra),* the House of Lords allowed the declaration of the Hospital to withdraw the patient's life support, in the best interests of the patient.

Further, it is significant to understand the recent status quo of legal status of assisted dying in the UK, as follows:

A) Currently, the Mental Capacity Act 2005 allows an adult to make 'advance decisions' for refusing a specific treatment in future.[14] But per se there is no law legalising euthanasia in UK.

B) The UK House of Commons recently approved the Terminally Ill Adults (End of Life) Bill (June 2025) to legalise assisted dying.[15] It is to be noted that the House of Lords is yet to scrutinise the Bill.[16]

C) The said Bill provides for the eligibility criteria of a patient to be considered for assisted dying:

   i) adults (above 18 years)
   ii) suffering from progressive illness that is irreversible by treatment
   iii) death is inevitably expected in 6 months
   iv) registered as a patient with a general medical practitioner in England or Wales

[13] *Bolam vs Friern Hospital Management Committee,* (1957) 1 WLR 582.

[14] Mental Capacity Act 2005, UK, available at *https://www.legislation.gov.uk/ukpga/2005/9/contents* (last visited on May 12, 2026).

[15] Terminally Ill Adults (End of Life) Bill, UK, *https://bills.parliament.uk/bills/3774* (Last Modified Apr. 30, 2026).

[16] Richard Wheeler and Kate Whannel, "Assisted Dying Bill runs out of time but supporters vow to try again", *BBC,* Apr. 24, 2026, *available at* https://www.bbc.com/news/articles/cgk0vz5e2zxo (last visited on May 12, 2026)

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v) to express a clear and unequivocal desire to make two declarations (witnessed and signed) about their wish to die
vi) ordinarily resident in England or Wales *(12 months prior to first declaration)*
vii) patient's condition, eligibility assessed by two independent doctors
viii) coordinating doctor to provide with an approved substance to end patient's life.

The USA

In *Cruzan v. Director, Missouri Department of Health*[17], the US Supreme Court (SC) observed as follows regarding euthanasia:

Brief Facts:

i) The Appellant met with a car accident and later, went into PVS condition.
ii) Parents insisted that treating doctor ends her life-support.

Observations:

Doctrine of informed consent: The US SC observed that patients possess a right to self-determination, etc and refuse consent to life-sustaining medical treatment. But if a patient is not in a condition to give consent, a surrogate may act as per the wishes expressed by the patient, when he or she was competent to take the decision (say, from prior decisions or discussions).

In short, clear and conclusive evidence has to be established to prove patient's consent, thereby, highlighting the significance of bodily integrity and informed consent.

Order:

The US SC held that as there was lack of 'clear and convincing' evidence of patient's preference to end life-support, hence, the physician ought to respect her desire (to continue treatment) and refrain from following her parents' request.

Furthermore, it is significant to learn about the recent status quo of legal status of euthanasia in the USA:

I) Active euthanasia is considered unlawful.
II) Death with Dignity Act 2016 (Columbia[18], Washington[19], etc)- Physician - assisted death is allowed (lethal medication is given to terminally ill patients, as per the legal procedure).

Australia

[17] *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261 (1990).
[18] Government of the District of Columbia, District of Columbia: Death with Dignity Act (DC Health, 2023).
[19] Death with Dignity Act 2008, Washington, USA, *available at:* https://doh.wa.gov/data-and-statistical-reports/health-statistics/death-dignity-act (Last visited on May 12, 2026).

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The New South Wales SC, in the matter of *Hunter and New England Area Health Service v. A*[20], held as follows regarding euthanasia, relevance of advance directives etc:

Brief facts:

a) The Respondent had executed an advance directive that he won't take kidney dialysis.
b) One year later, when he was admitted to hospital, the doctors sought judicial declaration on the patient's advance directive.

Observations:

The New South Wales SC observed that in order to make informed choice about future (by preparing an advance directive), the mental ability or capacity is a pre-essential criterion.

Order: The New South Wales SC held that as the patient (a capable adult) had already made a clear and explicit advance directive choosing not to receive a specific type of medical treatment, despite knowing that without such treatment, it would inevitably lead to death, his desire of not being given kidney dialysis ought to be respected, otherwise, it would amount to battery.

Further, the following is the recent status quo of legal status of euthanasia in Australia:

A) Consent to Medical Treatment and Palliative Care Act 1995 (South Australia)
B) Voluntary Assisted Dying Act 2021

The said laws lay down circumstances when medical professionals would not be held criminally liable for abiding by advance health directive or guardian's decision etc and providing medical treatment to hasten patient's death.[21]

CONCLUSION

Upon comparing the legal status of passive euthanasia in India with that of assisted dying or euthanasia in other countries inter alia, India, UK, USA and Australia, the similarity in all these regimes is to the extent that they base their decisions to facilitate euthanasia, on the 'best interests' of the patient. Further, India and USA have explicitly considered active euthanasia as illegal, whereas, India and Australia have given due importance to advance medical directives executed by a patient. But in USA, UK and Australian regimes, the respective Bills or Acts provide for physician-assisted death, where approved dying substance or medication is provided for consumption by terminally ill patients to end their life. However, such form of assisted dying is not legally permissible in India.

[20] *Hunter and New England Area Health Service v. A,* (2009) NSWSC761.
[21] Australian Human Rights Commission, "Euthanasia, human rights and the law" 6 (May 2016).

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As noted hereinabove, the Hon'ble Supreme Court of India in *Common Cause (supra)* has laid down elaborate procedure for enabling passive euthanasia that involves withdrawal or withholding of medical treatment (based on consent) and not direct administration of lethal substance to the patient. In this manner, the Indian Court(s) have protected the patient's right to die with dignity.

Further, by applying the principles laid down in *Common Cause (supra)*, the Hon'ble Supreme Court (2-Judge Bench) has in a recent case of *Harish Rana v. Union of India*[22], for the first time allowed passive euthanasia in India, with respect to a patient, named Harish Rana, who was being administered the clinically assisted nutrition and hydration (CANH) treatment at AIIMS, New Delhi, due to the axonal injury suffered from a fall from the fourth floor of his PG accommodation in August 2013. Further, as per the Medical Boards constituted in the present case, the said treatment was considered as life-supporting medical treatment, which ought not to be continued, in the best interests of the patient. Hence, directions were given to AIIMS to withdraw or withhold the said treatment. Accordingly, the process was carried out and the patient passed away on 24.03.2026[23].

Thus, as per the now settled law in India, the judicial precedent(s) have covered all aspects of procedure to be complied in case of passive euthanasia and *Common Cause (supra)* is the prevailing law, till the time a legislation is enacted in this regard.

ANALYSIS

The procedure for enabling passive euthanasia in case of patients suffering from terminal illness in *Common Cause (supra)*, has addressed the difficulties faced by medical professionals, as to what may be lawfully done to relieve the suffering of the patient and also not get penalised or punished under the law.

Thus, in the event that a doctor makes bona fide assessment of patient's medical condition and while taking decision in good faith follows the procedure laid down in *Common Cause (supra)*, then the doctor is deemed to have fulfilled his duty of care as well as protected the dignity of human life. In such cases, charges of abetment of suicide[24], culpable homicide[25], murder[26],

[22] *Harish Rana v. Union of India*, 2026 INSC 222.
[23] TOI News Desk, "Harish Rana, India's first passive euthanasia case, dies after 13 years in vegetative state", *The Times of India*, Mar. 24, 2026, *available at* https://timesofindia.indiatimes.com/india/harish-rana-indias-first-passive-euthanasia-case-dies-after-13-years-in-vegetative-state/articleshow/129776211.cms (last visited on May 12, 2026)
[24] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 108
[25] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 100
[26] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 101

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negligence[27] etc or any civil liabilities, would not be attracted[28], as the decisions are not based on the intention to cause injury or death, but to prevent the immense pain and agony of the patient in their last phase of irreversible terminal illness.

Further, the judgment also caters to the growing dilemma with regard to cases where patient is unable to communicate his or her wishes and has not executed any AMD, as in such cases, the settled law gives primary importance to the choice of the patient's next of kin who have to decide about the next course of action, keeping in mind the 'best interests of the patient'. However, such procedure impliedly compromises with patient's autonomy and dignity as they have to depend on others for decision on their future course of treatment, as was the case in *Harish Rana (supra)*.

Further, there is no uniform criterion to ascertain the 'best interests of the patient', as the medical illnesses and their severity differ from person-to-person and thus, there is a likelihood of misuse of law or dishonest practices on the part of doctors, family members, etc. Hence, cases concerning passive euthanasia continue to be a delicate matter and have to be dealt with carefully and sensitively.

[27] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 106
[28] *Supra* note 1 at 294.