
THE LEGAL STATUS OF EUTHANASIA IN INDIA: A COMPREHENSIVE REVIEW OF SUPREME COURT DIRECTIVES AND NEW DRAFT GUIDELINES

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*“Life sans dignity is an unacceptable defeat, and life that meets death with
dignity is a value to be aspired for and a moment for celebration.”*
– Supreme Court of India.

ABSTRACT

Life and death, traditionally natural processes beyond human control, are now influenced by medical advancements that enable the prolongation or termination of life. Indian law, society, and the state uphold the sanctity of life, protecting it from undue interference. Central to this protection is the right to live with dignity, enshrined under Article 21 of the Indian Constitution. This article examines whether this right extends to a right to die with dignity through euthanasia. It analyzes the constitutional and legal framework of euthanasia in India, tracing its judicial evolution through landmark Supreme Court rulings. The article evaluates the 2024 *Draft Guidelines for Withdrawal of Life Support in Terminally Ill Patients*. By exploring global perspectives, ethical dilemmas, and alternative remedies like palliative care, it underscores the need for legislation to balance autonomy and safeguards. The discussion navigates India's socio-cultural and economic context, advocating a humane approach to end-of-life care.

Keywords: Euthanasia, Right to Die, Article 21, Passive Euthanasia, Dignity

INTRODUCTION

Every individual is entitled to a quality of life consistent with their inherent dignity, a fundamental right under Article 21 of the Indian Constitution.¹ Death, an inevitable reality, prompts profound questions about its manner and timing. Medical advancements allow individuals to sometimes determine when death occurs, either by prolonging or hastening it. Prematurely inviting death constitutes a profoundly tragic event, distinct from the natural cessation of life. A dignified life necessitates a dignified death, free from degradation. The

Supreme Court of India addressed these ethical and legal complexities in *Common Cause v. Union of India*. The Court recognized the right to die with dignity as part of Article 21. This landmark ruling established a framework for passive euthanasia, emphasizing patient autonomy, advance directives, and procedural safeguards. This article explores euthanasia's legal status, judicial interpretations, global comparisons, and the urgent need for statutory regulation to ensure humanitarian principles in India's unique socio-economic landscape.

CONCEPTUAL INTERPRETATION OF EUTHANASIA

The term "euthanasia," derived from the Greek "eu" (good) and "thanatos" (death), denotes a "good death" or mercy killing. Sir Francis Bacon coined the term in the 17th century to describe the deliberate termination of life to alleviate suffering.² The Law Commission of India's 241st Report categorizes euthanasia into active and passive forms.³ Active euthanasia involves direct intervention, such as administering a lethal injection to a terminally ill patient in agony. Passive euthanasia entails withholding life-sustaining treatment, such as discontinuing antibiotics or a heart-lung machine for a comatose patient. Euthanasia is further classified as voluntary, with patient consent, or non-voluntary, where consent is unavailable, as in cases of coma. Active euthanasia, like injecting sodium pentothal for instantaneous death, contrasts with passive euthanasia, which allows natural death by omission. Voluntary euthanasia aligns with autonomy. Non-voluntary euthanasia raises ethical and legal challenges, particularly for incompetent patients. Euthanasia aims to hasten death to prevent further suffering.⁴

¹ Vikram Deo Singh Tomar v. State of Bihar, (1988) Supp SCC 734 (India).

² N.M. Harris, The Euthanasia Debate, 147 J. Royal Army Med. Corps 367, 370 (2001).

³ Law Comm'n of India, 241st Report on Passive Euthanasia: A Relook (2012).

⁴ Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 (India).

COMPARATIVE ANALYSIS OF THE LEGAL POSITION OF EUTHANASIA

Globally, euthanasia laws vary significantly. Active euthanasia is illegal without specific legislation. Passive euthanasia is often permitted with safeguards. The Netherlands legalizes euthanasia and physician-assisted suicide under the *Termination of Life on Request and Assisted Suicide Act* (2002). The Dutch law requires due care and excludes minors.⁵ Switzerland permits assisted suicide by non-physicians, attracting foreigners, but prohibits active euthanasia.⁶ Belgium allows euthanasia for adults and, since 2014, minors with discernment capacity, subject to parental consent and psychiatric evaluation.⁷ In the United States, active euthanasia is illegal. Physician-assisted dying is permitted in states like Oregon, Washington, and Montana.⁸ The United Kingdom criminalizes euthanasia under the *Suicide Act 1961*. Passive euthanasia may be allowed in specific circumstances.⁹ Luxembourg legalized euthanasia in 2009 for terminally ill patients with approval from two physicians and a medical panel.¹⁰ Canada legalized medical assistance in dying in 2016 following *Carter v. Canada*, with planned expansion to include mental illness by 2027 (verify status as of 2025).¹¹ Australia's six states permit voluntary assisted dying, with New South Wales effective from November 2023.¹² Spain legalized euthanasia and assisted suicide in June 2021 for adults with incurable conditions.¹³ Each jurisdiction imposes criteria like terminal illness or unbearable suffering to ensure compliance. India can draw lessons from these frameworks to address ethical and legal complexities.

LEGAL SANCTION OF EUTHANASIA IN INDIA

India lacks statutory provisions for withdrawing life support from patients in a persistent vegetative state (PVS) or incompetent to decide. Active euthanasia is illegal, punishable as murder under the *Bharatiya Nyaya Sanhita* (BNS), 2023.¹⁴ It may also be prosecuted as

⁵ Termination of Life on Request and Assisted Suicide (Review Procedures) Act, art. 2 (Neth. 2002).

⁶ Swiss Crim. Code art. 115 (1937).

⁷ Ruth Cohen Almagor, Capacity for Discernment and Euthanasia in Minors: A Legal and Constitutional Analysis Under the Belgian Euthanasia Act, 61 Persps. Biology & Med. 243, 254 (2018).

⁸ Id.

⁹ House of Lords, Assisted Dying for the Terminally Ill Bill, Report of the Select Committee (2005) (U.K.).

¹⁰ Law on Euthanasia and Assisted Suicide, Memorial A, No. 46 (Lux. 2009).

¹¹ *Carter v. Canada* (Att'y Gen.), [2015] 1 S.C.R. 331 (Can.).

¹² Gov't of Can., Medical Assistance in Dying, <https://www.justice.gc.ca/eng/cj-jp/ad-am/index.html> (last visited Aug. 7, 2025).

¹³ Ley Orgánica 3/2021, de 24 de marzo, de regulación de la eutanasia, BOE-A-2021-4628 (Spain).

¹⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 101 (India).

culpable homicide not amounting to murder, depending on intent.¹⁵ Physician-assisted suicide constitutes abetment of suicide, a criminal offense under BNS.¹⁶ Passive euthanasia is permitted under strict conditions. The Supreme Court in *Aruna Shanbaug* (2011) recognized the right to die with dignity under Article 21.¹⁷ The Court in *Common Cause v. Union of India* (2018) affirmed this right, requiring advance directives and medical board approval.¹⁸ No legislation currently governs euthanasia in India (verify status as of August 2025). The 2024 *Draft Guidelines* aim to standardize passive euthanasia procedures.¹⁹

APPLICATION OF FOREIGN JUDGMENTS IN INDIA

Foreign judgments are persuasive in Indian courts. Courts may adopt minority or overruled decisions, as seen in *Vishaka v. State of Rajasthan* (1997).²⁰ Indian euthanasia jurisprudence draws on the UK's *Airedale* (1993), which permits life support withdrawal in the patient's best interest.²¹ The U.S. Supreme Court in *Vacco v. Quill* (1997) distinguished passive from active euthanasia.²² The *parens patriae* doctrine, originating in 13th-century British law, obliges the state to protect those unable to care for themselves. In *Heller v. DOE* (1993), the U.S. Supreme Court recognized this state interest.²³ In *Aruna Shanbaug*, the Indian Supreme Court applied *parens patriae* to decide for incompetent patients, considering relatives' and doctors' views.²⁴ In *Gian Kaur v. State of Punjab* (1996), the Court held euthanasia unlawful absent legislation.²⁵ The Court overruled *P. Rathinam v. Union of India* (1994), which suggested a right not to live.²⁶ *Gian Kaur* endorsed *Airedale*, emphasizing legislative sanction.

INTERPRETATIONS OF THE SUPREME COURT

Euthanasia raises legal, ethical, medical, and religious questions. In *State of Himachal Pradesh v. Umed Ram Sharma* (1986), the Court held that Article 21's right to life includes the quality

¹⁵ Id. § 105.

¹⁶ Id. § 112.

¹⁷ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

¹⁸ *Common Cause v. Union of India*, AIR 2018 SC 1665 (India).

¹⁹ Union Health Ministry, *Draft Guidelines for Withdrawal of Life Support in Terminally Ill Patients* (Sept. 30, 2024) (India).

²⁰ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

²¹ *Airedale NHS Tr. v. Bland*, [1993] 1 All E.R. 821 (H.L.) (U.K.).

²² *Vacco v. Quill*, 521 U.S. 793 (1997).

²³ *Heller v. DOE*, 509 U.S. 312 (1993).

²⁴ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

²⁵ *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648 (India).

²⁶ *P. Rathinam v. Union of India*, (1994) 3 SCC 394 (India).

of life.²⁷ In *P. Rathinam* (1994), a two-judge bench suggested a right not to live.²⁸ In *Gian Kaur* (1996), a Constitution Bench overruled *P. Rathinam*, affirming that Article 21 excludes unnatural death.²⁹ *Gian Kaur* endorsed *Airedale*, noting euthanasia requires legislation. In *Aruna Shanbaug* (2011), the Court permitted passive euthanasia under High Court supervision, establishing guidelines until Parliament acts.³⁰ Decisions must be made by relatives, next friends, or physicians, acting in the patient's best interest. In *Common Cause* (2018), the Court reaffirmed the right to a dignified death, validating advance directives.³¹ For incompetent patients, the "best interest" principle applies, with medical expert decisions subject to a cooling period for legal recourse. These guidelines remain in force pending legislation.

LEGAL DISTINCTIONS BETWEEN EUTHANASIA AND OTHER UNNATURAL MODES OF DEATH

Euthanasia is unique for its medical context and intent to relieve suffering. Homicide encompasses lawful and unlawful killing.³² Murder involves intent to kill.³³ Suicide, decriminalized under the *Mental Healthcare Act, 2017*, is self-inflicted death.³⁴ Physician-assisted suicide, illegal in India, involves providing means for self-administered death.

Active euthanasia, prohibited, involves a third-party causing death. Passive euthanasia, permitted, allows natural death via treatment withdrawal. The unnatural termination of life is generally intolerable. Legal principles may justify euthanasia in exceptional cases. Most religions view life as a divine gift, promoting natural death and elevating human dignity.

NEW DRAFT GUIDELINES FOR EUTHANASIA

The 2024 *Draft Guidelines* define terminal illness as an irreversible condition with inevitable death.³⁵ Patients or surrogates may refuse life support post-medical board review. Advance directives are recognized. The guidelines outline four conditions: (1) brainstem death certification, (2) advanced, untreatable condition, (3) informed refusal, and (4) Supreme Court

²⁷ *State of Himachal Pradesh v. Umed Ram Sharma*, AIR 1986 SC 847 (India).

²⁸ *P. Rathinam v. Union of India*, (1994) 3 SCC 394 (India).

²⁹ *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648 (India).

³⁰ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

³¹ *Common Cause v. Union of India*, AIR 2018 SC 1665 (India).

³² *Bharatiya Nyaya Sanhita*, No. 45 of 2023, §§ 101–105 (India).

³³ *Id.* § 103.

³⁴ *Mental Healthcare Act*, No. 10 of 2017 (India).

³⁵ Union Health Ministry, *Draft Guidelines for Withdrawal of Life Support in Terminally Ill Patients* (Sept. 30, 2024) (India).

compliance. These guidelines aim to standardize passive euthanasia. Verification is needed to confirm if they were finalized by August 2025.

MEDICO-LEGAL JUSTIFICATIONS FOR EUTHANASIA

Euthanasia is a deliberate act to end life to relieve suffering.³⁶ Active euthanasia is illegal, constituting murder. Passive euthanasia is permissible under judicial oversight. A doctor administering a lethal injection commits an unlawful act. Discontinuing life support in hopeless cases is lawful, as it is an omission, not a breach of duty.³⁷ India's socio-cultural context, including Hindu and Jain emphasis on non-violence (*ahimsa*), complicates euthanasia's acceptance.³⁸

WHEN A PERSON CAN BE SAID TO BE DEAD?

Death is the irreversible cessation of brain functions, including the brainstem.³⁹ The

Transplantation of Human Organs Act, 1994 defines "brain-stem death" as permanent cessation, certified by a medical board.⁴⁰ This differs from a persistent vegetative state, where limited functions persist. Passive euthanasia is justified for mechanically sustained patients with no recovery prospect. Such decisions require High Court approval.⁴¹

SANCTITY OF LIFE AND RIGHT TO DIE WITH DIGNITY

The right to live with dignity includes a dignified death, not unnatural termination.⁴² In *Airedale*, Lord Keith held that sanctity of life is not absolute, allowing treatment withdrawal when futile.⁴³ Lord Goff emphasized that doctors are not obliged to prolong life in all circumstances.⁴⁴ India's cultural context, rooted in Hindu and Jain principles of *ahimsa* and soul liberation, enriches this debate.⁴⁵ The right to life does not include a right to die

³⁶ House of Lords, Report of the Select Committee on Medical Ethics (1994) (U.K.).

³⁷ Glanville Williams, Textbook of Criminal Law 282 (2d ed. 1983).

³⁸ Sushila Rao, Ethics of Euthanasia in India: A Hindu Perspective, 45 Indian J. Med. Ethics 105, 108 (2019).

³⁹ Uniform Determination of Death Act, § 1 (1981) (U.S.).

⁴⁰ Transplantation of Human Organs Act, No. 42 of 1994, § 2(d) (India).

⁴¹ Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454 (India).

⁴² Gian Kaur v. State of Punjab, (1996) 2 SCC 648 (India).

⁴³ *Airedale NHS Tr. v. Bland*, [1993] 1 All E.R. 821 (H.L.) (U.K.).

⁴⁴ *Id.*

⁴⁵ *Supra* note 38.

unnaturally, as fundamental rights are subject to restrictions.

RIGHT TO SELF-DETERMINATION

Competent adults may refuse treatment under common law.⁴⁶ The U.S. Constitution's Fourteenth Amendment reinforces this right.⁴⁷ Advance directives enable pre-incapacity decisions. For incompetent patients, "substituted judgment" by surrogates reflects likely preferences.⁴⁸ In India, the Aruna Shanbaug case illustrates the challenges of applying self-determination in PVS cases, balancing autonomy with ethical concerns.⁴⁹

BEST INTEREST OF THE PATIENT

For incompetent patients, withdrawal decisions must serve their best interest.⁵⁰ The question is whether prolonging life is beneficial, not whether death is preferable. Medical experts make this determination. In *Saikewicz*, the Massachusetts Supreme Judicial Court held that presuming treatment for incompetent patients devalues their worth.⁵¹ In India, High Court approval ensures decisions are bona fide.⁵²

CONSEQUENCES OF PERMITTING OR RESTRICTING EUTHANASIA

Permitting euthanasia risks misuse, such as property-driven conspiracies.⁵³ India's low ethical standards necessitate judicial oversight. In *Aruna Shanbaug*, the Supreme Court mandated High Court approval to protect patients and doctors.⁵⁴ Restricting euthanasia can prolong suffering. Lord Mustill in *Airedale* noted that continuing treatment in hopeless cases strains resources and families.⁵⁵ India's healthcare system, with limited rural access, exacerbates caregiver burdens.⁵⁶ Socio-economic pressures, like financial constraints, compel families to continue futile treatment. A balanced framework is needed to address these challenges.

⁴⁶ *Schloendorff v. Soc'y of N.Y. Hosp.*, 211 N.Y. 125, 105 N.E. 92 (1914).

⁴⁷ *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261 (1990).

⁴⁸ *In re Quinlan*, 355 A.2d 647 (N.J. 1976).

⁴⁹ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

⁵⁰ Ian Kennedy, *Treat Me Right: Essays in Medical Law and Ethics* 21–22 (1988).

⁵¹ *Superintendent of Belchertown State Sch. v. Saikewicz*, 370 N.E.2d 417, 428 (Mass. 1977).

⁵² *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ N.M. Harris, *The Euthanasia Debate*, 147 J. Royal Army Med. Corps 367, 370 (2001).

⁵⁶ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

AVAIL ALTERNATIVE REMEDIES

Palliative care alleviates suffering without hastening death.⁵⁷ Many euthanasia requests stem from unawareness of alternatives. Palliative care controls symptoms, reducing such requests.⁵⁸ Depression often drives the desire for death in terminal patients.⁵⁹ India's limited healthcare resources emphasize palliative care's role. Cultural beliefs, like Jainism's *sallekhana* (voluntary fasting to death), offer alternative perspectives on dignified dying.⁶⁰ Compassionate care ensures a natural end to life.

CONCLUSION

This article examines euthanasia's legal, ethical, and constitutional dimensions in India. The Supreme Court's rulings in *Aruna Shanbaug* and *Common Cause* recognize passive euthanasia under Article 21. The 2024 *Draft Guidelines* aim to standardize procedures, but legislation is imperative.⁶¹ India's socio-economic constraints and cultural values, including Hindu and Jain perspectives, necessitate integrating palliative care. The state and citizens must collaborate to protect life's sanctity while honoring autonomy. A humane framework ensures dignified end-of-life care.

⁵⁷ C. Saunders, Terminal Care in Medical Oncology, in Medical Oncology 563–76 (K.D. Begshawe ed., 1975).

⁵⁸ Z. Zylicz & I.G. Finlay, Euthanasia and Palliative Care: Reflections from The Netherlands and the UK, 92 J. Royal Soc'y Med. 370, 373 (1999).

⁵⁹ H.M. Chochinov et al., Desire for Death in the Terminally Ill, 152 Am. J. Psychiatry 1185, 1191 (1995).

⁶⁰ Sushila Rao, Ethics of Euthanasia in India: A Hindu Perspective, 45 Indian J. Med. Ethics 105, 108 (2019).

⁶¹ Union Health Ministry, Draft Guidelines for Withdrawal of Life Support in Terminally Ill Patients (Sept. 30, 2024) (India).