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## EUTHANASIA IN INDIA: A LEGAL AND ETHICAL ANALYSIS

~ *Mahek Zubeariya*

*“To deprive an individual of dignity towards the end of life is to deprive the individual of a meaningful existence” - Justice D.Y. Chandrachud<sup>1</sup>*

### INTRODUCTION:

Euthanasia, also known as 'Mercy killing', is one of the most complex and sensitive conversations in modern jurisprudence, oscillating between the fundamental 'Right to Life'<sup>2</sup> and the equally compelling 'Right to Die with Dignity'. India, a nation with deep-running cultural, religious, and social values, finds itself at the centre of this debate.

### MEANING OF EUTHANASIA:

The term Euthanasia comes from two Ancient Greek words: 'Eu' means 'Good', and 'thantos' means 'death', so Euthanasia means good death<sup>3</sup>. Euthanasia, or the act of intentionally ending a person's life to relieve suffering, remains one of the most contentious subjects in medical ethics and law, continuing to spark global debate over morality, autonomy, and legal regulation. Euthanasia can also be divided into two types according to means of death; Active Euthanasia and Passive Euthanasia.

### ACTIVE EUTHANASIA vs. PASSIVE EUTHANASIA:

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1. Common Cause (A Regd. Soc'y) v. Union of India, (2018) 5 SCC 1, 406 (India) (Chandrachud, J., concurring).

2. INDIA CONST. art. 21.

3. Seema Bengani, Euthanasia: Legal Aspects In India And Around The World (LIVE LAW Aug. 1, 2024, 1:34 AM), <https://www.livelaw.in/articles/euthanasia-legal-aspects-in-india-and-around-the-world-265329>.

**Active Euthanasia-** Also known as 'Positive Euthanasia' or 'Aggressive Euthanasia'. It is the act of causing intentional death of a human being by direct intervention. It is often done by medical professionals to relieve a patient's suffering from an incurable illness. For example, by giving a lethal dose or lethal injection.

**Passive euthanasia-** Also known as 'Negative Euthanasia' or 'Non-Aggressive Euthanasia'. It is the act of causing intentional death by not providing necessary and essential care or treatment. It implies discontinuing, withdrawing or removing the artificial life support system. Passive euthanasia is usually slower and more uncomfortable than active euthanasia.

In India, Active Euthanasia remains illegal under the Indian Penal Code<sup>4</sup>, while Passive Euthanasia is permitted under strict safeguards and an evolving jurisprudence that recognises living wills and advance directives. A timeline of key developments helps map how legality has shifted from a blanket prohibition toward a regulated framework for end-of-life decision-making.

## **THE JUDICIAL EVOLUTION OF THE RIGHT TO DIE:**

**1994 P.Rathinam v. Union of India:** The first significant judicial intervention came in this case, where the Supreme Court held that the 'Right to Life' under Article 21 implicitly included the 'Right not to Live a Forced Life', or the 'Right to Die'. The court decriminalized attempts to suicide, striking down Section 309 of the IPC as unconstitutional. However, this precedent was short-lived. A larger constitutional bench in **Gian Kaur v. State of Punjab(1996)**<sup>5</sup> overruled **P. Rathinam**

**1996 Gian Kaur v. State of Punjab:** This Supreme Court decision clarified that the right to life under Article 21 does not include a right to die. The ruling reinforced that aiding suicide or euthanasia constitutes criminal activity under the IPC, shaping the boundaries for active involvement in ending life. This case established a significant counterpoint to earlier, more permissive perspectives on the Right to Die. The right to die with dignity was not recognised as a

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

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

standard legal right in India. The legal framework treated suicide and assistance to die as criminal acts, with nuanced debates ongoing in academic and public discourse.

**2011 Aruna Ramchandra Shanbaug v. Union of India<sup>6</sup>:** A landmark judgment that created a jurisprudential pivot. The Supreme Court clarified the distinction between active and passive euthanasia. The Court held that passive euthanasia could be permissible under strict guidelines and judicial supervision, while actively terminating life would be illegal. This decision established a pivotal framework for end-of-life decisions and set the stage for future developments on living wills and directives.

**2018 Common Cause (A Regd. Society) v. Union of India:** This case represents a watershed moment that explicitly allowed living wills or advance directives<sup>7</sup>. The Court acknowledged that patients may, through a living will, specify the anticipated end-of-life medical care they wish to receive, thereby empowering autonomous decision-making in terminal or irreversibly suffering situations. It also highlighted the role of guardians or family members under appropriate circumstances and the necessity of medical and judicial oversight.

**2023–2024:** Follow-up guidance and discussions focused on refining the procedural aspects of passive euthanasia, such as timelines, criteria for medical board composition, and the roles of courts in approving or supervising decisions in complex cases. These refinements aimed to reduce delays and improve consistency across jurisdictions.

**2025:** Ongoing policy debates emphasize strengthening standardized protocols, expanding awareness among clinicians about living wills, and considering further legislative reforms to codify the safeguards around passive euthanasia and living wills. The emphasis remains on dignity, patient autonomy, and protection for vulnerable groups, with careful attention to preventing misuse or coercion.

The most significant outcome of the Common Cause judgment was the legal recognition of Advance Medical Directives (AMDs), or 'living wills'. An AMD is a legal document executed

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

7. Common Cause (A Regd. Soc'y) v. Union of India (2018) 5 SCC 1 (India).

by an adult of sound mind, specifying their wishes regarding medical treatment should they become terminally ill and unable to communicate their decision. The Court laid down a complex set of guidelines for the execution and implementation of AMDs, involving attestation by a Notary or Gazetted Officer, and countersignatures by two witnesses. In the event the patient becomes terminally ill, the hospital's medical board must certify the condition.

### **THE RIGHT TO DIE: THE MISSING DIMENSION OF ARTICLE 21:**

Article 21 of the Indian Constitution—protecting the right to life and personal liberty—shapes end-of-life decisions in India by situating dignity, autonomy, and privacy within a constitutional framework. Although the right to die is not expressly declared

Expansive interpretation of “life” and “personal liberty”

The Supreme Court’s evolving readings have treated life not merely as biological survival but as a dignified quality of life, incorporating elements of privacy, autonomy, and humane treatment. This broader conception underpins the legitimacy of patient-centred decisions at the end of life when treatment offers no meaningful benefit. Right to live with dignity as a corollary to end-of-life choices

Judicial pronouncements emphasise that living with dignity may entail recognising a patient’s wish to avoid prolonged suffering, even in the face of terminal illness. This supports consideration of patients’ preferences in the timing and extent of medical interventions.

Advance directives and living wills within a constitutional lens The jurisprudence recognises that competent adults may articulate end-of-life preferences through advance directives. Such directives guide medical teams and families when the patient cannot communicate, aligning care with the individual’s values while ensuring proper oversight

### **THE ETHICAL AND MORAL DEBATE ON EUTHANASIA IN INDIA**

The legal question of euthanasia is complex, but it is built entirely on a foundation of deep, conflicting ethical and moral questions. In India, this debate is a profound clash between two core principles: the right to individual autonomy and the traditional, societal value for the sanctity of life. This ethical viewpoint, which supports the right to die, is centred on the individual.

**Individual Autonomy:** This argument states that just as an individual has the right to make decisions about their own body and medical treatment (like refusing surgery), they must also have the right to make the final decision about their own life. This is the ultimate expression of personal liberty.

**The Right to Dignity:** This is the core argument adopted by the Indian Supreme Court. It posits that the "Right to Life" under Article 21 is meaningless without the "Right to Live with Dignity." A life spent in a persistent vegetative state (PVS) or in excruciating, untreatable pain, with no hope of recovery, is seen as a life stripped of all dignity. In this view, forcing someone to endure this state is a violation of their fundamental rights.

**The Argument from Compassion:** This is the humanitarian perspective. It argues that it is an act of cruelty to force a person to suffer a prolonged, agonising, and inevitable death. Allowing them to pass peacefully is seen as an act of compassion that ends pointless suffering for both the patient and their family

## **CONCLUSION:**

India has carefully navigated the sensitive intersection of life, law, and medical ethics. The legal framework today represents a crucial compromise: active euthanasia remains criminal, while the Right to Die with Dignity is recognized as a fundamental component of Article 21. This judicial evolution now permits passive euthanasia under strict conditions.

The Supreme Court's recognition of Advance Medical Directives (AMDs) is the most important step<sup>8</sup>, giving individuals a legal way to control their end-of-life care. Moving forward, the focus must shift from legal definition to practical implementation. Legislative bodies must streamline the procedural guidelines which currently cause delays to ensure that the law consistently protects vulnerable groups while honouring the autonomous wishes of every competent individual to secure a peaceful and dignified end to life. This will force society and the legislature to continually revisit this painful intersection of law, ethics, and compassion.

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8. Id. at 1.