THE RIGHT TO DIE: EXPLORING THE LEGAL AND ETHICAL DEBATES SURROUNDING EUTHANASIA

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ABSTRACT

In a world where medical advancements prolong life, the right to die with dignity stands at the crossroads of compassion and controversy. This paper embarks on an illuminating journey through the intricate web of legal and ethical debates surrounding euthanasia. Like a legal thriller, we unravel the complexities, from the staunch defenders of individual autonomy to the staunch protectors of the sanctity of life. As we delve into the ethical chaos, we encounter contrasting viewpoints that paint euthanasia as either a compassionate choice or an extreme slope. This paper dissects these arguments with surgical precision, challenging one’s intellect and empathy. While navigating this rollercoaster, we explore the landscape in India with regard to moral, cultural, and religious dimensions of this debate. The paper emphasizes the importance of mental health support, financial investment, and comprehensive legislation in addressing these challenges. A recent Supreme Court ruling in 2023 is highlighted as a significant development. In conclusion, this research contributes to the ongoing discourse on the right to die, advocating for a compassionate and informed approach to end-of-life decisions in India.
INTRODUCTION

The sanctity of human life has long been recognized as a fundamental value in society. As social animals, humans have an innate desire to avoid death, and therefore, life is viewed as a blessing. However, in certain circumstances, life may become unbearable, and the right to die emerges as a complex and controversial issue, especially in the realm of law. Euthanasia is one such topic that raises questions about morality, social pressures, and the right to life.

The concept of euthanasia has been debated for centuries and has been subject to various interpretations. Euthanasia refers to the practice of intentionally ending a life to relieve suffering. It is often categorized as either active euthanasia, where a person's life is deliberately ended by another person, or passive euthanasia, where a person's life is allowed to end by withholding or withdrawing medical treatment. The practice of euthanasia raises profound ethical and legal questions, particularly in relation to autonomy, dignity, and the value of human life.

The concept of euthanasia has become an increasingly pressing issue in contemporary society, and the law has sought to address the complex legal and ethical questions surrounding it. A number of countries have legalized some form of euthanasia or assisted suicide, while others have criminalized it as a form of homicide. In the United States, euthanasia is illegal in most states, but the debate over the legality and morality of the practice continues.

This research paper explores the emergence of euthanasia as a legal and ethical issue, the conflicting viewpoints surrounding it, and the legal frameworks and considerations that have arisen in response. Through an examination of legal cases and scholarly literature, this paper aims to shed light on the complex and nuanced legal and ethical debates surrounding euthanasia. Ultimately, the paper seeks to provide a comprehensive understanding of the legal and ethical challenges posed by euthanasia and to contribute to the ongoing debate over the right to die.

OBJECTIVE

The objective of this research paper is to examine the legal and ethical issues surrounding euthanasia, specifically in India and globally, and to explore the conflicting viewpoints and legal
frameworks that have arisen in response. The paper aims to contribute to the ongoing debate over the right to die by providing a comprehensive understanding of the challenges posed by euthanasia.

**METHODOLOGY**

This study report has been prepared after studying the relevant articles, personal thoughts of the people demanding Euthanasia and the judgements on the theme.

**CHAPTER I**

*Euthanasia in India: From Mercy Killing to Legalizing Passive Euthanasia*

“India's history with Euthanasia”

Euthanasia has been derived from the Greek word ‘euthanatos’, which means "good death". The lexicographical meaning of the word 'Euthanasia' is 'mercy killing' in which the intentional termination of the life of a terminally ill person is carried out by the assistance of another person.

Another name is “Assisted Dying”, which India presently forbids. Depending on the special circumstances and legal framework in a given nation, assisted death might involve both active and passive euthanasia.

The purposeful use of a fatal drug or other action to end a person's life is known as Active Euthanasia. This might refer to a medical professional giving a patient a fatal drug at their request in the context of assisted dying.

On the other hand, passive euthanasia refers to delaying or stopping life-prolonging medical care with the goal of letting a patient pass away peacefully. When referring to assisted dying, this might refer to a patient declining life-sustaining therapy with the help of medical professionals and allowing their natural death as a result. This form of Euthanasia is also called, death by omission.

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as there is a withdrawal of treatment or food that would allow the patient to live, leading to a natural death.

Article 21 of the Constitution\textsuperscript{3} recognizes the right to life but does not expressly address the right to die. In the late 1990s, a nurse called Aruna Shanbaug was raped and left in a vegetative condition, bringing the subject of euthanasia to the forefront in India. Up until her death in 2015, she stayed in that condition for 42 years. Her story triggered a discussion over whether euthanasia for terminally sick individuals should be legalized.

In India, the legality of Euthanasia has been a subject of much debate and has undergone significant changes over the years. In 2011, the Supreme Court of India issued a landmark judgment in the case of Aruna Shanbaug\textsuperscript{4}, which allowed for passive euthanasia under certain conditions. The judgment held that a person could make an advance directive, specifying that medical treatment should be withdrawn in the event of a terminal illness or a persistent vegetative state. The court also set out guidelines for the procedure to be followed in such cases.

The Supreme Court of India established a few requirements for passive euthanasia's approval in the Aruna Shanbaug case. These circumstances include:

- A medical board, made up of at least three doctors, including the treating physician, must decide whether to stop providing life-sustaining care.

- The patient must be determined by the medical board to be in a persistent vegetative state or to have a condition that is irreversible and prevents recovery.

- With the patient's informed permission or, if the patient is unable to provide consent, their nearest relatives, the decision to discontinue life-sustaining care must be made.

- The medical board's opinions and other pertinent criteria must be taken into account by the High Court before it can accept the ruling.

\textsuperscript{3} The Indian Constitution, 1950
\textsuperscript{4} Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454
While the above pointers pertain to the approval, there’s no clear line defined as to the factors which conclude such circumstances.

The ruling under Common Cause (A Regd. Society) v. Union of India & Anr\(^5\). case clarified the law and established rules for decisions on end-of-life care in India. For example, the judgement in this case mentions “psychological continuity” as one of the factors. Its an idea based on how one's identity changes through time, is also introduced in this chapter. This idea holds that when a person experiences a significant psychological change, such as that caused by Alzheimer's disease, they do not remain the same person, and their prior interests and choices might not be appropriate for choices made on behalf of the newly formed individual. As a result, while making choices about a patient's wellbeing, there can be a conflict between depending on the former self and the present self.

However, active euthanasia or assisted suicide remains illegal in India and is punishable under Section 306 and 309 of the Indian Penal Code. The law recognizes the right to life as a fundamental right, and the Indian government has maintained that euthanasia is inconsistent with this principle. Despite this, the debate over the legalization of euthanasia in India continues, with proponents arguing for the right to die with dignity and opponents citing concerns over abuse and the value of human life.\(^6\)

In 2018, the Supreme Court of India recognized the right to die with dignity a fundamental right and issued an order legalizing passive euthanasia in the country. The court provided instructions in acknowledgment of a "living will" prepared by terminally ill individuals, which specify who can implement the will and under what conditions the medical board can authorize passive euthanasia. The court ruled that its rules and directions will stay in effect until legislation is introduced to address the matter. The decision was based on a PIL filed in 2005 by the NGO Common Cause, which argued that a patient suffering from a fatal condition should have the choice to decline artificial life support in order to alleviate prolonged agony\(^7\).

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\(^5\) (2014) 5 SCC 338


\(^7\) Common Cause (A Regd. Society) v. Union of India, (2014) 5 SCC 338
The Supreme Court also ruled that such a choice about an individual's death could not be left completely to the discretion of the patient's family or the nursing staff. This ruling overturned the Gian Kaur\textsuperscript{8} decision from 1994, which claimed that the right to life did not include the right to die and that both assisted suicide and euthanasia were illegal. However, the Supreme Court ruled in the 2011 Aruna Ramchandra Shanbaug case that passive euthanasia could be approved in exceptional circumstances and under strict supervision from the top court.

Despite the rulings and developments, the legal framework governing euthanasia in India is still not entirely clear. The ruling in the Aruna Shanbaug\textsuperscript{9} case by the Supreme Court does not clearly define the conditions under which passive euthanasia is permissible. Additionally, there is still no law in India that governs euthanasia. This implies that while determining whether to use euthanasia or not, doctors and the families of terminally ill patients are frequently put in a tough situation.

It is crucial that the Indian government realize the need for a legislative framework that controls euthanasia in a clear-cut and sympathetic manner, while simultaneously making sure that weak people are not the target of compulsion or abuse. In the lack of such a framework, the discussion around euthanasia in India is likely to go on for the foreseeable future.

**CHAPTER II**

*The Right to Life vs. the Right to Die:*

*A Moral, Ethical, and Legal Dilemma*

“The moral dilemma…”

As discussed in the previous chapter, despite this decision, Euthanasia is still a contentious subject in Indian society.

The country's cultural and religious variety, which has produced a wide spectrum of viewpoints on the subject, is one explanation for this. Others contend that people should have the right to a

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\textsuperscript{8} Gian Kaur v. State of Punjab 1996 SCC (2) 648  
\textsuperscript{9} (2011) 4 SCC 454
dignified death and the freedom to choose their own end-of-life care, while some claim that euthanasia violates national religious and cultural values and is therefore unacceptable.

The dispute over euthanasia is also significantly influenced by the cultural and religious views of the Indian community. The concept of deliberately terminating one's life is frowned upon and seen as contrary to social norms in many Indian cultures. Some religious organizations are also against euthanasia because they think it goes against the will of God.

The absence of sufficient healthcare and palliative care facilities is another reason fueling the debate about euthanasia in India. Numerous terminally ill patients lack access to effective pain relief or healthcare, which can make their suffering intolerable. Some contend that in these situations, euthanasia may be the only way for patients to put an end to their suffering.

The concern of euthanasia being abused and misused is a crucial aspect of the discussion. There are worries that the legalization of euthanasia might result in the exploitation of weak people who could feel under societal or financial pressure to choose death over life. To guarantee that euthanasia is only used when it is judged medically necessary and the patient's agreement is fully informed and voluntary, it is crucial to have stringent rules and procedures in place.

The legal ambiguity surrounding euthanasia in India also adds to the controversy.

Although euthanasia is not explicitly legal in India, there have been a number of instances where people or their families have asked the courts for permission to end their lives when they were in severe discomfort.

Both individuals and medical professionals are confused and uncertain as a result of this legal grey area. Medical practitioners may be reluctant to give end-of-life treatment out of concern for possible legal repercussions, while patients and their families may be unsure of their legal rights to request euthanasia. This circumstance could also make medical professionals unclear of how to deal with patients who are in pain and want to terminate their lives. Medical personnel may find it challenging to give patients the correct end-of-life care due to the unclear nature of the law. Additionally, it can lead to uncertainty and ethical dilemmas for families, medical professionals, and patients who are trying to decide how to handle end-of-life care.
“The Right to Die with Dignity”

The idea that people should have control over their own life, including their death, is the foundation of the right to die with dignity. The right to die with dignity, which states that people with terminal illnesses and persistent agony should have the option to end their lives in a calm and dignified way, is frequently cited in debates of euthanasia.

The ethical and moral premise of the right to a dignified death is significant to euthanasia supporters. They contend that those who are terminally sick and experiencing tremendous pain or discomfort ought to be given the option of a peaceful death rather than continuing to suffer.

The right to die with dignity is some form of unfit interpretation, according to euthanasia opponents since euthanasia is fundamentally incompatible with human dignity. They contend that enabling people to terminate their own lives through euthanasia violates the idea of dignity, which is based on the intrinsic worth and value of every human existence.

Again, the question of whether enabling people to choose a peaceful death in the face of a fatal disease is a violation or an affirmation of human dignity is at the heart of the euthanasia debate.

“Does the Article 21 include the right to death?”

People must respect the immense value of each person's life. People have a responsibility to respect and appreciate the lives of others, just as they have a right to their own lives. Death is a part of life and is the end of it. The right to die gracefully and with dignity goes hand in hand with the right to live with dignity. After appearing in the Preamble of the Indian Constitution, the term 'dignity' was introduced and emphasized in the case of K.S. Puttaswamy and others v. Union of India and others.10

What circumstances, then, require that one's decision to die be respected? How much, exactly? In order to answer this question, one must consider morality, societal ethics, and what the law must

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10 K.S. Puttaswamy and another v. Union of India and others, (2017) 10 SCC 1
or should uphold.

Do we put someone's life to death if they're experiencing terrible tooth pain? Definitely NOT.

In the 2011 landmark decision in the matter of Aruna Shanbaug, the test of suffering was recommended to determine if the individual is in such a vegetative state that he is entirely deprived of human existence.

As discussed previously, Euthanasia is granted in cases where the person is in a comatose either mentally or physically.

The word 'life support' refers to an assistance to support life, to improve a person's current state in the expectation that the person would recover sooner or later, which is the work of physicians and medical science. It does not imply life preservation. The line is drawn where it is intended to utilize a machine just temporarily, till the patient recovers, and not permanently. The choice as to whether or not a person requires such life support might be abused, for example by pulling off the plugs of those who are unable to afford such assistance. In other words, any change to the current method would result in unmanageable consequences. When determining whether a ventilator is necessary for survival or whether a clear case of persistent vegetative state exists, the Medical Board, which is constituted in these circumstances, must act in a supportive and ethical manner.

**Euthanasia is an opinion based on personal sensitivities and is not an educated or mandated verdict.**

Making the choice between life support and euthanasia may be less challenging if there is no life and merely a body. However, if the person's emotions are active, meaning that there is life inside, but the body isn't responding, then forcing him to stay alive through life support is pure "torture" on him. In either case, it has a negative impact on the person's life and the people close to him or her, making the choice difficult.

Such rulings must first be approved by the appropriate high court due to the risk of misuse with such judgements. The relevant High Court may, in accordance with Article 226 of the Indian Constitution, issue an order or direction allowing the termination of a life support system in the
necessary circumstances.

Because of the societal stigmas associated with voluntarily ending one's life, euthanasia is not permitted if the individual makes the decision to do so on his or her own in a state that has the legal authority to classify it as such.

Given the conflicting desires and the resulting conditions, the battle would never cease. We still don't know what matters more: passing away peacefully or adhering to societal conventions and morals.

CHAPTER III

Voluntary Euthanasia:

The Complexities of the Right to Die

“Euthanasia on a voluntary basis”

The question now is whether it may be extended to circumstances in which a person is well physically and mentally yet asserts their right to pass away because they no longer desire to live. Such a query occurred in response to an unexpected demand made by an elderly couple in Mumbai who are concerned about their future selves becoming afflicted with chronic diseases and other old age-related disorders. Such actions go against the established legal order. In their situation, allowing voluntary euthanasia would have consequences for society that it is not prepared to deal with.

The Netherlands was the first nation to legalize this type of "assisted suicide" for those over 75 years old years ago, although passive euthanasia for instances when a body is in a vegetative condition has just recently been permitted in India. Accordingly, the demand for assisted suicide is a goal that is both unrealistic and unattainable.

There will be a tremendous demand for such a form of euthanasia since individuals will have less desire to live given the recent emphasis on mental health. More individuals would wish to use their
right to die if it were accepted as being that simple, which would result in a significant portion of the population being wiped out.

The majority of us would disagree with this and be unable to see ourselves in the position of those making this demand. Given therefore, the request is "morally reprehensible." Where a person has a right to life, that person also has a responsibility to defend that life. However, a different group of philosophers advocates for the right as a discretionary one. We can all agree that a person is willing to die and is doing so after making a conscious decision.

What therefore can be done to prevent situations where people seem to terminate their lives legally and prematurely when there is no physical suffering? Should society step in and help? A precise solution can be obtained by having effective parallel support systems. Again, this doesn't come easy but is possible. The Indian government set aside 670 crores this year, which is only 0.8% of the total healthcare expenditure. However, this budget needs to be significantly increased in order to truly support people and discourage them from seeking euthanasia. When compared to other nations, France, for instance, devotes the highest percentage of its budget (15%) to mental health. It is critical to understand that mental health is just as important as physical health, and that both need the same consideration and support.

When a person is struggling with mental health issues like depression, anxiety, or suicidal thoughts, it can be challenging to assess whether the choice to terminate their life was genuinely voluntary and informed.

Before making any decisions about end-of-life care, it is crucial to address any mental health concerns that may be present by offering the proper therapy and support. This may include counselling, medication, or other types of mental health treatment to assist reduce symptoms and ensure the person's mental health is clear and stable.

At the same time, it's critical to understand that mental health issues shouldn't serve as a general defense for refusing to provide someone with the right to die. Many persons with mental health issues are capable of making wise decisions regarding their own treatment, and they shouldn't be prevented from selecting a pain-free demise only because of their mental health.
The complete spectrum of medical, emotional, and social considerations that may be important to the individual in question must be taken into consideration when making any choice regarding end-of-life care. We can help with ensuring that everyone has the chance to pass away with dignity and in a way that is consistent with their own values and beliefs by offering compassionate care and support to people dealing with end-of-life concerns.

CHAPTER IV

Way Forward

Undoubtedly, it is difficult to accept the need for euthanasia. The choice of whether it is practical or not requires examination of a number of factors. The test of suffering is still up for debate. If understood correctly, it would be more of a humanitarian choice than an affirmation of the right to life. The Indian Constitution recognizes the right to live with dignity, but not the right to a dignified death. As a result, in addition to moral importance, the discussion up until this point has also included legal practicability, constitutional legality, and the worry about potential misuse.

“The 2023 verdict”

The Supreme Court identified the right to pass away with dignity as a basic freedom in 2018 and set forth rules for patients who are nearing the end of their lives to uphold this freedom. The Supreme Court modified the rules in January 2023 to make it easier for people to exercise their right to a dignified death.

The Supreme Court of India recently updated the rules outlined in the 2018 euthanasia judgement, which had called for a high court ruling or the agreement of a medical board in order to withdraw life support from terminally sick patients. The court streamlined the procedure so that patients or their family members may ask the medical board directly for permission to stop receiving life support.

Additionally, the court provided clarification on the use of advance medical directives, which are formal documents that enable patients to express their preferences for end-of-life care in advance. The medical board must examine these directives when deciding whether to permit the withdrawal
of life support, since the court established that they can be relied upon in situations when the patient is unable to convey their desires.

The court's ruling offers much-needed advice and clarity on the contentious and complicated topic of end-of-life care in India. Due to the fact that the ruling establishes a clear legal framework for making decisions regarding end-of-life care and guarantees that patients' wishes are respected and upheld, it is likely to have a significant impact on medical professionals, patients, and their families.

“The Mental Health Aspect”

Euthanasia's impact on mental health is a complicated matter that needs to be given serious thought and study. People who ask for assisted suicide or euthanasia may be going through severe emotional or physical pain, such as depression, anxiety, or hopelessness. Therefore, it's crucial to make sure that these people have access to enough mental health support and care, both before and after they decide to pursue euthanasia.

Providing thorough mental health examinations and care to people who express a desire for assisted suicide or euthanasia is one strategy to handle the mental health side of euthanasia. This could involve screening for problems like depression, anxiety, and other mental health issues that can be treated, as well as offering the proper care and support.

Additionally, it's critical to offer family members and other close friends who might be impacted by a person's decision to pursue euthanasia emotional and psychological support. This could entail offering counselling, support groups, and other tools to assist family members deal with loss and grief.

Increased public education and awareness of the value of mental health and wellbeing as well as the availability of mental health services and support could be another strategy. This might entail campaigning for more money and resources for mental health services and research, as well as encouraging mental health literacy and lowering stigma associated with mental illness.
Conclusion

As in the rest of the world, medical science is advancing, and as a result, we now have technologies that artificially extend life. This may unintentionally prolong final pain and end up costing the relatives of the patient in question a lot of money. As a result, end-of-life concerns are becoming important ethical dilemmas in India's contemporary medical research. In India as well as the rest of the globe, there are ardent supporters and opponents of Physician Assisted Suicide and Euthanasia. However, it doesn't appear that the Indian legislature is sensitive to these. Though there is still a long way to go before it is passed by the parliament, the historic Supreme Court decision has given pro-euthanasia activists a significant boost. Before it is made a law in our nation, it should also be addressed that worries about its misuse are still a big problem. Also, Euthanasia's impact on mental health must ultimately be addressed through a comprehensive strategy that acknowledges the significance of mental health and wellbeing in end-of-life care decisions. Giving people and their loved ones thorough, empathetic care should be given top priority in this strategy.
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