
EUTHANASIA AND THE RIGHT TO DIE: A LEGAL AND MORAL PERSPECTIVE

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INTRODUCTION

The concept of euthanasia has remained a subject of intense debate since its origin. The term "euthanasia" stems from the Greek words "*eu*" meaning "good" and "*thanatos*" meaning "death," which together signify "a good death." Euthanasia is broadly understood as the deliberate acceleration of a person's death to alleviate extreme suffering.

Euthanasia can be categorized as either active or passive. Active euthanasia involves direct intervention by a medical professional typically through the administration of lethal medication—to end the life of a patient who is terminally or incurably ill. Passive euthanasia, on the other hand, involves the withdrawal or withholding of life-sustaining treatments.

Active euthanasia itself is further divided based on the patient's consent:

- Voluntary euthanasia: performed at the explicit request of the patient.
- Non-voluntary euthanasia: carried out when the patient is unable to give consent.
- Involuntary euthanasia: conducted without the patient's consent, often against their will.

Terms like "assisted suicide" and "physician-assisted suicide" are often used interchangeably with euthanasia, but they hold different legal and ethical meanings. For instance, a Do Not Resuscitate (DNR) order allows healthcare providers to refrain from performing CPR if a patient's heart stops. While it is a form of passive euthanasia, DNRs are legally recognized and commonly practiced worldwide with minimal controversy.

Patients who seek euthanasia are often those suffering from terminal illnesses such as advanced-stage cancer, AIDS, or other conditions where curative treatment is no longer viable.

Their motivation typically stems from a combination of physical symptoms (unbearable pain, nausea, loss of mobility, incontinence, difficulty breathing) and psychological distress (depression, feelings of being a burden, loss of autonomy, or a desire to maintain dignity). However, critics argue that insufficient palliative care and untreated mental health issues, such as suicidal ideation, may also drive such decisions.

Euthanasia—also known as “mercy killing”—refers to the intentional act of ending a life to relieve pain and suffering. In the Indian legal framework, Article 21 of the Constitution ensures not only the Right to Life but also the protection of personal liberty. This constitutional safeguard implies that no one shall be deprived of life except through due legal process. However, it also raises a question: should this right include the freedom to die with dignity?

As a welfare state, the Indian government is expected to ensure that every citizen lives a life of dignity from birth to death. A life plagued by constant pain, agony, and suffering does not align with the ideals of a dignified existence. In such cases, allowing an individual to choose a peaceful and respectful death becomes a significant ethical consideration.

Recent judicial rulings in India have broadened the interpretation of Article 21 to include passive euthanasia, subject to strict medical and legal guidelines. While this marks a progressive step, it has also ignited debates about whether passive euthanasia alone is adequate to address the suffering of terminally ill patients and what degree of authority the State holds over a citizen's decision to end their own life.

CHAPTERIZATION

CHAPTER 1

Meaning and Nature

The Euthanasia is a Greek origins "eu" signifies "good or well" or "Thanatos" signifies- "death" signifies good death. "The word Euthanasia typically suggests a deliberate ending of life by another person at the specific request of the individual who wants to die. Euthanasia is generally referred as the act of killing an incurably sick person out of regard and pity for that person's misery.". It is occasionally referred to as merciful killing, although most supporters of it specifically refer it as the termination of a person's life with no his or her consent. Euthanasia, however, is commonly divided into two types: passive euthanasia and active euthanasia. Active

euthanasia may in most jurisdictions amount to murder or Manslaughter, while passive euthanasia is approved by professional medical associations and by law under specified conditions. It has been defined by Dutch Commission on Euthanasia (1985) which is: "A deliberate termination of life on an individual's" plea, by someone, through medical jargon, the diligent and premeditated ending life of patients" request, by a physician."

As per the definition provided by Merriam Webster for Euthanasia, "the act or practice of killing or allowing the death of hopelessly ill or injured people (as individuals or domestic pets) in a relatively painless manner for purposes of mercy". Once more as per definition provided in Dictionaries of Oxford, Euthanasia refers to, "The painless killing of a patient with an incurable and painful illness or in an irreversible coma". Again, based on Dictionary of Black's Law (8th edition) it is "the act or practice of killing or causing the death of a person suffering from an incurable disease or condition, esp. a painful one, for motives of mercy.". So, according to the definition it can be understood that It refers to the act of killing one person who is suffering from some sort of serious painful disease, so that he can relieve himself from his pain on the basis of mercy and also is referred as mercy killing also.

It refers to an action of deliberately killing a person to end all of his sufferings.¹The laws vary in different countries². English have a committee for ethics on medicines where it refers to as "a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering"³. In the states of Belgium and Netherlands, it is defined as "termination of life by a doctor at the request of a patient"⁴. Laws of Dutch do not have 'euthanasia' but the idea in general is "assisted suicide and termination of life on request"⁵.

What is euthanasia?

It is a purposeful termination of one's life, generally to stop the pain. It is occasionally practiced by physicians when requested by patients suffering from an incurable condition and intense suffering. It's sensitive and has lots of aspects that must be balanced. It includes laws prevailing

¹ "Euthanasia".

"Euthanasia' is a compound of two Greek words – eu and thanatos meaning, literally, 'a good death'. Today, 'euthanasia' is generally understood to mean the bringing about of a good death – 'mercy killing,' where one person, A, ends the life of another person, B, for the sake of B."

² "Voluntary Euthanasia". (In Encyclopedia of Stanford Philosophy) 7 May 2019.

³ "Harris, NM. (October 2001). The euthanasia debate. *J R Army Med Corps*".

⁴ "19 July 2011 at the Wayback MachineBBC."

⁵ "Carr, Claudia (2014). *Unlocking Medical Law and Ethics (2nd ed.)*. 2 February 2018."

locally, the physical and mental states of someone, and individual feelings and wishes as well. Euthanasia is a way of killing an aggrieved who are in pain due to an incurable disease or a disorder or permitting aggrieved to die by removing the of life support measures. Since this is not provided by the statute in the majority of countries, it is generally treated as suicide or murder.

In the view whether is justifiable morally goes back to the early times. The concept is excluded from classic belief of Christians primarily on the grounds that it would be a breach of the forbid on murder contained in the Commandments of Christians holy book. The campaign for legalizing the concept began in the period of Sir C. Killick Millard in 1935, England when the Society for Voluntary Euthanasia started. The bill was voted down before Lord's House in 1936, it was the same topic in the Lord's House in the year 1950.

The foremost primary nation responsible for the legalization of the concept was "Netherlands" in the year 2001 followed by "Belgium" in the year 2002. Oregon was among foremost state in US responsible for decriminalizing assisted-euthanasia suicide in the year 1997; but those in support wanted to invalidate it. The South Korean Court acknowledged the "right to die with dignity" by upholding a request by the family of a woman whose brain was dead to take off life-supporting systems.

The contemporary practice in medical extends to life by technological means has raised the question of what options shall be open to the physician and the family for someone who is enduring terrible physical or emotional distress, particularly when the aggrieved is not able to choose. Passively standing by to sustain life or withdrawing life-sustaining measures has led to criminal indictment of doctors; conversely, the relatives of comatose and seemingly terminal patients have sued the medical community to compel them to cease the employment of extraordinary life support.

Chapter 2

Different kind of Euthanasia recognized

The concept of euthanasia are several kinds, every individual type of which entails different range of it own ethical and unethical

“Active and Passive Euthanasia”

The term “active euthanasia”, an individual actively and intentionally kills the aggrieved. The term “passive euthanasia” they do not actively kill the aggrieved, they just let the person die.

This is an ethically unsatisfactory distinction, as although the individual does not “actively kill” the aggrieved, individuals know the consequence of doing nothing would result that the aggrieved dies.

“Active euthanasia” is where the aggrieved dies by a positive action – taking an instance, where an individual is killed by receiving overdosed painkillers.

“Passive euthanasia” is where the aggrieved who is dying is caused by not taking any action - i.e. where somebody allows the aggrieved to die which can be done withdrawing treatments:

- “Withdrawing treatment”: e.g. turning off the machine that is sustaining an aggrieved, in order to let them die of their illness.
- “Withholding treatment”: i.e. refusing to perform the operation which would give a small span of extra life.

Passive euthanasia has traditionally been regarded as worse in comparison to active euthanasia. However, some individuals believe active form of euthanasia to be more ethical.

Most people would associate euthanasia directly with a doctor killing his patient. Intentionally administering a person, a large amount of tranquilizers constitutes active euthanasia.

“Passive euthanasia” is occasionally referred to as restricting supporting treatments which would support life in order to let the aggrieved die sooner. A physician can also prescribe ever-increasing dosage of pain-killers for medication. Over time, the dosage can prove to be poisonous. It blurs line between “passive euthanasia” and “palliative care”. “Palliative care” is about when individuals are provided with the best possible level of comfort on their death bed.

For instance, a doctor practicing palliative care may permit an individual who is dying to discontinue a drug that has horrible side effects. In another situation, they may permit an individual to receive much more of a pain medication for the purpose of alleviating pain. It is

sometimes routinely a component of a palliative care. There are individuals who do not view the concept as euthanasia.

“Voluntary and Involuntary Euthanasia”

“Voluntary euthanasia” is insistence of an individual who is on death bed.” Non-voluntary euthanasia” is when the individual is unconscious or incapable (eg: a very young infant or someone of very young infant or someone of very low intelligence) of making an informed decision between living and dying, and a suitable person makes the decision on their behalf.

Non-voluntary euthanasia also covers situations where the individual is a child who is mentally and emotionally capable of making the decision, but is not considered in law to be old enough to make such a decision, so somebody else has to make it on their behalf as far as the law is concerned.

Involuntary euthanasia happens when the person who dies chooses life and is killed anyway. This is commonly referred to as murder, but it is conceivable that there are instances where the killing would qualify as being for the benefit of the person who dies.

If a person makes a conscious choice to request assistance in ending their life, it's called voluntary euthanasia. The individual has to provide full consent and show that they have full knowledge of what will occur.

Nonvoluntary euthanasia is where another person decides to kill someone. A close relative typically decides. This is typically carried out when one is totally unconscious or totally incapacitated. It typically entails passive euthanasia, like withholding life support from a person who's displaying no brain activity.

Indirect Euthanasia

This involves giving treatment (typically to alleviate pain) that is a side effect of hastening the patient's death.

Because the main aim is not to kill, this is regarded by some individuals (though not everyone) as being morally acceptable.

Such a justification is technically known as the doctrine of double effect.

Assisted suicide

This is generally applicable in situations in which the individual about to die requires assistance in ending their own lives and makes a request. It can be as easy as obtaining drugs for the individual and making the drugs available to them.

The very historical judgement numbered as Common Cause versus Union of India⁶, rendered by the Hon'ble Constitution Bench comprising 4 Judges of Supreme Court of India, has addressed on several categories of euthanasia which include:

In the ordinary definition, euthanasia may refer to three kinds, i.e., 'intentional killing' at the behest of a person who is killed to be differentiated from 'non-intentional killing' where the person is killed but is incapable of either making or of not making such a request. The modern euthanasia would be in the form of involuntary euthanasia, i.e., the person can make the request but has not done it 11.

These terms can be described as below:

i. Voluntary euthanasia: Individuals interested in legalizing the ending of life on health grounds have always focused on Voluntary Euthanasia (this means that the patient asks that his life be terminated.) It is commonly agreed that the application must be from a person who is either; (a) in unbearable pain or (b) who suffers from an illness which is deemed terminal. It can be before the onset of the illness in question or even while it runs its course. In both cases it should not be a result of any coercion by relatives or those under whose care the patients are. Active and passive euthanasia are both classifiable as types of voluntary euthanasia.

ii. Non-Voluntary Euthanasia: Viewed by some as sub-type of voluntary euthanasia. This includes the killing, supposedly in his own best interests, of a person unable to have any views on the subject and who is thus required to employ some form of proxy request. Such definitions of voluntary, non-voluntary and involuntary euthanasia are equivalent to those

⁶ 2018 (5) SCC 1

utilized by the House of Lords Select Committee on Medical Ethics (Walton Committee) that his/her life be ended. This type of Euthanasia is one which comes nearest to being intimate with the profession of medicine. Selective refusal of treatment in the new-born or the physician can be posed with demented and otherwise senile incapacitated patients. Practically speaking, non-voluntary euthanasia takes the form only of an arguable alternative for non-treatment.

iii. Involuntary Euthanasia: It entails putting an end to the patient's life without any personal or proxy invitation to do so. The motivation 'The relief of suffering' can be the same as voluntary euthanasia-but its sole rationale - "a paternalistic decision as to what is best for the victim of the disease." In extreme cases, it might be against the will of the patient or might just be for social convenience. It is instances of the latter that are salutary warnings as to those who would endow the medical professional with additional or untrammelled powers of life and death.

To the contrary, in technical jargon, euthanasia has come to be understood as being of two very different kinds: the first is active euthanasia, wherein death results from the giving of a lethal injection or drugs. Active euthanasia also encompasses physician-assisted suicide, where the injection or medicine is provided by the doctor, but the process of administration is performed by the patient himself. Active euthanasia is not acceptable in the majority of countries. The legalities where it is acceptable are Canada, the Netherlands, Switzerland and the States of Colorado, Vermont, Montana, California, Oregon and Washington DC in the United States of America.

Passive euthanasia happens when doctors do not administer life- sustaining treatment (i.e., treatment that is required to sustain a patient's life) or withdraw patients from life sustaining treatment. This might involve turning off life support machines or feeding tubes or failing to perform lifesaving operations or administer life prolonging drugs. In such instances, the medical practitioner's omission is not considered the cause of death but rather the patient is known to have died due to his underlying condition.

There remains much uncertainty regarding the topic of euthanasia and physician-assisted suicide, its ethical, legal, and social implications. This is further complicated by a change in physicians' attitudes towards this practice over time. For instance, based on Louhiala et al. [7], physicians' support for euthanasia in Finland grew from 29% in 2003 to 46% in 2013.

Physicians' attitudes in Kuwait are just as diverse as a result of the diversity among physicians. Kuwait has doctors from Egypt, Syria, Lebanon, India, and Pakistan, as well as Kuwaiti nationals. This heterogeneity is enhanced by the large number of religious beliefs of physicians in Kuwait, most of whom are Muslim, followed by Christians and Hindus, and atheists.

There are 4 broad categories of euthanasia, i.e., active, passive, indirect, and physician-assisted suicide. Active euthanasia comprises "the direct administration of a lethal substance to the patient by another party with merciful intent⁷". Passive euthanasia is "withholding or withdrawing of life-sustaining treatment either at the patient's request or when prolonging life is felt to be futile." Indirect euthanasia is the prescribing of painkillers that can prove to be lethal in an effort to remove suffering.

Physician-assisted suicide refers to a medical professional aiding a patient in terminating their life upon the patient's request⁸.

Though euthanasia is prohibited in most nations, some such as The Netherlands, Belgium, and Luxembourg have legalized it subject to specific conditions. Some states within the USA like Oregon, Washington, Vermont, and Montana have also legalized it. In Kuwait, there isn't any direct law regarding euthanasia; however, legal opinion can be drawn from article 149/4 of criminal law in Kuwait that prohibits murder, or causing a person to die. In addition, euthanasia is prohibited according to Islamic beliefs.

Doctors' opinions regarding euthanasia are a critical aspect in the adoption of this practice. Their opinions can be influenced by numerous reasons, such as religion, the nation in which the doctor is practicing medicine, or the doctor's subspecialties in the medical profession. Opposition to euthanasia has been shown to be greater in those with stronger religious beliefs. For instance, in Catholicism, conservative Protestantism, and Islam, euthanasia and physician-assisted suicide are forbidden outright, since the person is thought to be "neither the author of his or her own life nor the arbiter of his or her own death." Conversely, secular cultures affirm

⁷ Louhiala P, Enkovaara H, Halila H, Pälve H, Vänskä J. Finnish physicians' attitudes towards active euthanasia have become more positive over the last 10 years. *J Med Ethics*. 2015 Apr;41((4)):353–5. [PubMed] [Google Scholar]

⁸ Parpa E, Mystakidou K, Tsilika E, Sakkas P, Patiraki E, Pistevou-Gombaki K, et al. Attitudes of health care professionals, relatives of advanced cancer patients and public towards euthanasia and physician assisted suicide. *Health Policy*. 2010 Oct;97((2-3)):160–5. [PubMed] [Google Scholar]

a person's right to decide for himself or herself about life and death

Several studies across the globe have discussed the topic of euthanasia. In Greece, while 48% of doctors supported legalizing euthanasia, a minority reported that they would actually carry it out, particularly physician-assisted suicide. Actually, doctors in Finland reported an increase in favourability for administration of a potentially fatal dose of morphine to a cancer patient in 2015 compared to 1999⁹. In Japan, a fifth of doctors approved of voluntary euthanasia, but criminal law does not allow either assisted suicide or active voluntary euthanasia.

Conversely, a Malaysian study indicated that 87% of doctors were of the opinion that patients did not have the right to decide for themselves at the end of life regardless of their illness; they were also opposed to physician-assisted suicide. In 2000 a Kuwait study proved that only 19.9% of doctors agreed with the idea that the Ministry of Health should endorse euthanasia under some limited circumstances.

Other studies have also indicated variations in approval across medical specialties. For example, in a number of European nations, geriatricians and oncologists were less approving of euthanasia than other specialties. Likewise, palliative physicians in France were less approving of euthanasia than general physicians and neurologists, indicating the possibility that increased exposure to dying patients might be associated with higher resistance to euthanasia.

Medical progress in Kuwait would most likely have extended the survival of terminally and chronically ill patients. The mean life expectancy at birth is 79.4 years for both Kuwaitis and non-Kuwaitis, which is comparable to the means of many developed nations. Conversely, cancer among the Kuwaiti population has greatly risen over the past 4 decades. For instance, rates of cancer in males grew from 89 new cases per 100,000 population during 1974 to 1984 to 129 in 2013. Issues with prolonging life despite decreasing the quality of life have, consequently, become a lot more frequent.

But euthanasia decisions tend to be contentious, with numerous various considerations. There is an urgent need for unambiguous guidelines governing the treatment of the terminally ill. Our

⁹ Piili RP, Metsänoja R, Hinkka H, Kellokumpu-Lehtinen PI, Lehto JT. Changes in attitudes towards hastened death among Finnish physicians over the past sixteen years. *BMC Med Ethics*. 2018 May;19((1)):40. [PMC free article] [PubMed] [Google Scholar]

research was inspired by the lack of such guidelines considering accelerated changes in the scope of health care options that tend to extend life generally.

The aims of our research were:

- (1) ton evaluating the attitudes of doctors in Kuwait towards various forms of euthanasia and how these attitudes correlate with sociodemographic, cultural, and religious variables and
- (2) ton determining whether frequent interactions of doctors with terminally ill patients were related to their endorsement of euthanasia.

CHAPTER 3

Status of Euthanasia across the Globe

United Kingdom

United Kingdom does not permits Active euthanasia. In fact attempts made by Lord Joffre's to legalize this form of euthanasia has failed however, passive euthanasia is allowed through advance directives and approval from the Court which includes withdrawing food and water¹⁰.

United States of America

In case of United States of America, Active form of euthanasia is illegal but patients can refuse to have the treatment with informed consent. In states like Oregon, California and Washington D.C., assisted euthanasia is legal¹¹.

Argentina

In 2012, Argentina passed a law allowing patients or their proxies to refuse life-prolonging treatments.

Uruguay

While assisted suicide is technically criminal, no convictions have been recorded. Under

¹⁰ Villeneuve, Marina (13 June 2019). "Maine becomes 8th state to legalize assisted suicide". AP NEWS.

¹¹ Karlamangla, Soumya (12 May 2016). "How California's aid-in-dying law will work". Los Angeles Times. Retrieved 1 June 2016.

Article 37 of the Penal Code, judges can pardon a person who commits homicide out of charity if the victim repeatedly requested it. Similarly, Article 127 allows doctors with a good reputation to be exempted if the patient wished it.

- Active euthanasia: De facto tolerated (judicial pardon possible)
- Assisted suicide: De facto tolerated (no convictions, judicial leniency)
- Passive euthanasia: Not explicitly mentioned

Luxembourg

In 2009, Luxembourg fully legalized both euthanasia and assisted suicide. Patients must be terminally ill, suffering unbearably, and voluntarily request it in writing. Minors aged 16–18 can also request it with parental consent.

- Active euthanasia: Legal
- Assisted suicide: Legal
- Passive euthanasia: Allowed via living wills or patient request

Ireland

Active euthanasia and assisted suicide remain illegal. However, withdrawing life-support treatments (passive euthanasia) is legal if requested by the patient or their family.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Legal (withdrawal of treatment allowed)

Israel

Israeli law forbids both active euthanasia and assisted suicide. Passive euthanasia is complex: while prohibited under Jewish law, Israeli law permits it in limited circumstances, such as by using automated timers to avoid direct human action.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Permitted in specific cases

Peru

Euthanasia remains illegal in Peru. Efforts to legalize it, especially after notable cases like Valentina Maureira's, have so far failed.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Not specifically discussed

Portugal

Portugal's parliament voted to approve voluntary euthanasia in February 2020 after long debates.

- Active euthanasia: Pending legalization (approved by parliament)
- Assisted suicide: Likely to become legal (under proposed legislation)
- Passive euthanasia: Generally permitted (through end-of-life care decisions)

Philippines

Euthanasia (both active and passive) is illegal. Doctors who assist a death face imprisonment and malpractice charges.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Illegal (attempt to legalize passive euthanasia failed)

South Korea

Since 2018, South Korea has allowed both active and passive euthanasia for terminally ill patients under the "Well-Dying" Bill, with strict conditions and medical oversight.

- Active euthanasia: Legal (under strict conditions)
- Assisted suicide: Legal (under strict conditions)
- Passive euthanasia: Legal

Spain

Passive euthanasia is legal. A bill to legalize active euthanasia and assisted suicide was under debate as of February 2020.

- Active euthanasia: Pending legalization
- Assisted suicide: Pending legalization
- Passive euthanasia: Legal

Sweden

Passive euthanasia is permitted following a landmark 2010 ruling; patients can refuse life-support. Active euthanasia remains illegal.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Legal

Denmark

Active euthanasia and assisted suicide are prohibited, but doctors frequently make end-of-life decisions to ease patient suffering.

- Active euthanasia: Illegal

- Assisted suicide: Illegal
- Passive euthanasia: Practiced in end-of-life care

Finland

Active euthanasia is illegal, but passive euthanasia is permitted through withdrawal of life support at the patient's request.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Legal

France

Active euthanasia remains illegal, although heavy sedation until death ("deep sleep law") is allowed for terminally ill patients under legislation passed in 2016.

- Active euthanasia: Illegal
- Assisted suicide: Illegal
- Passive euthanasia: Allowed (continuous sedation until death)

Chapter 4

Euthanasia in India

The Indian Constitution, through Part III, provides a comprehensive set of fundamental rights. Whereas, Article 21 of the Constitution of India provides stands vital protection to the rights of individuals. It states that "No person shall be deprived of his life or personal liberty except according to the procedure established by law."

The article safeguards rights of an individual which means to live a meaningful, complete, and dignified life and not merely an animal life. The principal aim of Article 21 is to prevent unlawful encroachment by the State on a person's liberty and life, except through a procedure

established by law.

The concept of "personal liberty" first came before the Supreme Court in the landmark case of *A.K. Gopalan v. Union of India*. Initially, the Court interpreted Article 21 narrowly, holding that deprivation of liberty strictly followed legal procedures and did not interfere with the freedom of movement protected under Article 19(1)(d).

The concept significantly evolved in *Maneka Gandhi v. Union of India*, where the Court expanded the meaning of "personal liberty" under Article 21, emphasizing that it covers a wide range of rights essential to live a dignified life. Many of these rights are now recognized separately under Article 19.

Constitutional Validity of the Right to Die

A major debate arose over whether the right to life under Article 21 also includes a right to die.

The question was first addressed by the Bombay High Court in *State of Maharashtra v. Maruti Sripati Dubal*, where the Court held that the right to die is encompassed within the right to life. The Court declared Section 309 of the Indian Penal Code, 1860, which criminalizes suicide attempts, unconstitutional.

Following this, the issue came before the Supreme Court in *P. Rathinam v. Union of India*, where the Bench upheld the Bombay High Court's ruling. The Supreme Court declared that Section 309 IPC was unconstitutional, recognizing the right to die as part of Article 21.

However, this position was revisited in the landmark case of *Gian Kaur v. State of Punjab*. Here, a five-judge Constitutional Bench of the Supreme Court overruled the earlier decision, holding that Article 21 does not include the right to die. In the case, the Court emphasized that the "right to life is a natural right", while "the right to die is unnatural and inconsistent with the essence of life protected under the Constitution". Therefore, Section 309 IPC remains valid, and attempting suicide is a punishable offense in India.

The Court in *Gian Kaur's* case also highlighted that while life includes the right to live with human dignity, it does not extend to ending life unnaturally. Therefore, right to die cannot be considered as a fundamental right under Article 21.

The issue of euthanasia majorly came into light in case of *Aruna Ramchandra Shanbaug v. Union of India*. In this case, the Supreme Court permitted only passive euthanasia under strict guidelines. Passive euthanasia involves withdrawing life support for patients who are in a permanent vegetative state or terminally ill, allowing them to die naturally. On the other hand, active euthanasia — whether voluntary, involuntary, or non-voluntary — remains illegal and is punishable under the Indian Penal Code.

Thus, in India, only passive euthanasia is allowed under limited circumstances, whereas active euthanasia and assisted suicide are prohibited.

Countries Where the Right to Life Includes the Right to Die with Dignity

Recently, the Governor of California, Jerry Brown, signed a right-to-die bill into law. This legislation allows terminally ill patients to legally end their lives with medical assistance. Under the new law, a patient must meet several conditions: they must be diagnosed by two independent doctors as having six months or less to live, submit a written request along with two verbal requests spaced at least 15 days apart, and be deemed mentally competent to make healthcare decisions.

Besides California, the practice of assisted dying has already been legalized in Montana, Oregon, Vermont, and Washington, while legal battles continue in states like New Mexico.

The momentum for California's law was significantly influenced by Brittany Maynard, a 29-year-old woman from the San Francisco Bay Area who was diagnosed with terminal brain cancer. Since California had no legal provision at that time, she relocated to Oregon to utilize its long-standing assisted-dying statute, bringing national attention to the cause.

Globally, the Netherlands became the first country to legalize both euthanasia and assisted suicide in 2002. However, strict criteria were established: the patient must be enduring unbearable pain, have an incurable illness, and make the request consciously and voluntarily. Following closely, Belgium also legalized euthanasia in 2002. Their law permits doctors to assist patients in ending their lives if the patient voluntarily requests it and is experiencing intractable, unbearable suffering. In cases where a patient previously consented before slipping into a coma or vegetative state, euthanasia can also be administered. In Switzerland, physician-assisted suicide is permissible under the law as well.

Euthanasia Laws and Developments in India

In a landmark decision on March 9, 2018, the Supreme Court of India legalized passive euthanasia under strict conditions. According to the judgment, patients who are either terminally ill or in a persistent vegetative state (PVS) can opt for passive euthanasia through a living will. This decision emerged from the case of Aruna Shanbaug, who remained in a vegetative state for decades until her death in 2015.

This historic ruling emphasized personal autonomy, allowing individuals to make decisions about their own bodies and suffering, thereby recognizing the right to die with dignity as part of the right to life under Article 21 of the Constitution.

The Supreme Court identified two categories for allowing passive euthanasia:

1. Patients who are brain-dead and dependent on ventilators.
2. Patients in a Persistent Vegetative State (PVS) where withdrawal of feeding and administration of palliative care is justified according to international medical standards.

The verdict also reignited discussions around the decriminalization of Section 309 of the Indian Penal Code, which punishes survivors of suicide attempts. In December 2014, the Government of India announced its intention to repeal this section.

Distinction Between Active and Passive Euthanasia

The Supreme Court of India, in *Aruna Ramchandra Shanbaug vs. Union of India*, drew a clear distinction between active and passive euthanasia:

Active Euthanasia involves a deliberate act to cause death, such as administering a lethal injection. This is considered a criminal offense worldwide unless specifically legalized, and in India, it is punishable under Section 302 (murder) or Section 304 (culpable homicide not amounting to murder) of the IPC. Doctor-assisted suicide is also criminal under Section 306 (abetment to suicide).

Passive Euthanasia, on the other hand, refers to withholding or withdrawing medical

treatment that would prolong life, such as removing life support systems or not administering life-saving drugs. The Court pointed out that while active euthanasia involves taking a direct step to end life, passive euthanasia involves refraining from actions that would prolong it.

According to the judgment, passive euthanasia can further be classified into:

- Voluntary Passive Euthanasia, where the patient's consent is obtained.
- Non-voluntary Passive Euthanasia, where the patient is unable to give consent (for example, due to coma).

The Court reasoned that although we often praise those who save lives, we generally do not criminalize someone for failing to save a life. Hence, passive euthanasia, under certain protections and conditions, is legally permissible.

Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2006

The Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2006 aims to protect both patients and medical practitioners when medical treatment is withheld or withdrawn from terminally ill patients.

Clause 2(m) of the Bill defines "terminal illness" as:

1. Illness, injury, or deterioration of physical or mental condition causing extreme pain and suffering and inevitably leading to death, or
2. Conditions leading to a persistent and irreversible vegetative state where no real existence of life remains.

Interpreting Section 2(m)(i) implies that terminal cancer patients in the final stages, where no medical treatment can save their lives, should be eligible for passive euthanasia. Given the high mortality rate from cancer (over 1300 deaths per day in India) and the enormous cost of treatment, which is often beyond the reach of economically disadvantaged families, providing the right to die with dignity becomes a compassionate and necessary step.

Thus, incorporating the right to die with dignity within Article 21 of the Constitution, at least

for terminally ill patients, appears both humane and constitutionally sound.

Conclusion

The concept of euthanasia raises profound ethical, moral, legal, and social questions that challenge our understanding of life, dignity, and death. While the right to life is a fundamental and natural right enshrined under Article 21 of the Indian Constitution, evolving societal needs and the importance of human dignity demand recognition of the right to die with dignity as an extension of the right to live meaningfully.

Through global experiences, it is evident that several countries have moved towards accepting euthanasia and physician-assisted dying under strict regulations, aiming to protect the vulnerable while honoring the autonomy of individuals. Nations like the Netherlands, Belgium, Switzerland, and several states in the USA have demonstrated that safeguarding the right to die with dignity is possible within a controlled legal framework.

In India, the Supreme Court's landmark rulings, especially in the Aruna Shanbaug case and the 2018 judgment permitting passive euthanasia, have marked significant progress in this direction. By allowing individuals the right to refuse life-prolonging treatments under specific conditions, the judiciary has acknowledged the critical intersection between law, medicine, and ethics.

However, active euthanasia remains a punishable offense, reflecting India's cautious approach to balancing individual rights with societal concerns. The discussions around the Medical Treatment to Terminally Ill Patients Bill, 2006, further highlight the urgent need for comprehensive legislation that protects patients' rights while providing clear guidelines to medical practitioners.

Given the growing complexity of medical science and the cost of prolonged treatments, particularly for terminal illnesses like cancer, it is imperative for India to continue evolving its legal stance. Incorporating the right to die with dignity under Article 21 for terminally ill patients would not only uphold the spirit of the Constitution but also recognize the fundamental human desire for a dignified end.

In conclusion, euthanasia is not merely about ending life; it is about respecting the essence of life itself — its quality, its dignity, and the individual's autonomy. A humane legal framework,

sensitively crafted, can ensure that the right to live with dignity includes, when circumstances demand, the right to die with dignity.