

# Exploring The Right To Die: A Comprehensive Review Of Legal, Ethical And Clinical Dimensions

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## Abstract

The "Right to Die" is a deeply complex and contentious issue that sits at the intersection of legal, ethical, and clinical domains. This paper presents a comprehensive review of the Right to Die, analyzing its evolution, the ethical dilemmas it presents, and its implications for clinical practice. The study investigates the historical development of the Right to Die, examining key legal cases and legislation that have shaped its current status in different jurisdictions. Ethical perspectives, including arguments for autonomy and the sanctity of life, are critically evaluated to highlight the moral tensions inherent in this debate. The paper attempts to explore the clinical challenges faced by healthcare professionals in navigating end-of-life care, particularly in contexts where the Right to Die is legally recognized. There is need for a balanced approach that respects individual rights while safeguarding vulnerable populations. The research attempts to conclude with recommendations for harmonizing legal, ethical and clinical standards to better address the complexities of end-of-life decision-making.

**Keywords:** Euthanasia, Passive Euthanasia, Active Euthanasia, Right to Die, Dignity.

## I. Introduction

“Life is Pleasant, Death is painful and said transaction is troublesome”- Matthew Arnold<sup>1</sup>.

The concept of the Right to Die presents a profound contradiction when considered with the Right to Life, one of the most cherished and fundamental rights enshrined in the Constitution of India. The Right to Life is universally acknowledged as the most essential human right, yet the notion of the Right to Die challenges this principle by suggesting that an individual can be granted the liberty to renounce this most valuable of rights. The Right to Die encompasses various contentious issues such as euthanasia, mercy killing, physician-assisted suicide (PAS), and suicide itself. While life is universally regarded as precious and irreplaceable, the literal interpretation of the Right to Die implies a deliberate decision to end one's life. There are numerous medical scenarios where patients exist in a liminal state, their lives hanging by a thread, facing a future where death seems imminent, and life is dominated by unbearable suffering. For such individuals, the prospect of death may seem more appealing than enduring a life of continuous pain and misery. However, under current Indian law, suicide is a criminal offense, and assisting or encouraging suicide is also punishable, leaving both the patient and the physician powerless in these tragic situations.

Euthanasia intervenes in these cases, offering a potential solution where the law currently offers none. While countries like the Netherlands, Belgium, Luxembourg, Switzerland, Germany, the United States, Japan, Colombia, Albania, and Canada have legalized euthanasia and assisted suicide, India only began addressing this issue legally after March 10, 2018, through various judicial pronouncements rather than explicit legislation. Numerous debates around euthanasia continue to gain prominence, it is imperative to examine this issue not only at the societal and national levels but also in the global context<sup>2</sup>. This paper seeks to explore the complex ethical, legal, and clinical dimensions of euthanasia, scrutinizing the potential for abuse if it were to be legalized, as well as its broader implications on societal norms and values.

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<sup>1</sup> The Harvard University Press, *available at*: [http://www.lyriktheorie.uni-wuppertal.de/texte/1880\\_arnold1.html](http://www.lyriktheorie.uni-wuppertal.de/texte/1880_arnold1.html) (last visited on 15 April, 2024).

<sup>2</sup> Jayanta Boruah, “Euthanasia in India: A Review of its Constitutional Validity”, 6 *Lex Humanitariae* 228 (2021).

## II. Concept of Euthanasia

Euthanasia, derived from the Greek words "eu" (meaning "good" or "well") and "thanatos" (meaning "death"), refers to the intentional act of ending a person's life to relieve suffering, particularly in cases of terminal illness or severe, unrelievable pain. Often termed "mercy killing," euthanasia aims to provide a dignified and painless death for individuals whose quality of life has deteriorated beyond recovery. It can be classified into different types, including voluntary euthanasia, where a competent individual consciously requests assistance in dying; involuntary euthanasia, which occurs without the explicit consent of the person, typically when they are unable to make such decisions; active euthanasia, involving direct action to cause death, such as administering a lethal injection; and passive euthanasia, where medical treatments necessary to keep a patient alive are withheld or withdrawn, allowing death to occur naturally<sup>3</sup>.

The concept of euthanasia has evolved significantly over time, shaped by medical advancements, cultural attitudes, and legal developments. The modern era brought significant changes, especially during the Industrial Revolution and the subsequent advancements in medical science, which led to ethical dilemmas about the quality of life versus prolongation of suffering. The term "euthanasia" gained prominence in the late 19th and early 20th centuries, with increasing debates over the moral and ethical implications of assisted dying. The legalization of euthanasia began in the late 20th century, with the Netherlands leading the way in 2001, followed by Belgium in 2002. These countries implemented strict legal frameworks to regulate the practice, ensuring it was only performed under specific conditions and with the patient's explicit consent.

Today, euthanasia remains a contentious issue, with ongoing debates centered around its ethical, legal, and social implications. Proponents argue that it is a humane response to suffering and a fundamental right, while opponents raise concerns about potential abuses, the sanctity of life, and the societal impact of normalizing assisted death. In India, the debate around euthanasia has been shaped by landmark judicial decisions, such as the Aruna Shanbaug case in 2011 and the Supreme Court's recognition of passive euthanasia in 2018.

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<sup>3</sup> Shailendar Kaur, "Euthanasia – A Blemish or a Bliss", 4 *Delhi Judicial Academy Journal* 84 (2005).

These rulings have opened the door to discussions about the legal and ethical frameworks necessary to govern the practice in India. As euthanasia continues to evolve, it remains a deeply personal and complex issue, challenging societies to balance compassion with ethical and legal considerations<sup>4</sup>.

### III. Development of “Right to Die” as a Concept

The development of the Right to Die as a concept has been a complex and evolving journey, rooted in philosophical, legal, and ethical discussions about autonomy, dignity, and the value of human life. The idea challenges traditional views on the sanctity of life by proposing that individuals should have the legal and moral authority to end their own lives, particularly in cases of terminal illness, extreme suffering, or diminished quality of life. The origins of the Right to Die can be traced back to ancient civilizations, where practices akin to euthanasia were occasionally accepted under certain circumstances.

The concept resurfaced in the modern era, particularly during the Enlightenment, when ideas about individual rights and autonomy began to gain prominence. Philosophers like John Stuart Mill argued that individuals should have the freedom to make decisions about their own lives, including the right to end it, as long as it did not harm others. These ideas laid the groundwork for later debates about the Right to Die<sup>5</sup>. In the 20th century, the development of advanced medical technologies that could prolong life led to new ethical dilemmas about the quality of life versus the prolongation of suffering. As people began to live longer, often with chronic and debilitating conditions, the question of whether individuals should have the right to choose death over a life of suffering became more pressing. The legal recognition of the Right to Die began in the latter half of the 20th century. One of the first major cases was the 1976 decision in the United States involving Karen Ann Quinlan, a young woman who had fallen into a persistent vegetative state<sup>6</sup>. Her parents sought to remove her from life support, leading to a landmark court case that eventually allowed them to do so, setting a precedent for the right to refuse medical treatment.

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<sup>4</sup> Santosh Kumar Chaturvedi, “Euthanasia: Right to Life v. Right to Die”, 19 *The Indian Journal of Medical Research* 899-902 (2019).

<sup>5</sup> Kusum (ed.), *The Right to Die: Indian Perspectives* 84 (Regency Publications, New Delhi, 1995).

<sup>6</sup> *Re Quinlan*, 70 N.J. 10.

The Netherlands became the first country to formally legalize euthanasia in 2001, followed by Belgium in 2002. These countries established stringent legal frameworks to ensure that euthanasia was performed under strict conditions, with the patient's explicit consent and only in cases of unbearable suffering. Since then, several other countries and U.S. states have also recognized some form of the Right to Die, either through euthanasia or physician-assisted suicide, reflecting a growing acceptance of the concept in certain parts of the world. The development of the Right to Die as a concept continues to evolve, with ongoing debates and legal challenges reflecting the tension between individual autonomy and the protection of life. The societies grapple with these issues, even now the Right to Die remains a deeply complex and emotionally charged concept that tests the boundaries of ethics, law, and human rights.

#### **IV. Ethical Complications**

The Right to Die is fraught with ethical complications that challenge fundamental principles of morality, autonomy, and the value of human life. At the heart of the debate is the tension between respecting individual autonomy, the right of a person to make decisions about their own life and death and the ethical duty to preserve life. Proponents argue that individuals should have the freedom to choose a dignified death, especially in cases of terminal illness or unbearable suffering, where the quality of life has irreversibly diminished. They contend that forcing someone to continue living in such conditions can be seen as a violation of their autonomy and a form of cruel and inhumane treatment. This perspective raises significant ethical concerns, particularly regarding the sanctity of life<sup>7</sup>. Many religious and philosophical traditions hold that life is inherently valuable and should be preserved at all costs. From this viewpoint, allowing individuals to end their lives, or assisting them in doing so, undermines the intrinsic worth of human life and could lead to a slippery slope where the lives of the vulnerable such as the elderly, disabled, or mentally ill are devalued. This concern is heightened by the fear that legalizing euthanasia or physician-assisted suicide could lead to abuses, where individuals might feel pressured to choose death due to

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<sup>7</sup> Shalini Marwaha, "Euthanasia, personal Anatomy and Human Rights: An Intricate Legal & Moral Global Perspectives" 12 *Amritsar Law Journal* 96 (2004).

societal or familial expectations, financial burdens, or a perceived duty not to be a burden to others<sup>8</sup>.

Majority of ethical complications arises from the role of healthcare professionals in the Right to Die. The primary duty of doctors and medical practitioners is to preserve life and alleviate suffering, but assisting in the intentional ending of life fundamentally contradicts this duty. This creates a moral conflict for healthcare providers who may be asked to perform or facilitate euthanasia or physician-assisted suicide. The Hippocratic Oath, which many doctors take, explicitly prohibits taking life, placing healthcare professionals in a difficult position where they must balance their ethical obligations to do no harm with the wishes of their patients seeking a dignified death. The potential for inequality and discrimination in the application of the Right to Die is a significant ethical concern. There is a risk that marginalized groups, such as those with disabilities, the elderly, or economically disadvantaged individuals, could be disproportionately affected by laws permitting euthanasia or assisted suicide. These groups might be more vulnerable to coercion or may feel that they have no other option due to inadequate access to palliative care or social support. Ensuring that decisions to end life are truly voluntary and free from external pressures is a complex ethical challenge that requires careful consideration and robust safeguards<sup>9</sup>.

The ethical complications surrounding the Right to Die also extend to the broader societal implications. Legalizing euthanasia or physician-assisted suicide may alter societal perceptions of life and death, potentially leading to a cultural shift where the lives of those who are suffering, disabled, or elderly are less valued. This could erode the collective commitment to providing compassionate care and support for those facing the end of life. Balancing respect for individual autonomy with the need to protect vulnerable populations and uphold the sanctity of life presents a profound ethical dilemma that societies must carefully navigate as they consider the implications of the Right to Die.

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<sup>8</sup> Sailaja Petikam, "Euthanasia in India- Legislative Perspective" available at:

[https://www.academia.edu/66096344/Euthanasia\\_in\\_India\\_Legislative\\_Perspective](https://www.academia.edu/66096344/Euthanasia_in_India_Legislative_Perspective) (last visited on 13 May, 2024).

<sup>9</sup> Nimish Jha, "A Detailed Analysis of Euthanasia in India" 23 *Journal of Indian Law Institute* 223 (2018).

## **V. Legality of Euthanasia: Prospective Challenges**

The Medical Treatment for Terminally Ill Patients Bill, 2016 was introduced in the Indian Parliament based on the recommendations of the 241st Law Commission Report<sup>10</sup>. The Bill seeks to promote a dignified death by legalizing voluntary passive euthanasia, allowing competent patients to create living wills to refuse medical treatment if suffering from incurable diseases<sup>11</sup>. The Bill assumes that a competent person has the right to make an informed decision regarding their end-of-life care. For patients who are incompetent or have not made an informed decision, the Bill requires that the decision to withdraw treatment must be approved by the High Court. This process involves consulting with three medical experts before making a final decision. The Bill also included provisions to protect healthcare practitioners who act in accordance with the wishes of competent patients.

Later on due to 2018 judgement, Right to Die is considered to be a part of Article 21 but fails to resolve the long lasting question of legality and limitations with respect to Euthanasia in India and globe. Legalizing euthanasia in India faces significant challenges, deeply rooted in the country's social, cultural, and ethical fabric. One of the primary concerns is the potential for widespread misuse due to rampant corruption. In a system where bribery and unethical practices are common, there is a fear that unscrupulous doctors, in collusion with family members or hospital staff, could facilitate euthanasia for financial gain, even in cases where the patient does not meet the criteria for such an intervention.

Another serious issue is the possibility of organ trafficking, where euthanasia could be manipulated to facilitate illegal organ harvesting. Unscrupulous medical practitioners might hasten the death of long-term patients to profit from selling their organs, further eroding trust in the healthcare system. Cultural and religious beliefs in India also present a formidable barrier. Many Indians adhere to traditions that view life and death as divine prerogatives, with any human intervention in these natural processes seen as morally and religiously unacceptable. The idea of euthanasia contradicts these deeply held beliefs, making its acceptance in Indian society difficult. The risk of abuse in cases involving vulnerable individuals, such as children born with disabilities or female infants, is

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<sup>10</sup> The Law Commission of India, "241st Report on Passive Euthanasia – A Relook" (March, 2012).

<sup>11</sup> The Medical Treatment for Terminally Ill Patients Bill, 2016.

particularly alarming. The misuse of euthanasia in these cases could lead to ethically and morally reprehensible acts, such as ending the lives of individuals based on discriminatory or superstitious beliefs. India's legal system is burdened with cases of heinous crimes like dowry deaths and property disputes, where the provision of euthanasia could be exploited to cover up such crimes. The legal and ethical implications of these potential abuses make the legalization of euthanasia in India a highly contentious and complex issue, requiring careful consideration and robust safeguards if ever pursued<sup>12</sup>.

#### **VI. Clinical Challenges**

Clinical challenges surrounding the Right to Die are complex and multifaceted, posing significant dilemmas for healthcare providers. One of the primary challenges is navigating the ethical tension between a physician's duty to preserve life and the patient's desire for autonomy in choosing death. Physicians must assess whether a patient's request for euthanasia or assisted suicide stems from a clear, informed, and voluntary decision, free from external pressures or untreated psychological conditions such as depression. There is also the risk of eroding trust in the doctor-patient relationship, as patients may fear that their lives could be ended prematurely if they express a desire for euthanasia. Furthermore, the lack of uniform legal and ethical guidelines across different jurisdictions adds another layer of complexity, making it challenging for healthcare providers to navigate these sensitive situations while adhering to both professional standards and the law.

#### **VII. Constitutional View Regarding Euthanasia**

The constitutional validity of euthanasia in India hinges on the interpretation of Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The Supreme Court of India has expansively interpreted this right to include the right to live with dignity, which, in certain circumstances, has been extended to encompass the right to die with dignity. This was notably recognized in the landmark 2018 judgment in *Common Cause v. Union of India*, where the Supreme Court held that the right to die with dignity is a fundamental right under Article 21<sup>13</sup>. The Court permitted the creation of "living wills" or "advance directives," allowing individuals to refuse

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<sup>12</sup> M.D. Singh, "Euthanasia: How Merciful is the Killing" 12 *Amritsar Law Journal* 63 (2001).

<sup>13</sup> AIR 2018 SC (CIV) 1683.



medical treatment in situations where they are terminally ill or in a persistent vegetative state. While the Indian Constitution does not explicitly address euthanasia, this judicial interpretation has provided a constitutional basis for passive euthanasia, distinguishing it from active euthanasia, which remains illegal.

#### **VIII. Judicial Interpretation**

In the *Maruti Shripati Dubal* case, the Bombay High Court tackled the complex question of whether the right to life, as protected under Article 21 of the Indian Constitution, also includes the right to die<sup>14</sup>. *Maruti Shripati Dubal*, the petitioner, had sustained multiple brain injuries in an accident, which resulted in mental instability and a diagnosis of schizophrenia. After an attempted suicide, he was charged under Section 309 of the Indian Penal Code (IPC), which criminalizes such acts. When the case reached the Bombay High Court, the Court delivered a landmark ruling, asserting that the right to life encompasses both its positive and negative dimensions, including the "right not to live a life against one's will." The judgment acknowledged that although the right to die might be unusual and uncommon, it was not unconstitutional. This interpretation was later affirmed in the *P. Rathinam* case, where the Supreme Court of India similarly ruled that the right to life under Article 21 extends to the right to die, resulting in Section 309 being declared unconstitutional. These cases were significant milestones in Indian law, broadening the concept of personal liberty and paving the way for continued discussions on the right to die with dignity<sup>15</sup>.

In the *Gian Kaur v. State of Punjab*, the Supreme Court of India examined the constitutionality of the Right to Die in the context of assisted suicide<sup>16</sup>. *Gian Kaur* and her husband were accused of aiding the suicide of their daughter-in-law. The Court ruled that the Right to Die is unconstitutional, arguing that any action resulting in the end of life is fundamentally at odds with the Right to Life guaranteed under Article 21 of the Indian Constitution. The Court stressed that "death with dignity" does not imply an unnatural end to life that shortens a person's natural lifespan. This case, along with others like *Narash Marotrao*, where euthanasia was similarly treated as homicide,

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<sup>14</sup> *Maruti Shripati Dubal v. State of Maharashtra*, 1987 (1)BOMCR499.

<sup>15</sup> *P. Rathinam v. Union of India*, 1994 SCC (3) 394.

<sup>16</sup> 1996 SCC (2) 648.

underscores the judiciary's cautious stance on issues related to the Right to Die<sup>17</sup>.

In the landmark case of Aruna Ramchandra Shanbaug v. Union of India, a pivotal moment in India's legal approach to euthanasia, the Supreme Court addressed the issue of passive euthanasia in the context of Aruna Shanbaug, a nurse who had been in a vegetative state for 42 years following a brutal sexual assault and strangulation<sup>18</sup>. In 2018, Common Cause v. Union of India, the Supreme Court of India made a pivotal decision by recognizing the right to die with dignity as a fundamental right under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty<sup>19</sup>. The case, initiated by the NGO Common Cause, sought to legalize "living wills" or "advance directives," enabling individuals to refuse medical treatment in cases of terminal illness or irreversible vegetative states. The Court ruled that the right to life encompasses the right to die with dignity and established a legal framework for passive euthanasia and living wills. This framework includes detailed guidelines to ensure that such directives are voluntarily given and carefully monitored by a medical board to prevent misuse. This landmark judgment represents a significant advancement in Indian law, integrating the right to die with dignity into the broader context of personal autonomy and constitutional rights.

#### **IX. Global View**

Globally, the legal and ethical stance on euthanasia varies widely, reflecting differing cultural, religious, and societal values. In some countries, such as the Netherlands, Belgium, Luxembourg, and Canada, euthanasia and physician-assisted suicide are legally permitted under strict conditions, often emphasizing the patient's informed consent and terminal illness. Switzerland allows assisted suicide, provided there are no selfish motives, while countries like Germany and Colombia have also decriminalized certain forms of euthanasia. In contrast, many countries, including India, the United Kingdom, and much of the United States, either strictly prohibit euthanasia or only permit passive forms under specific circumstances, reflecting a more cautious approach centered around the sanctity of life. In several countries, the debate continues, with advocates arguing for the right to die with dignity and opponents concerned about the potential for abuse

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<sup>17</sup> *Naresh Marotrao Sakhre v. Union of India*, 1996 (1)BOMCR92.

<sup>18</sup> Writ Petition (CrL.) No.115 OF 2009.

<sup>19</sup> *Supra* note 13.

and the moral implications of legalizing euthanasia. This global diversity in legal frameworks underscores the complexity and sensitivity of the issue, with ongoing debates in many regions about the ethical boundaries of end-of-life care<sup>20</sup>.

#### **X. Conclusion and Suggestions**

The debate over euthanasia encapsulates profound ethical, legal, and humanistic considerations, reflecting the tension between an individual's right to autonomy and the societal obligation to preserve life. While some countries have embraced the right to die with dignity, allowing forms of euthanasia under stringent conditions, others remain steadfast in their commitment to the sanctity of life, prohibiting any acts that intentionally end human life. In India, the judiciary has cautiously advanced the conversation by recognizing passive euthanasia and the right to die with dignity, yet the issue remains deeply contentious, underscoring the need for continued dialogue. As societies grapple with evolving views on life and death, it is crucial to strike a balance that honors individual rights while safeguarding against potential abuses, ensuring that legal frameworks reflect both compassion and responsibility.

To address the complex issues surrounding euthanasia, several key suggestions can be considered. First, it is essential to establish clear and comprehensive legal frameworks that define and regulate euthanasia and assisted suicide, ensuring that such practices are carried out under strict conditions with robust safeguards against misuse. This includes creating detailed guidelines for the execution of living wills or advance directives, requiring thorough medical evaluations, and ensuring informed consent. Second, there should be a focus on improving palliative care services to provide comprehensive support for those with terminal illnesses, thereby potentially reducing the demand for euthanasia by alleviating suffering through alternative means. Third, ongoing public education and dialogue are crucial to address ethical concerns, promote understanding, and build consensus on end-of-life issues. Finally, regular review and updates to legal provisions, informed by advancements in medical science and shifts in societal attitudes, can help ensure that laws remain relevant and effective in addressing the needs and values of the population.

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<sup>20</sup> Aayush Kumar, "Right to Die: Law and Legislation" 2 *IJHRLR* 49-56 (2003).