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"EUTHANASIA: CONCEPT AND LEGAL FRAMEWORK IN INDIA"

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ABSTRACT

Life is a gift even a painful one is a life at least. The general presumption is that every human being is desirous to live and enjoy the fruits of his life till he lives. However, this presumption is not beyond debate. There are situations where human beings wish to end their lives by unnatural means. This happens mostly in the cases where one is suffering from painful, chronic and incurable disease. The intentional termination of patient's life in such a situation by an act or omission of medical care is called mercy killing or euthanasia.

Article 21: "No person shall be deprived of his life or personal liberty except according to procedure established by law."¹ Article 21 though worded in negative phraseology, has imposed positive obligation upon the state to take step for ensuring better quality of life and dignity to people. But can this right be stretched to such an extent, so as to include within its purview, the right to die? Can any right to freedom be used for its own destruction? Can a right to live include right not to live or right to die?

The necessary implication for an ordinary person is, when life itself feels more painful, miserable and unbearable than death, and then one may embrace death (Mercy Killing or Euthanasia). However, for the great saints, hermits and heroic persons death implies a full stop to life when they have achieved their aims and feel content with their life. They accelerate death after achieving the purpose of life (*'Swachchanda Mrityu'*² or *'Tchchamaran'* or 'willful death'). For some death may not matter before performance of their duty which they find more sacred

¹ Art. 21, Constitution of India.

²Available at: <https://blankmisgivings.wordpress.com/tag/swachchanda-mrityu/> (last visited on April 10, 2026).

than death.

Introduction

Euthanasia commonly referred to as Mercy killing, constitutes one of the most complex and contested issues in contemporary legal discourse. The word 'Euthanasia' originated from the Greek Language: eu means 'good' and Thanatos is 'death' so it literally 'means good and easy death'. It refers to the practice of ending a life in a manner which relieves pain and suffering.³ However, within modern constitutional and legal frameworks, the concept extends far beyond its literal meaning and engages deeply with questions of autonomy, dignity, criminal liability, and state responsibility.

Oxford English Dictionary defines euthanasia as "the painless killing of patient suffering from an incurable disease or in an irreversible coma."⁴ It is the process whereby human life is ended by another in order to avoid the distressing effects of an illness."⁵ The word 'Euthanasia' was first used in a medical context by Francis Bacon in the 17th century, to refer to an easy, painless, happy death, during which it was a "physician's responsibility to alleviate the 'physical sufferings' of the body".⁶

In India, euthanasia is not merely a medical or ethical issue; it is fundamentally a constitutional concern. The debate revolves around the tension between two foundational doctrines: the sanctity of life, which regards life as inviolable and beyond voluntary termination, and the principle of autonomy, which emphasizes an individual's right to make decisions regarding their own body and medical treatment.

This tension becomes particularly pronounced in cases involving terminal illness, irreversible medical conditions, or prolonged vegetative states. The central question that arises is whether the preservation of biological life at all costs aligns with the constitutional vision of dignity under Article 21 of the Constitution of India.

³A Kaur, "Legalization of Euthanasia in India — A Critical Analysis" Available at: <http://www.ijlra.com/htmlfile/Law%0Herald> (Visited on 11.04.2026).

⁴*Supra* Note 36.

⁵Euthanasia Definition Available at: <http://www.euthanasia.com/definitions.html>. (Visited on 13.4.2026).

⁶*Ibid.*

Classification of Euthanasia

A. Based on consent: Euthanasia may be classified on the basis of consent into three types: voluntary, non-voluntary and involuntary.

1. Voluntary Euthanasia

Euthanasia conducted with the consent of the patient is termed voluntary euthanasia. Voluntary euthanasia is legal in Belgium, Luxembourg, Netherlands, Switzerland's and the states of Oregon and Washington of United States when the patient brings about his or her own death with the assistance of physician the term assisted suicide is often used instead of euthanasia."

2. Non-voluntary Euthanasia

Euthanasia conducted where the consent of the patient is unobtainable is termed non-voluntary euthanasia. Examples include child euthanasia, which is illegal worldwide but decriminalized under certain specific circumstances in the Netherlands under the Groningen Protocol. Involuntary euthanasia conducted against the will of the patient is termed involuntary euthanasia.

B. On the Basis of Procedural Decision

Voluntary, non-voluntary and involuntary euthanasia can all be further divided into passive or active variants. A number of authors consider these terms to be misleading.

1. Passive Euthanasia

Passive euthanasia entails the withholdings of common treatments such as antibiotics, necessary for the continuance of life.

2. Active euthanasia

Active euthanasia entails the use of lethal substance or force to kill and is the most controversial issue. Euthanasia is active when a human intervention directly causes or accelerates death of a person who would otherwise die in course of time from other causes.

THE LEGAL POSITION OF MERCY KILLING IN INDIA

Today there is a growing debate over the contention, whether people possessing similar rights such as the 'right to live' and also possess the 'right to die'. There is a divided opinion over this issue, as some argue that life is to be continued in every manner possible be it in a natural or artificial one. The rest believe that it being a matter of individual liberty, all of us are entitled

to live and end our lives as and when we deem fit. According to these people, suicide like euthanasia should be morally permissible. Due regard must be given to every case of euthanasia before a person's right to live and die a pain free life is denied. Whereas, it is equally necessary that the state takes interest in the preservation and protection of life, otherwise human life shall have no value.

CONSTITUTIONAL FRAMEWORK: ARTICLE 21 AND **THE RIGHT TO LIFE**

Evolution of Article 21

Article 21 of the Constitution provides that no person shall be deprived of life or personal liberty except according to procedure established by law. Initially interpreted narrowly, the provision has undergone a remarkable transformation through judicial interpretation.

The early approach emphasized procedural legality, allowing deprivation of life as long as it followed statutory procedure. However, subsequent jurisprudence introduced the requirement that such procedure must be fair, just, and reasonable, thereby incorporating substantive due process into Indian constitutional law.

This shift expanded Article 21 into a repository of rights essential to human dignity, including:

- Right to live with dignity
- Right to privacy
- Right to bodily autonomy
- Right to personal liberty

Right to Dignity and Autonomy

Judicial interpretation has consistently emphasized that life under Article 21 is not mere animal existence but includes the right to live with dignity. This includes control over personal decisions, particularly those relating to medical treatment.

The recognition of privacy as a fundamental right further reinforced decisional autonomy, strengthening the argument that individuals should have control over end-of-life decisions.

Right to Die vs Right to Die with Dignity

A crucial distinction in Indian jurisprudence is between:

- A right to die, which is not recognized
- A right to die with dignity, which is conditionally recognized

Judicial decisions initially flirted with the idea that the right to life includes the right not to live, but this view was later rejected. The prevailing position is that while suicide is not protected, the process of dying in cases of terminal illness must respect dignity.

This distinction, though doctrinally significant, remains conceptually fragile. It creates a narrow constitutional window where dignity is protected only at the threshold of natural death, leaving unresolved the broader question of whether autonomy should extend to choosing death itself.

Reports of Law Commission of India

The Law Commission of India in its 42nd Report⁷ (1971) recommended repeal of Section 309 being of the view that this penal provision is "harsh and unjustifiable". In holding this view, the Law Commission quoted the following observations made by H. Romilly Fedden in 'Suicide' (London, 1938) at page 42. "It seems a monstrous procedure to inflict further suffering on even a single individual who has already found life so unbearable, his chances of happiness so slender that he has been willing to face pain and death in order to cease living. That those for who life is altogether bitter should be subjected to further bitterness and degradation seems perverse legislation."

210th Report — The Chairman of the Law Commission of India, Dr. Justice A.R. Lakshman, former Supreme Court judge has submitted 210th report to the Union law minister, Dr. Hans Raj Bhardwaj recommending humanization and decriminalization of attempt to suicide. A brief look at the actions undertaken to revise Article 309 is have necessary. The 18th Law Commission in its 210th Report titled 'Humanization and Decriminalization of Attempt to Suicide' submitted on October 17, 2008 gave the following recommendations⁸ –

1. Suicide occurs in all ages. Life is a gift, given by God and He alone can take it. Its premature termination cannot be approved by any society. But when a troubled individual tries to end his life, it would be cruel and irrational to visit him with punishment on his failure to die. It is his deep unhappiness which causes him to try to end his life. Attempt to suicide is more a manifestation of a diseased condition of mind deserving of treatment and care rather than punishment. It would not be just and fair to inflict additional legal punishment on a person who has already suffered agony and ignominy in his failure to commit suicide.

⁷Available at: www.lawcommissionofindia.nic.in/1-50/report42.pdf (last visited on 17.4. 2026).

⁸Available at: www.lawcommissionofindia.nic.in/reports/report210.pdf (last visited on 16.4. 2026).

2. The criminal law must not act with misplaced over-zeal and it is only where it can prove to be apt and effective machinery to cure the intended evil that it should come into the picture.
3. Section 309 of the IPC provides double punishment for a person who has already got fed up with his own life and desires to end it. Section 309 is also a stumbling block in prevention of suicides and improving the access of medical care to those who have attempted suicide. It is unreasonable to inflict punishment upon a person who on account of family discord destitution, loss of a dear relation or other cause of a like nature overcomes the instinct of self-preservation and decides to take his own life. In such a case, the unfortunate person deserves sympathy, counseling and appropriate treatment, and certainly not the prison.
4. Section 309 needs to be deleted from the statute book because the provision is inhuman, irrespective of whether it is constitutional or unconstitutional. The repeal of the anachronistic law contained in Section 309 of the IPC would save many lives and relieve the distressed of his suffering.
5. The Commission is of the view that while assisting or encouraging another person to (attempt to) commit suicide must not go unpunished, the offence of attempt to commit suicide under Section 309 needs to be omitted from the IPC.⁹

The Right to Die: Judicial Response in India

The development of euthanasia law in India is largely judge-made. In the absence of comprehensive legislation, the Supreme Court and High Courts have progressively shaped the contours of the right to die with dignity through constitutional interpretation.

JUDICIAL DECISIONS

1. P. Rathinam v. Union of India (1994)

In the case of *P. Rathinam v. Union of India*, the Supreme Court ruled that Section 309 of the Indian Penal Code, which made suicide attempts illegal, was unconstitutional.¹⁰ According to the Court, Article 21's right to life includes the right to not live. It held that penalizing someone who attempts suicide is harsh and unreasonable, especially when those people require medical and psychological care. The decision was the first court to recognize a constitutional component of the right to die, even if it was later reversed.

⁹Ibid.

¹⁰*P. Rathinam v. Union of India*, (1994) 3 SCC 394.

2. GianKaur v. State of Punjab (1996)

Sections 306 and 309 of the IPC were allowed in *GianKaur v. State of Punjab*, which overturned P. Rathinam's constitutionality.¹¹The Court determined that while the right to life is guaranteed by Article 21, the right to die is not. Suicide was defined as an unnatural way to end one's life. Nonetheless, the Court noted that Article 21 may apply to the right to a dignified death in circumstances of terminal disease. This little distinction served as the basis for passive euthanasia's constitutional recognition.

3. ArunaRamchandraShanbaug v. Union of India (2011)

The Supreme Court debated whether or not passive euthanasia was permissible in this landmark case.¹²For many years, ArunaShanbaugu was in a vegetative condition. The Court established the distinction between passive euthanasia, which is permitted under strict guidelines, and active euthanasia, which is prohibited. It created legislation requiring the establishment of a medical board and the approval of the appropriate High Court to end life support. The decision gave the court a mandate for end-of-life decisions and cemented an obligation in the statute.

4. Common Cause v. Union of India (2018)

In the *Common Cause v. Union of India* A Constitution Bench case, Article 21 acknowledged the right to a dignified death.¹³In addition to supporting the validity of living wills, or advance directives, the Court also approved authorized passive euthanasia. Privacy, liberty, and dignity were the fundamental values emphasized. A number of procedural protections were required to ensure that the process is consensual and not abusive.

5. Common Cause v. Union of India (2023 Clarification Order)

In 2023, the Supreme Court simplified the procedural requirements laid down in 2018 regarding living wills.¹⁴ The Court removed excessive bureaucratic hurdles, making implementation more practical while retaining essential safeguards. This clarification strengthened enforceability of passive euthanasia rights.

Need for Comprehensive Legislation

India currently operates under judicial guidelines rather than parliamentary enactment. While

¹¹GianKaur v. State of Punjab, (1996) 2 SCC 648.

¹²ArunaRamchandraShanbaug v. Union of India, (2011) 4 SCC 454.

¹³Common Cause v. Union of India, (2018) 5 SCC 1.

¹⁴Common Cause v. Union of India, (2023) SCC OnLine SC.

the Supreme Court's intervention has filled a legislative vacuum, long-term stability requires statutory codification.

Comprehensive legislation could:

- Clearly define eligibility criteria;
- Establish independent review commissions;
- Provide immunity to physicians acting in compliance;
- Mandate reporting and transparency;
- Integrate safeguards under the BharatiyaNagarikSurakshaSanhita, 2023 (BNSS) for cases of unnatural death.¹⁵

Legislative engagement would enhance democratic legitimacy and reduce uncertainty. Law Commission reports have previously examined end-of-life issues, suggesting statutory reform.¹⁶ A carefully drafted statute would harmonize constitutional principles with criminal law.

Recent Developments and Amendments

Recent developments reflect evolving judicial sensitivity. The 2023 Supreme Court clarification in *Common Cause* simplified procedures for executing and implementing living wills.¹⁷ The modification addressed concerns about bureaucratic delays and operational difficulties.

Additionally, the enactment of the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023 modernized criminal law while retaining substantive prohibitions against homicide and abetment of suicide. These enactments reaffirm the continued criminalization of active euthanasia and assisted suicide.

The Mental Healthcare Act, 2017, particularly Section 115, effectively decriminalized attempt to suicide by presuming severe stress.¹⁸ This reflects a broader shift toward compassionate and therapeutic responses to self-harm.

Globally, debates continue regarding expansion of assisted dying laws, especially in Canada's MAiD framework. Such developments influence Indian discourse, though domestic reform

¹⁵Bharatiya Nagarik Suraksha Sanhita, 2023, provisions relating to inquests.

¹⁶Law Commission of India, 196th Report on Medical Treatment to Terminally Ill Patients (2006).

¹⁷*Common Cause v. Union of India*, (2023) SCC OnLine SC.

¹⁸Mental Healthcare Act, 2017, s. 115.

remains cautious.

The Indian framework governing mercy killing reflects constitutional recognition of dignity alongside enduring commitment to sanctity of life. While passive euthanasia and living wills are judicially protected, challenges persist concerning safeguards, misuse, medical accountability, and socio-economic pressures. Comparative experiences demonstrate the importance of transparency, oversight, and healthcare infrastructure. Ultimately, comprehensive legislation grounded in constitutional values may provide greater clarity and consistency. Until then, judicial guidelines continue to navigate the delicate boundary between compassion and criminal accountability.

CONCLUSION

The Indian legal position on mercy killing reflects a cautious constitutional evolution rather than comprehensive legislative reform. The Supreme Court has made an effort to strike a balance between the sanctity of life and dignity and autonomy in rulings that come under Article 21 of the Constitution, such as *Gian Kaur v. State of Punjab* and *Common Cause v. Union of India*. If a person has a terminal disease or is in a vegetative state, legalizing passive euthanasia would be a step in the right direction toward granting them the ability to decline medical care and die with dignity.

However, India's framework remains judicially driven and procedurally dependent on guidelines rather than statutory codification. This creates ambiguity and operational inconsistency across states and medical institutions. The continued criminalization of active euthanasia and assisted suicide under the *Bharatiya Nyaya Sanhita, 2023* underscores the conservative orientation of Indian criminal law. While this reflects a societal commitment to the protection of life, it may also limit the scope of autonomy in extreme cases of suffering.

The Indian position is therefore characterized by a constitutional compromise: passive euthanasia is permitted under strict safeguards, but active intervention remains criminal. This incremental approach demonstrates judicial prudence but also reveals structural gaps in legislative engagement.