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# THE CHANGING LEGAL LANDSCAPE OF EUTHANASIA IN INDIA: A STUDY

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## ABSTRACT

The law of nature includes both life and death which are inseparable aspects. Every human who comes to this world wishes to live and enjoy all the benefits of life, but it can also be seen that sometimes humans tend to take their own life through unnatural means, which we refer as “suicide” but if they request some experts to end his life because of some incurable illness which is only giving him more pain then it is known as “euthanasia”. Euthanasia also known as “mercy killing”, remains a subject of legal and ethical debate in India and has evolved through judicial interventions. Historically, it was evident enough that both active as well as passive euthanasia was prohibited by the Indian laws Indian Penal Code, which is now BNS 2023. However, over time, the courts have brought an understanding of passive euthanasia through their decisions under specific situations. Active euthanasia continues to be prohibited under the Indian legal framework even though other forms of euthanasia have gained acceptance. The lack of comprehensive legislation for euthanasia that balances individual autonomy with ethical consideration demands for clear legal structures to protect individual rights and ethics. This article will make an attempt to analyze the historical development of euthanasia while examining contemporary legal frameworks for euthanasia in India. The article also stresses both the requirement for a structured legal framework along with the challenges it faces and concludes by giving suggestions from global best practices particularly from countries like the Netherlands and Canada where euthanasia is regulated.

**Keywords:** euthanasia, mercy killing, suicide, judicial interpretation, unnatural.

## Introduction

The interplay between life and death is a fundamental aspect of human existence. While people hold value for their life, there are instances where their prolonged sickness and medical conditions which are beyond curing lead some individuals to seek external assistance for ending their pain.<sup>1</sup> This practice is known as Euthanasia or mercy killing which is highly a debatable issue that involves major ethical problems and medical dilemmas along with legal challenges. The practice of euthanasia involves deliberate death for someone who experiences unbearable pain beyond medical help because of terminal illness. The main controversy regarding euthanasia involves personal right to find dignity in death versus the government responsibility to protect life.

Euthanasia is generally classified into two types: active and passive. Active euthanasia requires performing a specific action like giving a lethal injection as a death-accelerating measure but passive euthanasia means stopping life-preserving treatments which let patients experience natural death.<sup>2</sup> Although legally competent individuals have the right to make medical decisions about their treatment there are individuals who are in a Permanent Vegetative State (PVS) or those suffering from severe, irreversible conditions who are unable to make this choice.<sup>3</sup> When such situations arise courts make decisions to benefit patients through the doctrine of *parens patriae* meaning making decisions in the best interest of the patient while ensuring adherence to ethical and legal principles.

The euthanasia debate is not only limited to medical and legal considerations but also delves into human rights, religious perspectives and societal values. The debate exists between those who support terminally ill patients to exercise death as pain relief versus individuals who worry legalizing euthanasia could create ethical problems and potential misuse of the process.<sup>4</sup> Various nations have addressed this issue in different ways such as countries like the Netherlands, Belgium, Colombia and Luxembourg have legalized euthanasia with strict regulatory measures.

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<sup>1</sup> Raphael Cohen-Almagor, Euthanasia Policy and Practice in Belgium: Critical Observations and Suggestions for Improvement, 35 J. MED. ETHICS 583 (2009).

<sup>2</sup> JOHN GRIFFITHS ET AL., EUTHANASIA AND LAW IN EUROPE 113-14 (2d ed. 2010).

<sup>3</sup> Airedale N.H.S. Trust v. Bland, [1993] A.C. 789 (H.L.) (U.K.).

<sup>4</sup> Cruzan v. Dir., Missouri Dep't of Health, 497 U.S. 261 (1990).

Euthanasia remains illegal for all individuals in Mexico and Thailand while specific U.S. states along with Switzerland and Germany permit physician-assisted suicide based on particular requirements.

In India, the legal position on euthanasia emerged first through the decisions of courts instead of establishing complete legislative standards. Active euthanasia remains illegal under Indian law while passive euthanasia receives specific legal approval which prevents the country from establishing strong legal access to physician-assisted death. A lack of distinct legislative guidance creates challenges because it leads to unclear procedures along with inconsistent interpretation of the law. As medical advancements and evolving societal attitudes continue to shape the discussion, there is an increasing need for a structured legal framework that upholds human dignity while preventing potential abuse.<sup>5</sup>

### **Evolution of Euthanasia**

The legal definition of euthanasia in India shows major significant changes through multiple ethical and medical and societal developments. Historically, Indian law did not recognize euthanasia in any form, classifying both active and passive euthanasia as unlawful under the Indian Penal Code, 1860. The Legal provisions in India made every intentional killing of human life without considering consent or pain of the affected person illegal. According to Section 302 of the IPC murder was defined as an offense where anyone intentionally killed another person despite obtaining their permission.<sup>6</sup> Additionally, Section 304, which dealt with culpable homicide not amounting to murder, allows prosecution when someone intentionally causes death though the offense fails to satisfy the criteria for murder.<sup>7</sup>

The laws protecting the sanctity of life further reinforced by Section 309, which outlawed suicide attempts,<sup>8</sup> and Section 306, which punished those who help commit suicide.<sup>9</sup> These provisions collectively reflected India's strict approach to euthanasia, making no legal distinction between actively causing death through intervention and passively allowing death by withdrawing medical treatment.

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<sup>5</sup> Sheila A. M. McLean, *Assisted Dying: Reflections on the Need for Law Reform* 23 (2012).

<sup>6</sup> The Indian Penal Code, No. 45 of 1860, § 302 (India).

<sup>7</sup> The Indian Penal Code, No. 45 of 1860, § 304 (India).

<sup>8</sup> The Indian Penal Code, No. 45 of 1860, §. 309 (India). <sup>9</sup>

<sup>9</sup> The Indian Penal Code, No. 45 of 1860, § 306 (India).

The advancements of medical science together with public societal attitudes in recent years have led to public debates on the right to die with dignity, particularly among terminally ill patients and patients in a persistent vegetative state. A crucial shift in India's legal approach to suicide related provisions came with the enactment of the Mental Healthcare Act, 2017. The legislation introduced a major change by decriminalizing attempted suicide when it occurred under extreme mental illness or stress.<sup>10</sup> This reform shifted the legal perspectives of the right to die through its introduction of rehabilitation programs over punishment of mentally ill people thus initiating euthanasia debates.

Recently, the Bharatiya Nyaya Sanhita (BNS), 2023 brought forth another legal transformation by replacing the Indian Penal Code. Under the new legal framework, active euthanasia continues to remain as prohibited while keeping the established prohibition on ending life through deliberate actions. Section 103 of the BNS<sup>11</sup>, which replaces IPC Section 302, upholds the offense of murder, ensuring that euthanasia remains outside the purview of legal exceptions. Similarly, Section 105,<sup>12</sup> which replaces IPC Section 304, continues to penalize culpable homicide not amounting to murder, making it applicable in certain euthanasia-related cases. However, one of the most major change enacted by the BNS involves taking out Section 309 from the legal code which previously considered attempted suicide as a crime.

The new law establishes a complete decriminalization of attempted suicide by recognizing mental health as an essential consideration that moves legal paths from punishment to restoration services. The legalization of suicide is proceeding forward yet Section 108 of the BNS of the BNS,<sup>13</sup> forbids all external assistance in ending life since it replaces IPC Section 306.

Although Passive euthanasia has been permitted under Indian law, active euthanasia continues to be illegal<sup>14</sup> while the country experiences a gradual evolution of its end-of-life decision policy. The Indian legal system recognizes euthanasia complexities yet struggles to establish an organized framework that dictates complete healthcare decisions concerning end-of-life terminations for patients.<sup>15</sup> As advancements in medical technology, patient autonomy and

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<sup>10</sup> Mental Healthcare Act, No. 10 of 2017, § 115 (India).

<sup>11</sup> Bharatiya Nyaya Sanhita, No. 10 of 2023, § 103 (India).

<sup>12</sup> Bharatiya Nyaya Sanhita, No. 10 of 2023, § 105 (India).

<sup>13</sup> Bharatiya Nyaya Sanhita, No. 10 of 2023, § 108 (India).

<sup>14</sup> Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 S.C.C. 454 (India).

<sup>15</sup> Abhinav Chandrachud, Passive Euthanasia in India: A Critique, 6 INDIAN J. CONST. L. 106 (2012)..

ethical considerations continue to shape the discourse, there is an increasing need for a clear legislative framework addressing euthanasia, advance medical directives, and end-of-life rights.<sup>16</sup> India takes a cautious approach to euthanasia law however future legislative improvements might help establish a better harmony between life preservation and dignified death.

### **Legal Framework Regulating Euthanasia in India**

Indian courts have served as the central influence on euthanasia laws since the country lacks complete legislation explicitly governing the right to die with dignity through their judicial interpretations. Euthanasia remained prohibited throughout India under the Indian Penal Code (IPC) from 1860 through its restriction of every human life-ending action that anyone performed regardless of personal consent or condition.<sup>17</sup> The transition to the Bharatiya Nyaya Sanhita (BNS), 2023 has kept this position stable because active euthanasia remains illegal with abetment of suicide facing criminal consequences. . However, the evolving discussion on passive euthanasia and end-of-life rights has led to the legal developments, including landmark judicial pronouncements and ongoing legislative deliberations.

Under the Bharatiya Nyaya Sanhita (BNS) 2023, the provision remains in effect to ban active euthanasia. Section 101 of the BNS, which corresponds to the former Section 302 of the IPC, criminalizes the intentional act of taking another person's life, even if done with their consent or out of compassion. Likewise, Section 105, replacing IPC Section 304, penalizes culpable homicide not amounting to murder, which could apply in cases where euthanasia is viewed as an unlawful act of causing death. The law treats the provision of abetment to committed suicide as a criminal offense under Section 108 of the BNS. This regulation preserves previous legal barriers against assisting individuals to end their lives regardless of their health condition or suffering severity. However, the Mental Healthcare Act, 2017, under section 115 decriminalizes attempted suicide, which no longer penalizes individuals who attempt to take their own lives.<sup>18</sup> This change marks a significant shift in recognizing mental health concerns and prioritizing rehabilitation over punishment, indirectly shaping the broader conversation on the right to die with dignity.

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<sup>16</sup> PENNEY LEWIS, ASSISTED DYING AND LEGAL CHANGE 15 (2007).

<sup>17</sup> The Indian Penal Code, No. 45 of 1860, §302, 304, 306, 309 (India).

<sup>18</sup> Mental Healthcare Act, No. 10 of 2017, §115 (India).

Beyond the BNS, several other legal enactments influence the regulation of euthanasia in India. The proposed Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill aims to create a structured legal framework for end-of-life decision-making.<sup>19</sup> This bill which has not passed into law seeks to strengthen passive euthanasia recognition of passive euthanasia through patient rights for refusing life-sustaining care support. Additionally, this bill establishes medical regulations that help professionals carry out life-support withdrawal procedures with both ethics and the law in mind while reducing possible criminal penalties.<sup>20</sup> The legislation aims to explain the legal standing of advanced medical directives together with living wills and defines family member involvement when making end-of-life choices for patients who cannot make decisions.

Under the Rights of Persons with Disabilities Act, 2016 the debate about euthanasia indirectly takes on new importance through its emphasis on the protection of individuals' dignity and autonomy as well as safeguarding disabled persons.<sup>21</sup> Under this legislation persons with disabilities maintain protection against discrimination and harm because these provisions affect euthanasia-related discussion among severe disability and degenerative condition cases. The provisions show how it is important to protect those who need special care from coercion and undue influence when they decide about their end of life.

Despite these legal frameworks, the absence of a comprehensive euthanasia law in India creates difficulties for both patients and medical practitioners and relatives when making end-of-life care choices and receiving care.<sup>22</sup> Existence of ethical and moral concerns forces prohibition on active euthanasia but passive euthanasia now receives legal acceptance through judicial oversight showing an evolving understanding of dignity at the end of life. The absence of a clear legislative framework results in decision-making because of the resulting ambiguity. This shows the necessity for proper legislation. Future changes to Indian legislation regarding euthanasia can potentially link these gaps to create a standard method of compassionate terminal care.<sup>23</sup>

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<sup>19</sup> Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2006 (India).

<sup>20</sup> Common Cause (A Regd. Society) v. Union of India, (2018) 5 SCC 1 (India).

<sup>21</sup> Rights of Persons with Disabilities Act, No. 49 of 2016, s 3 (India).

<sup>22</sup> Abhinav Chandrachud, Passive Euthanasia in India: A Critique, 6 INDIAN J. CONST. L. 106 (2012).

<sup>23</sup> PENNEY LEWIS, ASSISTED DYING AND LEGAL CHANGE 15 (2007).

## Case Laws & Judicial Precedents

The legal framework pertaining to euthanasia developed inside India based on judicial decisions that reflect judicial precedent regarding the right to die with dignity.. Over time, courts have examined whether the right to life under Article 21 of the Constitution extends to include the right to die. While earlier judgments court ruled against euthanasia and assisted suicide as crimes but later decisions brought in understanding for passive euthanasia which allowed living wills and advance medical directives to develop.

In *P. Rathinam v. Union of India*,<sup>24</sup> the Supreme Court initially decriminalized attempted suicide, interpreting the right to life under Article 21 as encompassing the right to die. The Court reasoned that penalizing suicide under Section 309 IPC was inhumane and excessive. However, this decision was later reversed in *Gian Kaur v. State of Punjab*<sup>25</sup> where the Supreme Court overturned its previous ruling and upheld the constitutionality of Section 309 of the Indian Penal Code, which penalized attempted suicide. The Court stated that Article 21 protects the right to life yet does not include the right to die since living represents a natural human right which dies rejects. Although the Court denied both euthanasia and suicide rights they accepted that living with dignity is integral to the right to live with dignity. The court established an important foundation for future legal discussion about whether allowing the death of terminally ill patients by medical treatment withdrawal could be regarded as a dignified passing instead of suicide.

A significant shift occurred in *Aruna Shanbaug v. Union of India*<sup>26</sup>. Aruna Shanbaug, a nurse spent 42 years in a persistent vegetative state after a hospital ward boy assaulted and strangled her which sparked an intense euthanasia debate throughout India. The Supreme Court, while denying the request for active euthanasia, recognized passive euthanasia under strict conditions. The Court ruled that Life support systems can be withdrawn from permanent vegetative state patients with judicial approval for decisions that benefit their medical condition. The decision established guidelines requiring that requests for passive euthanasia be filed by close family members or doctors and that a High Court bench approve such petitions

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<sup>24</sup> *P. Rathinam v. Union of India*, (1994) 3 SCC 394 (India).

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

<sup>26</sup> *Aruna Shanbaug v. Union of India*, (2011) 4 SCC 454 (India).

following consultation with a medical panel. In this case India witnessed its initial judicial passage for passive euthanasia under stringent court supervision.

Under the *Common Cause v. Union of India*,<sup>27</sup> where the Supreme Court decision the legal standards expanded to recognize the right to die with dignity under Article 21. The Court declared passive euthanasia legal while upholding the effectiveness of living wills and advanced medical directives as people could set treatment refusal criteria for upcoming situations. The ruling provided much-needed legal clarity on withdrawing life support for terminally ill patients. It held that competent adults have the right to refuse medical treatment, including artificial life support, and that individuals may execute a living will outlining their end-of-life care preferences. The court established medical board supervision together with judicial review protocols as requirements to authorize passive euthanasia practices. This decision maintained equity between two essential values – protection of life and personal liberty to choose end-of-life options.

Through the 2018 judgment the Supreme Court further made progress which led to additional clarification in *Modification of Common Cause Guidelines* about simplifying medical directive executions when removing life support from patients nearing death.<sup>28</sup> The revision process intended to remove the operational barriers which restricted enforcement of living wills. The Court made life support withdrawal procedures easier to follow by cutting down on required medical board reviews so families and doctors could implement them more readily. The right to die with dignity became enforceable in real-world situations as this development created additional strength to the right.

Similarly, in *Naresh Marotrao Sakhre v. Union of India*, the Bombay High Court ruled that euthanasia could not be legalized without specific legislation authorizing it.<sup>29</sup> The Court emphasized that any form of euthanasia whether active or passive, remained illegal unless explicitly sanctioned by law. This ruling reinforced the judiciary's view that legalizing euthanasia required legislative intervention rather than mere judicial pronouncements.

Another important precedent was set in *State of Maharashtra v. Maruti Sripati Dubal*, where the Bombay High Court declared Section 309 IPC unconstitutional, arguing that the right to

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<sup>27</sup> *Common Cause v. Union of India*, (2018) 5 SCC 1(India).

<sup>28</sup> *Modification of Common Cause Guidelines*, (2023) 1 SCC Online SC 67 (India).

<sup>29</sup> *Naresh Marotrao Sakhre v. Union of India*, 1996 SCC Online Bom 374 (India).



life included the right to die.<sup>30</sup> According to the Court patients should possess control over their existence including circumstances that cause them extreme pain. However, this decision was later overruled by the Supreme Court in *Gian Kaur v. State of Punjab*, reaffirming that the right to life does not extend to the right to die.<sup>31</sup>

A distinct yet related issue emerged in the *Santhara/Sallekhana*,<sup>32</sup> in which the Rajasthan High Court prohibited the Jain practice of Santhara, a religious ritual involving voluntary fasting to death, declaring it akin to suicide. The decision ignited major social debate because Jains who hold religious authority insisted Santhara reflected religious sacrifice instead of self-killing. The Supreme Court later stayed the Rajasthan High Court's decision, allowing the practice to continue. This case underscored the difficult task of differentiating between euthanasia practice and religious guidelines and personal freedom in end-of-life choices.

These judicial decisions show that Indian euthanasia laws are transforming from absolute prohibition to conditional recognition of passive euthanasia and living wills under stringent legal and ethical safeguards. The judiciary has significantly contributed to die with dignity legal development despite ongoing ethical issues stemming from the lack of comprehensive legislation. The evolving jurisprudence on euthanasia highlights the urgent need for clear and structured laws that balance individual rights with societal concerns while preventing potential misuse.

## Conclusion & Suggestions

India continues to face legal and moral complexities regarding euthanasia despite significant judicial advancements because the nation lacks well defined legislation. The establishment of specific laws will enable proper balance between individual freedom and societal ethical and legal concerns. The structured legal framework for euthanasia in India can be built through studying the regulatory systems in Netherlands and Canada which implement thorough safeguards and then enacting a comprehensive euthanasia law that determines both passive and active euthanasia limits and safeguards procedures. Secondly, subsequent to this, strengthening of medical supervision, a specialized medical and legal regulatory authority needs to be created for euthanasia case oversight. Medical oversight of euthanasia can be achieved through

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<sup>30</sup> *State of Maharashtra v. Maruti Sripati Dubal*, 1987 SCC Online Bom 467 (India).

<sup>31</sup> *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648 (India).

<sup>32</sup> *Nikhil Soni v. Union of India*, (2015) 7 WLN 693 (India).

multiple approval stages with independent examination of patient cases to guarantee the legal availability of this service for those facing irreversible pain. Also, the public needs to become more aware about euthanasia while simultaneously encouraging a well-informed discussion of the topic. Engaging society through consultations, media discussions and expert panels creates policies that reflect shared moral values and protect individual rights. Also, safety measures that prevent abuse requires stricter implementation. Safety protocols including stringent eligibility requirements, psychological tests under professional supervision must exist to prevent possible abuse of euthanasia especially among vulnerable populations. The provisions must ensure that euthanasia is a voluntary decision that excludes coercive pressure and must establish precise consent processes and required legal documents.

India's developing legal stance towards euthanasia demands a well defined legislative structure with specific procedures and stringent safeguards that will ensure that euthanasia, if permitted under strict conditions, supports constitutional rights, human dignity and medical ethics. By adopting this framework, it enables India to achieve harmony between statutory implementation and judicial recognition which ensures that euthanasia remains a dignified and ethically regulated option for terminally ill patients.