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## Euthanasia: A Choice for Autonomy or a Slippery Slope?

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*How can death be good for anyone when everyone wants to find ways to extend their lifespan? The necessary implication for the average individual is that one may embrace death when one finds life itself to be more unpleasant, unhappy and intolerable than death (meaning Dayamaran or mercy killing or euthanasia). Yet, when a great saint, hermit, or heroic person has fulfilled their goals and is pleased with their existence, death signifies the end of life. They hasten death once they have served their purpose in life (also known as 'Swachchanda Mrityu,' 'Echchamaran,' or 'wilful death'). The phrase 'euthanasia' which derives from Greek antiquity, is a combination of the terms 'EU,' which stands for good and euthanasia which means 'death'. As the term is expressed, 'euthanasia' alludes to a good death. The transition from life to death ought to be peaceful and dignified, not a grueling battle. The dying person's sense of having lived a holy life and skillful and compassionate care are both factors that can contribute to a peaceful death. Nonetheless, there have been instances where hastening a person's death appeared to be the only option for relieving suffering. A person who has been seriously hurt or wounded could implore someone else to end the misery. As it was known, mercy killing took place on battlefields all across the world. Animals with severe and painful injuries are also given a peaceful end. The two fundamental components of euthanasia are prevention and reduction of suffering, which is the focus of the hospice and palliative care movements. The philosophical debate over the issue of euthanasia is long-standing. Ancient Greek philosophers who opposed suicide also appeared to support euthanasia. Although the Christian church has always approved of passive euthanasia, in medieval times Christian, Jewish and Muslim philosophers rejected aggressive euthanasia. A utopian community was envisioned by English humanist Thomas More in the 16th century as one that would assist the death of people whose lives had become burdensome due to torture and excruciating agony. The discussion of euthanasia's morality and legality is mostly a phenomenon of the second half of the 20th century. Today, many people readily agree that everyone should have the*

*freedom to refuse medical treatment if they feel the side effects, whether they be pain, the burden of being dependent on a machine, or anything else, are worse than the disease, even if it means living a shorter but presumably more fulfilling life.*

**Keywords:** *euthanasia, morality and legality, excruciating, palliative care.*

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## GENERAL INSIGHT INTO THE HISTORY OF EUTHANASIA

If we go back in time, euthanasia did not permeate as many professions. Suicide and assisted suicide were practiced during the Grecian and Roman eras without any associated social issues. The medical profession had not yet developed to that point and had never been a noble one. Moreover, the present advocacy on this subject is based on the ideas of autonomy and individual rights, which are themselves the gospels of ancient Greeks and Romans. The Common Period presented the first significant obstacle to the practice of euthanasia due to the religious teachings of Christianity and Judaism. According to Christian doctrine, life is a gift from God and one must savour it till the very end. Another religion, Islam, is likewise opposed to the idea of euthanasia because it holds that life is sacred and that only Allah has the power to choose how long a person should live.

People in India are expected to uphold the moral standards, laws, obligations and religious beliefs found in the Shrutis, Smritis, Vedas, Upanishads, Puranas, Gita, Mahabharata, the Ramayana and other works both during their lives and after they pass away. Hinduism appeared to support self-liberation and suicide strongly. Even Manu Smriti discusses achieving self-liberation while battling an incurable illness. The four life themes of Dharma, Arth, Karma and Moksha are stressed in Hinduism. Thus, the Hindu religion strongly holds the philosophy of rebirth and death is only attributed to the dispensing of only the body by the soul to attain a new one.

Hinduism, therefore, has no moral problems with ending one's own life under certain particular conditions. When Lord Mahavir gained death by seeking Jal Samadhi, it is believed that Lord

Rama and his brother Lakshmana did so in the Sarayu River. The Hindu leader Satguru Sivaya Subramuniyaswami also began practicing Prayopavesa, or fasting till death, in November 2001. The Hindu religion permits liberation, but it places limitations on when it may be pursued. According to some religious books, including the Vedas, when a person is terminally ill and has little possibility of recovery, they should be permitted to pursue death. These texts also declare that when a man has fulfilled all of his life's goals, he can seek to be freed from samsara.<sup>1</sup>

Other Indian religions like Buddhism and Jainism also permit limited forms of suicide. Buddhism is thought to have developed in the fifth century BC and is based on the teachings of Siddhartha Gautam, also known as the Buddha (whose name means 'the enlightened one' in Sanskrit and Pali). Buddhism promoted the idea that samsara – the cycle of birth and death – is the ultimate goal of life and that liberation from it is the way to happiness. The concept of rebirth and ultimate liberation is also present in Jainism, which first appeared in the sixth century BC.

## **JOURNEY OF EUTHANASIA FROM ANCIENT TO MODERN INDIA**

Hindu holy writings such as the Mahabharata and the Manusmriti have debated euthanasia. In the Mahabharata, Arjuna asks Bhishma for guidance on whether it is moral to kill one's foes in combat<sup>2</sup>. In response, Bhishma asserts that it is preferable to die in battle than to live a life of agony, suggesting that passing away can be a merciful reprieve from suffering. An individual with an incurable illness should be permitted to pass away peacefully without any attempts to extend their life through artificial methods, according to the Manusmriti.

The tale of King Parikshit is among the most well-known instances of euthanasia in prehistoric Indian literature. King Parikshit was reportedly cursed by a Brahmin named Shringi to pass away within seven days, according to the Mahabharata, a significant Hindu epic. King Parikshit opted to respond by engaging in the Prayopavesa practice of fasting until death. In ancient India, this technique was regarded as a sort of euthanasia and was thought to be a noble and righteous method to put one's life to an end.

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<sup>1</sup> Padmanabh S. Jaini, 'The Jaina Path of Purification' (1983) 11(1) Journal of Indian Philosophy

<sup>2</sup> Mohan Ganguli, *The Mahabharata* (Collier 1896)

The practice of Sallekhana is another illustration of euthanasia in historic India. Jains, a religion that places a strong emphasis on restraint and nonviolence, were notorious for this practice. To achieve spiritual purity and be freed from the cycle of birth and death, Sallekhana required intentionally abstaining from food and water till death. While euthanasia was a practice that was sanctioned in specific situations in ancient India, it was also a contentious issue. Euthanasia was condemned by several philosophical and theological traditions because they believed it violated the sanctity of life and tampered with the natural process of dying. For instance, the Hindu faith placed a strong emphasis on the ideas of karma and reincarnation and many Hindus held the view that hastening death might have unfavorable effects on subsequent lives.<sup>3</sup>

According to several ancient Indian writings, euthanasia was permitted in some situations, especially if it was carried out to avoid a torturous or crippling illness. The practice of euthanasia is also mentioned in ancient Indian medical writings. For instance, the *Charka Samhita*, a Sanskrit classic on Ayurveda medicine from the second century CE, mentions different approaches to treating pain in terminally sick patients, including the use of deadly herbs that could hasten death. Nonetheless, the article underlines that a doctor should always try to treat the patient if at all possible and that these methods should only be employed as a last resort. When euthanasia was perceived as a breach of religious and cultural norms, it became more divisive during the medieval era. For instance, the Islamic scholar al-Ghazali contended that euthanasia was prohibited in Islam because it violated the dignity of life and went against God's intention. Parallel to this, Madhva, a Hindu scholar,<sup>4</sup> claimed that euthanasia and suicide were wicked deeds that would bring about negative karma.

There is much debate over the morality and legality of euthanasia in India today. The Supreme Court of India issued a ground-breaking decision decriminalizing passive euthanasia in certain situations in 2018. This implies that a patient who is terminally ill, in a vegetative state, or who has little chance of recovery may elect to be removed from life support if they so desire. Active euthanasia, in which a doctor deliberately ends a patient's life, is still prohibited by Indian law.

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<sup>3</sup> *Ibid*

<sup>4</sup> Wendy Doniger, *The Rig Veda: An Anthology: One Hundred and Eight Hymns, Selected, Translated and Annotated* (Penguin House 1981)

In conclusion, euthanasia was a difficult and nuanced issue in ancient India, with many religious and cultural traditions holding opposing opinions on the ethics and legality of the practice. While some scriptures and practices imply that euthanasia was approved of and even promoted in some situations, others highlighted the value of protecting life at all costs. Today, the controversy over euthanasia is still being discussed, with proponents and opponents making strong cases for their respective positions.<sup>5</sup>

Euthanasia is now prohibited in India. Euthanasia is classified as murder under Section 300 of the Indian Penal Code<sup>6</sup>. Although Section 309 of the IPC was declared unconstitutional in 2011, the Supreme Court of India decriminalized attempted suicide by holding that everyone has the right to a dignified death under the right to life. As a result, the discussion on legalizing euthanasia gathered steam. The Law Commission of India presented the government with a study titled 'Passive Euthanasia - A Relook' in 2018<sup>7</sup>. The paper advocated for India to legalize passive euthanasia. Withholding medical care or life support from a terminally sick patient to let them pass away naturally is referred to as passive euthanasia. The report made the case that everyone has the right to pass away with dignity and that the state has no authority to restrict this right.

In the Aruna Shanbaug case, the Supreme Court of India previously rendered a significant decision in 2011. Aruna Shanbaug was a nurse who had been sexually abused in 1973 and had remained in a vegetative state for 42 years. The court decided that specific circumstances can permit passive euthanasia. It was said that passive euthanasia could be permitted if a patient is in a vegetative condition and has little possibility of recovery and if the family and medical professionals are in agreement. The court also established rules for how these matters should be handled.<sup>8</sup> Nonetheless, giving a person a lethal injection to end their life remains prohibited in India under the term 'active euthanasia'. There is no agreement among parliamentarians and medical experts on the legalization of active euthanasia and the government has not yet decided

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<sup>5</sup> *Ibid*

<sup>6</sup> Indian Penal Code 1860, s 300

<sup>7</sup> Law Commission, *Passive Euthanasia - A Relook* (Law Com No 241, 2018)

<sup>8</sup> *Ibid*

on the matter. There is an ongoing discussion about whether euthanasia should be legal in India and attitudes on the subject vary. While some contend that making euthanasia legal will alleviate the suffering of those who are terminally ill and in excruciating pain, others contend that it is unethical and goes against the foundational ideals of the Indian constitution.

Euthanasia is prohibited in India, although the issue of whether it should be legalized is still being discussed. The Supreme Court of India has permitted passive euthanasia under specific circumstances, but active euthanasia is still prohibited. Euthanasia remains debatable and the government and lawmakers have not yet decided on whether or not to make it legal.

### **SOCIETAL IMPRESSION ON EUTHANASIA IN INDIA**

The public attitudes about euthanasia in India are complex and varied. While some people think euthanasia should be permitted to relieve terminally ill patients' suffering, others think it is a violation of the value of life and a step towards assisted suicide. The deliberate taking of a person's life to end their suffering due to a terminal illness or other irreversible condition is known as euthanasia, sometimes known as mercy killing. It is a contentious subject in many nations, not just India. Euthanasia is illegal in India and views on the matter are polarised.

Euthanasia is prohibited in India, as stated in the Penal Code of India. Yet, the nation permits passive euthanasia. Passive euthanasia refers to the removal or denial of a patient's medical care, which results in their death. In a significant ruling from 2018 that recognized the right to a dignified death and approved passive euthanasia, the Supreme Court of India. This decision was made because everyone can refuse medical treatment if they are unable to live as dignifiedly as possible to the end of their lives.

In India, active euthanasia, which involves actively trying to end another person's life, is still illegal. Many social groups in India hold different views on this issue. Some people believe that when a patient has a fatal condition and is in great agony, euthanasia should be legalized. According to them, the person under these circumstances has a right to a dignified death and shouldn't be made to go through unnecessary suffering. They claim that euthanasia would become a compassionate option if it were legalized. The legalization of euthanasia, on the other

hand, is viewed as unethical and should be opposed by a sizable number of Indians. Their point of view is that humans shouldn't be allowed to take another person's life. They claim that legalizing euthanasia could encourage vulnerable people to choose the procedure and lead to legal abuse.<sup>9</sup>

In India, no law permits or prohibits euthanasia. Only passive euthanasia, which involves ceasing life-sustaining treatment, is acknowledged as legal in the country under certain circumstances. The Supreme Court of India declared passive euthanasia to be acceptable in 2011, but only in situations where the patient is in a chronic vegetative condition and has little possibility of recovery.<sup>10</sup> Many Indians continue to resist the concept of euthanasia in any form, notwithstanding the Supreme Court's decision. Hindus and Muslims, among other religious and cultural groups, consider euthanasia to be unethical and contrary to the natural progression of life and death. For instance, in Hinduism, the idea of 'karma' implies that all deeds have repercussions and that a person's demise should be left to nature.

A lot of Indians also believe that legalizing euthanasia would be a dangerous precedent that would push the elderly, crippled and mentally ill to end their lives to avoid paying for their medical care. Euthanasia has been used in other countries for similar purposes, so this fear is not entirely unfounded. On the other side, a large portion of Indians believe that euthanasia should be legalized, especially when patients have terminal illnesses and are in great pain. They argue that euthanasia should be an option provided to those who are terminally ill since it is a kind and compassionate way to end their suffering.<sup>11</sup>

Many euthanasia supporters claim that terminally ill patients regularly face excruciating agony and loss of dignity in their final days. These patients regularly go through unpleasant, invasive medical treatments, which do not always improve their chances of living longer. They argue that under these situations, euthanasia would be a more humane and compassionate course of action and would allow people to pass away with dignity. Euthanasia is also viewed by many

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<sup>9</sup> 'Death and Dying' (Pew Research Center) <<https://www.pewresearch.org/topic/other-topics/death-dying/>> accessed 19 August 2023

<sup>10</sup> *Aruna Ramachandra Shanbaug v Union of India & Ors* Crim WP 115/2009

<sup>11</sup> *Ibid*

Indians as giving a legal framework for a practice that is already widely practiced, if illegal, in many situations. Huge dosages of opioids are often administered to terminally ill patients across the country, these amounts are not intended to treat the patients, but rather to ease their suffering. In effect, this amounts to active euthanasia, however, it is done illegally and is not governed by the law.

## **ARGUMENTS FOR EUTHANASIA**

The deliberate taking of a life to stop pain and suffering is known as euthanasia, commonly referred to as assisted dying or mercy killing. Although euthanasia is a contentious subject that frequently generates ethical and moral concerns, there are several arguments in favour of giving people the option to end their lives.

**Relief of Suffering:** One of the principal defenses of euthanasia is that it gives terminally ill or vegetative individuals a means to end their excruciating physical and mental suffering. In these situations, the person may experience persistent pain, be unable to carry out everyday tasks and/or have a poor quality of life. Those who have access to euthanasia can avoid excruciating pain and pass away with dignity. When their health worsens, people with terminal illnesses frequently endure excruciating pain, suffering and loss of dignity. To avoid pain and maintain their quality of life, patients opt for euthanasia, according to a study published in the *Journal of Palliative Medicine*.

**Individual Autonomy and Personal Choice:** Euthanasia is also in favour of personal autonomy and decision-making. When there are no other effective therapeutic choices available, patients should have the freedom to decide how to live their own lives, including whether to put an end to their suffering. This is especially important for individuals who have a protracted illness and little time left to live.

Euthanasia is also a viable option from a financial one for healthcare institutions. When patients are terminally ill or in a vegetative state, they may need pricey therapies and care, which can put a strain on their families and the healthcare system financially. Many medical procedures are frequently needed by patients who are towards the end of their lives, which can be costly



and may not improve their quality of life. Euthanasia being an option could aid in cutting down on these expenses. Euthanasia proponents contend that handling end-of-life care in this way can be economical. When euthanasia is an option, end-of-life care expenses can be cut by up to 20%, according to research in the Journal of Palliative Medicine.

**Reduced Family Suffering:** Families of patients with terminal illnesses frequently take care of them and are touched emotionally by their suffering. By giving the patient an option to end their suffering and allowing the family to grieve and move on, euthanasia can help lessen the pain of both the patient and their loved ones.

**Reduction of Medical Errors:** Medical mistakes can occasionally occur during end-of-life care, which can cause the patient to suffer for a longer period and have a lower quality of life. Such mistakes can be prevented by euthanasia, which also guarantees that the patient's wishes are honoured. Euthanasia can be considered an act of kindness because it allows people to put an end to their suffering and pass away in dignity. If we truly care about people's welfare, James Rachels stated, we should be prepared to assist them in ending their lives if that is what they wish.

**Diversity in Religion and Culture:** Death is viewed as a natural and unavoidable element of life in various cultures and faiths. In addition to allowing patients to pass away in a way that is in line with their cultural and religious convictions, euthanasia can be considered as a means to respect these values and beliefs.<sup>12</sup>

## **ARGUMENTS AGAINST EUTHANASIA**

The deliberate taking of a person's life to stop their suffering is known as euthanasia. I shall go over a number of them in this post, but there are numerous grounds against euthanasia.

**Respect for Life:** A key tenet of many religions and ethical systems is the sanctity of life. It asserts that a person's life is intrinsically important and shouldn't be disregarded. This principle

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<sup>12</sup> Katherine E Sleeman et al., 'The escalating global burden of serious health-related suffering: projections to 2060 by world regions, age groups, and health conditions' (2019) 7(7) The Lancet <[https://doi.org/10.1016/S2214-109X\(19\)30172-X](https://doi.org/10.1016/S2214-109X(19)30172-X)> accessed 19 August 2023

is violated by euthanasia, which ends a person's life despite their wishes or consent. Life is a priceless treasure that has to be valued and protected.

**Sliding Slope:** According to the slippery slope theory, legalizing euthanasia could result in a downward spiral where the practice spreads and gains acceptance. Due to this, weaker individuals may be forced into euthanasia or have their lives ended against their will. Euthanasia might also become accepted in society as a solution to issues like mental illness, handicaps and poverty.

**Supportive Care:** Palliative care is a type of specialist medical care that tries to reduce pain and raise a patient's quality of life. It offers patients and their families comfort care, symptom control and emotional support.<sup>13</sup> To alleviate suffering, palliative care should be made more accessible and available. This should be done rather than using euthanasia.

**Imaginary Compassion:** As euthanasia implies that taking a person's life is the greatest method to stop their suffering, it can be viewed as a type of false compassion. This ignores the complexity of suffering and the fact that it may be treated with a variety of cures, therapies and support systems. The message that some lives are not worth living is conveyed via euthanasia, which may result in prejudice against vulnerable populations.

**Health Ethics:** The medical ethics of 'no harm' and 'respect for autonomy' are violated by the practice of euthanasia. Doctors are not taught to deliberately end lives; rather, they are taught to save them and to lessen suffering. Euthanasia can also erode patient-provider trust because patients may feel under pressure to ask for it out of fear or a lack of support.<sup>14</sup>

**Unintended Repercussions:** The unintended consequences of legalizing euthanasia may include a rise in suicide rates, a diminution of the value of human life and a lack of responsibility and oversight. Euthanasia may also become less of a last resort and more of a norm, leading to

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<sup>13</sup> 'AMA Code of Medical Ethics' Opinions on Care at the End of Life' (2013) 13(12) AMA Journal of Ethics <<https://journalofethics.ama-assn.org/article/ama-code-medical-ethics-opinions-care-end-life/2013-12>> accessed 09 August 2023

<sup>14</sup> *Ibid*

the emergence of a culture of death. The mental health of people who perform euthanasia may also suffer as a result of the practice.

**Disability Rights:** One could argue that euthanasia discriminates against those with impairments. It conveys the message that they are a burden to society and that their lives are not worth living. Disability rights activists contend that euthanasia can limit persons with disabilities' freedom of choice and right to a dignified and respectable life.

**Justice for Everyone:** Vulnerable populations, including the elderly, those with impairments and those with poor access to healthcare, might be disproportionately affected by euthanasia. Also, it may result in a society where some people's lives are more valuable than others based on things like their riches, social standing, or abilities. Regardless of their circumstances, social justice demands that all people be treated with respect and dignity.

The Hippocratic Oath declares, 'I will not deliver a lethal medicine to anyone if I am requested, nor will I counsel such a plan.' Many opponents of euthanasia think that doctors should not be involved in wilfully ending a patient's life. Allowing doctors to participate in euthanasia could cause a breakdown in the trust that exists between them and their patients because this oath is considered to be a fundamental ethical precept of medicine.

A person who is suffering from a fatal illness is weak. He may be afflicted with concern about the future and fear about how his disease is affecting others and he lacks the knowledge and abilities to treat his problems. Patients who initially wish to be allowed to die, usually after receiving effective symptom relief, are extremely appreciative that their request was denied. Losing the chance to assist others in need robs us of a crucial aspect of our humanity. The solution is to raise our standards of care, not to amend the legislation.

## **JUDICIAL AND LEGISLATIVE RESPONSE TO EUTHANASIA IN INDIA**

India has witnessed a lot of discussion on the matter. The Law Commission of India's Report No. 42, which originally advocated for the repeal of Section 309<sup>15</sup> provided the opening

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<sup>15</sup> Indian Penal Code 1860, s 309

statement on euthanasia. In *Rathinam v Union of India*, the Supreme Court further ruled that Section 309 IPC violates Article 21<sup>16</sup> of the Indian Constitution.<sup>17</sup> The Court deemed the aforementioned part to be cruel and illogical since it would penalize a person again after previously going through pain and humiliation as a result of his failure to commit suicide. The state should not intervene with the concerned individuals' right to personal liberty because suicide cannot be said to be against religion, morals, or public policy and attempts at suicide have no negative impact on society or harm to others.

The Supreme Court's Constitution Bench overturned the earlier ruling in *Gian Kaur v State of Punjab*, finding that the terms 'right to live' and 'right to die' are fundamentally incompatible with one another. However, the existence of such a right up until the natural end of life would be implied by the right to life, which also encompasses the right to live with human dignity. It may also refer to 'death with dignity' but this should not be confused with unnatural life extinction that shortens the average lifespan. In addition to the foregoing, the *Rathinam* case ruling was overturned, upholding the legality of Section 309 IPC, which classifies 'attempt to suicide' as a crime.

After approximately ten years, the Law Commission of India released its 196th Report on terminally ill patients in 2006, which advocated for the legalization of 'passive euthanasia' under very strict and regulated conditions. The Report made it clear that physician-assisted suicide and euthanasia would both remain illegal and it solely addressed how to safeguard terminally ill individuals who are in a chronic vegetative condition with no possibility of recovery.

In such a situation, the patient can voluntarily request—subject to certain safeguards—the termination of the support system, hastening his death. This request can be made verbally or in writing. The doctors caring for such a patient have a responsibility to properly educate the patient about his condition and prospects for the future. In addition, they must keep the patient on life support despite the patient's wishes. According to the Report, this request is given as a

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<sup>16</sup> Constitution of India 1950, art 21

<sup>17</sup> *P. Rathinam v Union of India* (1994) SCC (3) 394

binding instruction from the terminally ill patient to the doctor and the doctor who complies with such patient instructions is protected from liability under Section 306<sup>18</sup>. Additionally, in circumstances when the patient is incompetent, the nearest friend must obtain a necessary High Court clearance before putting the patient's life support into force.<sup>19</sup>

In the historic case *Aruna Ramchandra Shanbaug v Union of India*<sup>20</sup>, where passive euthanasia was rendered legal without any legislation under the rules thereunder even though the aforementioned Report was rejected, the Supreme Court took into account all sides of the argument. Yet, under the current laws, active euthanasia is completely prohibited from being legalized until and unless Parliament passes a particular law in this regard.

In addition, the Court stated that active forms of euthanasia are unquestionably crimes punishable under Section 302<sup>21</sup> or at least 304<sup>22</sup> when carried out by anyone and Section 306<sup>23</sup> when carried out by a medical professional (PAS). According to the Court, active forms of euthanasia will continue to be illegal unless lawmakers pass a law making them permissible. As a result, the Court rejected the current situation's legitimacy because it would amount to 'constitutional cannibalism', 'judicial murder' and the possibility of being abused by dishonest people to inherit property, among other things.

**The court imposed the following restrictions and safeguards:**

Parents, spouses, other close relatives, or in the absence of any of them, a person or group of people acting in the capacity of a next friend, must decide whether to stop providing life support. The medical professionals caring for the patient may take it. Yet the choice must truly be made with the patient's best interests in mind. Even if the decision to remove life support is made by the patient's close family members, doctors, or next-door acquaintance, the High Court in question must still provide its consent. But, realizing that a dishonest person was conspiring

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<sup>18</sup> Indian Penal Code 1860, s 306

<sup>19</sup> Law Commission, *Passive Euthanasia - A Relook* (Law Com No 241, 2018)

<sup>20</sup> *Aruna Ramchandra Shanbaug v Union of India & Ors* Crim WP No 115/2009

<sup>21</sup> Indian Penal Code 1860, s 302

<sup>22</sup> Indian Penal Code 1860, s 304

<sup>23</sup> Indian Penal Code 1860, s 306

with the doctors to abuse the law to inherit or seize the patient's possessions, the Supreme Court recognized 'parens patriae theory' (father of the country).

The Indian Psychiatric Society urged the Law Commission to prepare a report in this regard in light of the events around the world calling on nations to decriminalize suicide attempts. The Law Commission took up the matter on its initiative and recommended in a report that the Government take action to remove the antiquated statute found in Section 309<sup>24</sup>.

The petitioner in the case of *Maruti Shripati Dubal v State of Maharashtra* was a police officer who developed mental illness as a result of being in an automobile accident. He had a history of mental illness, including mental depression and instability and was diagnosed with schizophrenia. He tried to set himself on fire before the cops caught him by pouring kerosene over his body and lighting a match. He was accused of trying to kill himself in violation of Section 309. The Bombay High Court heard a challenge to the clause's legitimacy. Due to violations of Articles 19<sup>25</sup>, 21<sup>26</sup> and 14<sup>27</sup> of the Indian Constitution, the Court ultimately ruled that Section 309 was unconstitutional. As a result, the case against the petitioner was dropped and he was declared innocent in accordance with Section 309.

*Gian Kaur v State of Punjab*, in which the Supreme Court ruled that Section 309 is constitutional and does not infringe upon Articles 21 and 14 overruled the verdict made in the current case.

The Supreme Court also ruled that the right to life cannot be compared to other rights, such as those to freedom, property and movement because those latter rights are positive rights that also protect against harm, whereas the right to life guaranteed by Article 21 is a negative right that guards against intrusion and cannot be compared to include positive aspects.

The *State of Maharashtra v Maruti Shripati Dubal* case was then reviewed. Due to the peculiar circumstances of the case and the constable's mental illness, the court quashed the criminal prosecution against him in 1996. It was determined that even if the prosecution's case was

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<sup>24</sup> Indian Penal Code 1860, s 309

<sup>25</sup> Constitution of India 1950, art 19

<sup>26</sup> Constitution of India 1950, art 21

<sup>27</sup> Constitution of India 1950, art 14

proven beyond a reasonable doubt, the respondent merited the modest sentencing of a small fine and did not justify a trial 11 years after the incident.

The petitioner in Chandrakant Narayanrao Tandale v the State of Maharashtra invoked Article 226<sup>28</sup> of the Indian Constitution to ask the Bombay High Court for authorization to carry out active euthanasia through a licensed medical professional. Around 81 years old, the petitioner made the decision to donate his corpse to the respondent, Government Medical College and Hospital, Aurangabad, for the benefit of scientific study. Additionally, the petitioner was bedridden due to back disc issues and was incapable, both mentally and physically, of handling intense discomfort.

It is true that the petitioner is 81 years old and afflicted with a number of conditions. Every day he is in agonizing agony and misery and it is getting more and harder for him to deal with these medical problems. His goal is to actively end his life with the aid of a licensed medical professional in order to achieve a 'happy death'. However, active euthanasia is not authorized in India and the historic Common Cause decision made this clear. Article 21 of the Constitution<sup>29</sup> guarantees the right to life, but it does not include the right to death. The Honourable Supreme Court has also outlined the procedure for passive euthanasia in dire situations.

### **EUTHANASIA CONCERNING RIGHT TO LIFE**

The right to life is the most fundamental and inherent human right because it is a gift from nature to humans. The International Declaration of Human Rights, which was first published in 1948, states that 'everyone has the right to life, liberty and the security of person'. Every human being has the inherent right to life, according to Article 6 of the International Covenant on Civil and Political Rights 1966<sup>30</sup>. The law must defend this right. No one's life may be taken against their will.

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<sup>28</sup> Constitution of India 1950, art 226

<sup>29</sup> Constitution of India 1950, art 21

<sup>30</sup> International Covenant on Civil and Political Rights 1966, art 6

'No individual shall be deprived of his life or personal liberty unless per the method established by law' the Indian Constitution further states in Article 21. But can the right to life be extended to the point where it encompasses the right to death? Is it possible to exploit freedom for one's destruction? Is it possible to have both the right to live and the right to die? Euthanasia is one method of claiming the right to die.

It is currently illegal in India. However, the current discussion about legalizing euthanasia in some nations needs to be examined from all of its socio-legal angles. Article 21 uses a lot of pejorative language. However, the Indian Supreme Court's imaginative interpretation has placed a positive obligation on the government to take action to ensure that individuals live lives of greater quality and dignity. Does it cover the freedom to die with dignity? Answering this question will be crucial. Death as a notion signifies the extinction of life. In addition to natural causes, other people's actions or inactions can also result in death. Suicide is the act of one dying by his or her hand. Yet, when death is voluntary and with the complete and true permission of the dying person, it may be permitted in exceptional situations. Causing the unnatural death of oneself or another person for any purpose is morally wrong and must be outlawed

Gian Kaur overturned Devisingh P. Rathinam's case and found that Art. 21, which guarantees the right to life, does not also grant the right to kill or be killed. Furthermore, it was determined that the right to life was an inherent right protected by Art. 21 and that suicide was an unnatural way to end one's life, making it incompatible and inconsistent with the idea of the right to life. But, by concluding that one may, in a given instance, have the right to die with dignity as a part of the right to live with dignity, the court appeared to have legalized passive euthanasia. It was noted that these instances do not involve the extinction of life but rather the quickening of an already-started natural dying process.

### **SHOULD EUTHANASIA BE LEGALISED AND WHY?**

The question of whether euthanasia should be legalized has long been up for discussion. On the one hand, it has been claimed that euthanasia is a better option for those on life support systems



and those with chronic illnesses that cause significant pain and suffering. Granting someone's wish to end their own life in a somewhat painless and compassionate way is much more practical and humane in situations like terminal cancer, where the patient is in great suffering and when people close to them are also put through great pain and sorrow.<sup>31</sup> But, there are also moral and political concerns about these same subjects. The only nations in the world that have consistently allowed assisted suicide are Belgium and the Netherlands. The first state in the US to legalize physician-assisted suicide was Oregon in 1997. The Oregon Department of Human Services is required by the 'Death with Dignity Act' to gather information on those affected by the legislation, analyze that information and publish annual reports. This way, statistics are preserved for the single physically aided suicide in Loya, Euthanasia remains forbidden.

Euthanasia should be legalized in specific situations, taking into account the quality of life of the person involved, even though it is unethical to help someone die. It will result in the ability for a person to visit their doctor and select the ideal moment and method for ending their lives.<sup>32</sup> Yet rules should also be in place to ensure that there are appropriate standards in place to prevent needless deaths in our modern, stressful lives. Euthanasia should be legalized worldwide for the following reasons: individual liberty; one's unwelcome agony; one's unhappiness and one's aggravation at having a pointless life. Today's euthanasia typically refers to compassion killing, which is when a person whose life is terminally or irretrievably lost chooses to end it voluntarily. Understanding that it is reasonable to assert that one has the right to a painless death only if they are terminally ill and that other circumstances shouldn't enter into the discussion.

A person's liberty involves the ability to own his life. He is the processor of his life and just as he is free to do as he pleases with his material belongings, such as selling his brand-new home, he is also free to decide to end his life if the motivations are sound. Typically, a person is suffering from a horrible, fatal illness. He is confined to a hospital bed with a variety of medical

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<sup>31</sup> Law Commission, *Passive Euthanasia - A Relook* (Law Com No 241, 2018)

<sup>32</sup> Judith A C Rietjens et al., 'A comparison of attitudes towards end-of-life decisions: survey among the Dutch general public and physicians' (2005) 61(8) *Social Science & Medicine*  
 <<https://pubmed.ncbi.nlm.nih.gov/16029774/>> accessed 19 August 2023

devices attached to him, unable to move or do anything other than endure excruciating pain. He begs to have these devices turned off so he can return home, live out whatever time He has left and pass away peacefully. What authority does the opposing party have to tell a person that he cannot do anything if he determines that he wants to die but someone else does not think this is a wise decision? It is obvious that barring extraordinary circumstances, the patient's decision to request a halt of treatment expressing his preference for death rather than for the prolongation of anguish or suffering must be accepted.

Hence, that person's decision should be carried out since he has the right to make his own decisions, which is just one of many arguments in favour of legalizing euthanasia. The right to euthanasia should also exist for those who experience unwarranted pain, suffering and sorrow as a result of their illness or condition. People in this situation would probably desire to make their agony and suffering less severe. Also, family members can be concerned about the rising cost of hospice care.

Guilty of participating in these intense activities, they are aware that they cannot enjoy life and thus they seek euthanasia as a quick fix. As everyone experiences pain differently, neither we nor anyone else can accurately gauge how much discomfort is tolerable between doses of medication. The individual and only the individual, has the right to decide when he wants to die because it is still too little understood about what patients truly experience. Guilty of participating in these intense activities, they are aware that they cannot enjoy life and thus they seek euthanasia as a quick fix. As everyone experiences pain differently, neither we nor anyone else can accurately gauge how much discomfort is tolerable between doses of medication. The individual and only the individual, has the right to decide when he wants to die because it is still too little understood about what patients truly experience.<sup>33</sup>

## **CONCLUSION WITH RECOMMENDATIONS**

Chronic diseases spread as people live longer and medical research can extend life virtually indefinitely. We need to come up with solutions for those who want to hasten their demise. The

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<sup>33</sup> Indian Penal Code 1860

prevailing mood is to offer humane options to people who act out of love rather than punish and incarcerate them. When it is necessary to expedite the death of someone, whether it be a suffering, severely disabled spouse, a kid, or a demented parent, a legal decision should be made. A non-violent, compassionate method of ending the person's life should be offered if alternative options to lessen the suffering are not available or prove fruitless, according to consultants. Considering research on euthanasia, I would like to make the following suggestions:

- The patient requesting euthanasia must be in an untreatable condition with no chance of recovery and death must be imminent.
- The patient must be experiencing excruciating pain that cannot be relieved.
- The act of killing must be done to relieve the patient's pain.
- If possible, the act should only be carried out if the patient specifically requests it.
- Euthanasia should be performed per ethically sound procedures and the role and agreement of the family are equally crucial. The customary value placed on informing the family of a terminal diagnosis and the role they should play in medical decision-making.
- Patients who are terminally ill should have their life-support measures withheld. Yet, there should be limitations as well to prevent aided suicide abuses.
- In the verdict of the Maruti Dubal P rational case, we discovered several persuasive arguments in favour of euthanasia in Article 21, an elaborate article. Hence, article 21<sup>34</sup> can safeguard the removal of equipment that supports life for individuals who are terminally sick.
- A law protecting terminally ill patients who want to forego medical treatment is necessary to prevent them from being charged with the crime of attempting suicide under Section 309<sup>35</sup>.

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<sup>34</sup> Constitution of India 1950, art 21

<sup>35</sup> Indian Penal Code 1860, s 309

- There should be a committee to monitor the practice of euthanasia for competent and incompetent people and Parliament should pass specific regulations for patients and doctors and define some technical terms as they are in the proposed bill.
- An expert panel is recommended. The director general of the health service, the central government for the union territories and the directors of medicines in the states must prepare and publish it. One member of the panel must be a retired High Court judge and the group must include medical experts in several fields who can decide whether or not to refuse medical care. The panel shall keep a return record detailing the proceedings as well as all patient information, including whether or not they are competent. This record should be available to the public document.<sup>36</sup>

It would be quite appropriate to mention this quote from Mahatma Gandhi - "Death is a friend, the truest of our friends. He delivers us from agony. I do not want to die of a creeping paralysis of my faculties- a defeated man".

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<sup>36</sup> Law Commission, *Passive Euthanasia - A Relook* (Law Com No 241, 2018)