Reconstructing the Right to Die: Legal and Ethical Perspectives on Euthanasia in India

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ABSTRACT

The discourse surrounding the right to die and euthanasia presents one of the most nuanced and ethically charged challenges in contemporary constitutional and medical jurisprudence. At the heart of this debate lies Article 21 of the Indian Constitution[184], which guarantees the right to life and personal liberty a provision whose judicial interpretation has expanded over time to encompass the right to live with dignity. This article examines whether that dignified existence inherently includes the right to die, particularly in the context of terminal illness, unbearable suffering, and irreversible medical conditions. Drawing upon key judicial decisions such as Gian Kaur v. State of Punjab 1996[185], Aruna Shanbaug v. Union of India 2011[186], and Common Cause v. Union of India 2018[187], the study traces the Indian judiciary's gradual evolution from rejecting the right to die to recognizing passive euthanasia and living wills as constitutionally valid. It also engages with comparative jurisprudence from jurisdictions like the Netherlands, Canada, and the United States to contextualize India's position within a global rights framework. The article critically evaluates the philosophical, religious, and ethical foundations of euthanasia in Indian society, while also highlighting legislative lacunae such as the absence of a dedicated euthanasia statute and the practical challenges surrounding implementation of living wills. It argues for a comprehensive regularity regime that balances individual autonomy with institutional safeguards, thereby ensuring that the right to die with dignity is not merely symbolic but meaningfully actionable. The article concludes that a rights-based, ethically regulated approach to euthanasia is not only constitutionally viable but morally imperative in a modern democratic society.

Keywords: Right to Life, Right to Die, Passive Euthanasia

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[184] INDIA CONST. art. 21.
[185] Gian Kaur v. State of Punjab, (1996) 2 SCC 648.
[186] Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454.
[187] Common Cause v. Union of India, (2018) 5 SCC 1.

INTRODUCTION

Life in all its awe, vulnerability, and complexity has captivated philosophical thought, inspired spiritual reverence, and driven scientific exploration throughout human civilization. It is not merely a biological occurrence, but a juridical and ethical construct imbued with meaning, agency, and dignity. Yet, within the reverence for life lies its inescapable duality: death. The inevitability of death is the one certainty that shadows all human existence, and yet it remains the most unspoken, most resisted phenomenon in modern consciousness. The dramatic advancements in medical science have radically transformed our engagement with death. Where once individuals passed away amidst kin, governed by the natural course of illness and time, today they often perish in sterile clinical settings, tethered to machines that prolong physiological functions long after dignity has departed. Medicine, in its quest to preserve life, has inadvertently engineered the potential for a protracted dying process one that often suspends not just death, but also human autonomy. This transformation has triggered an urgent jurisprudential and ethical inquiry: when does the right to life become the right to refuse its artificial prolongation? Can the law, in its fidelity to liberty, recognize the individual's choice to die with dignity, free from unnecessary suffering and invasive intervention? These questions form the crux of the contemporary euthanasia debate.

Article 21 of the Indian Constitution has been broadly construed to encompass not just the right to life, but also the right to live with dignity. Whether this interpretive arc extends to encompass the right to die particularly through the legal recognition of passive euthanasia remains a matter of evolving jurisprudence. With judicial pronouncements like *Aruna Shanbaug and Common Cause,* Indian constitutional law has cautiously begun to acknowledge that in certain cases, preserving dignity may mean allowing a person to die, rather than forcing them to live. This article interrogates that constitutional journey from valuing the sanctity of life to recognising the autonomy of death.

CONCEPTUAL FOUNDATIONS OF EUTHANASIA

Euthanasia, etymologically derived from the Greek words *"eu"* (good) and *"thanatos"* (death), literally connotes a "good death." In modern legal and ethical discourse, euthanasia denotes the deliberate termination of a person's life to alleviate unbearable suffering, especially in instances of terminal illness or irreversible medical conditions. However, the term is neither

unidimensional nor universally understood; it encompasses a spectrum of practices, each raising distinct jurisprudential and moral questions. At its core, euthanasia challenges two dominant legal doctrines: the sanctity of life and the principle of individual autonomy. The former upholds life as inviolable, often rooted in religious or natural law philosophies. The latter contends that self-determination is the cornerstone of liberty, including the right to refuse or withdraw from life-sustaining treatment when such treatment serves only to prolong suffering without therapeutic benefit. The typology of euthanasia is crucial for any legal analysis. It is broadly categorized as follows:

- **Active Euthanasia**: Involves a direct action (e.g., administering a lethal substance) with the intention to end life. This form is typically illegal in most jurisdictions due to its proximity to homicide.
- **Passive Euthanasia**: Entails withholding or withdrawing medical interventions such as ventilators, feeding tubes, or resuscitation thereby allowing natural death to occur. Passive euthanasia has been judicially recognized in India under specific conditions post-*Aruna Shanbaug and Common Cause.*
- **Voluntary Euthanasia**: Performed with the patient's informed consent, it represents the individual's autonomous decision to end their life in situations of intolerable suffering.
- **Non-Voluntary Euthanasia**: Administered when the patient is incapable of consent (e.g., in a persistent vegetative state) and decisions are made by surrogates or medical boards.
- **Involuntary Euthanasia**: Performed against the patient's will; morally and legally impermissible, equated with murder.

Often conflated with euthanasia are the concepts of suicide, assisted suicide, and physician-assisted dying. While suicide involves self-inflicted death, assisted suicide denotes the act of providing the means or knowledge for someone to end their own life. Physician-assisted suicide ("PAS"), a subset thereof, typically involves a doctor prescribing but not administering a lethal dose at the patient's request. Unlike euthanasia, where the act is performed by a third party, PAS places the final act in the patient's hands. This distinction bears significant legal implications. India's legal system, until recently, criminalised both suicide and its abetment under Section 226 and 108 of BNS[188], (Sections 309 and 306 of the IPC)[189] respectively. While

[188] Bharatiya Nyaya Sanhita, 2023, § 226, 108, No. 45, Acts of Parliament, 2023 (India).
[189] Indian Penal Code, 1860, § 306, 309, No. 45, Acts of Parliament, 1860 (India).

judicial opinion on the constitutionality of Section 309 has oscillated, the state's response to suicide remains punitive rather than compassionate a position increasingly at odds with global human rights discourse.

Thus, the conceptual foundation of euthanasia rests at the crossroads of law, medicine, and morality. It demands a legal framework that can distinguish between preserving life and prolonging suffering, between protecting dignity and denying autonomy. Any engagement with the legality of euthanasia must begin by recognising these definitional nuances and the profound ethical terrain they implicate.

HISTORICAL AND PHILOSOPHICAL ROOTS OF EUTHANASIA

The contemporary debate on euthanasia, often portrayed as a modern dilemma born of medical advancement, in truth has ancient philosophical, cultural, and religious antecedents. The ethical permissibility of voluntary death particularly in the face of incurable suffering has long been contemplated across civilizations. The idea that death, when embraced consciously and peacefully, may constitute a moral or even spiritual choice is embedded deeply in the world's intellectual traditions.

In ancient Indian society, terminally ill individuals were often allowed to die naturally without aggressive medical intervention, based on the belief that extending suffering artificially disrupted the natural rhythm of life and death. The Indic religious philosophies of Hinduism, Buddhism, and Jainism articulate nuanced approaches to voluntary death. Practices like *prayopavesha* in Hinduism and *sallekhana* in Jainism reflect a long-standing cultural and spiritual accommodation of death as a conscious, dignified act. *Prayopavesha* is a slow, non-violent process wherein a person voluntarily fasts unto death after fulfilling all social, familial, and spiritual duties. It is not equated with suicide, as it is undertaken without despair, motivated by detachment and spiritual resolution. In Hindu thought, views on euthanasia are not uniform while some traditions regard it as a compassionate act aligned with *ahimsa* (non-violence), others oppose it for disturbing the karmic cycle and interfering with divine will. Mythological references such as Lord Rama's Jal samadhi and the voluntary passing of Lord Buddha and Mahavira through spiritual discipline, reinforce the notion that seeking death at the appropriate time can be a path to liberation. Buddhism, while emphasizing compassion and non-harm, generally discourages euthanasia, especially voluntary or active forms, due to concerns about

karmic consequences. However, certain *Mahāyāna* interpretations suggest that in exceptional cases, euthanasia may be permissible if driven by altruistic compassion rather than personal suffering.

Conversely, the Abrahamic faiths Judaism, Christianity, and Islam embrace a more absolutist position. Life is considered sacred and inviolable, gifted solely by God. Human beings are regarded as custodians, not owners, of their lives. Both suicide and euthanasia are seen as sinful transgressions against divine sovereignty. The Roman Catholic Church, in particular, has taken a consistent and categorical position against euthanasia, invoking the sanctity of life and the moral imperative of the commandment "Thou shalt not kill." Suffering, within this framework, is often construed as spiritually redemptive and must be endured, not escaped.

Western secular philosophy also offers a robust lineage of thought on death and autonomy. In ancient Greece, philosophers such as Socrates and Plato explored death not as defeat, but as a transition potentially welcome when life ceased to offer virtue or reason. The Stoics, especially Seneca, defended suicide in situations where life lost its ethical meaning due to unbearable suffering or loss of autonomy. In certain cases in ancient Rome, assisting someone in ending their life was considered an act of mercy rather than a crime.

The Enlightenment brought a further shift toward rationalism and personal liberty. David Hume, in his controversial essay, "On Suicide"[190], challenged theological arguments against voluntary death and posited that if life becomes a burden rather than a benefit, the individual should have the moral agency to end it. John Stuart Mill's principle of individual liberty, particularly the
notion that sovereignty over one's body and mind must remain with the individual unless harm is caused to others, provides a strong liberal foundation for modern arguments in favour of euthanasia. Together, these diverse perspectives reveal that the impulse to die with dignity is not a novel aberration, but an ancient aspiration refined through centuries of philosophical, spiritual, and cultural engagement. Whether regarded as an act of moral failure or moral courage, euthanasia occupies a persistent place in humanity's long-standing struggle to reconcile suffering, dignity, and autonomy at the threshold of death.

[190] David Hume*, Two Essays: I. On Suicide. II. On the Immortality* (John Smith ed. Liberty fund 1980) (1777).

METHODS OF EUTHANASIA

The classification of euthanasia is not merely a semantic exercise it holds profound legal, ethical, and procedural implications. The methods of euthanasia vary depending on the manner, means, and agency involved in causing or permitting death. These distinctions serve as the cornerstone for any meaningful discourse on regulation and morality surrounding end-of-life decisions.

- **Active Euthanasia –** It involves the deliberate act of ending a patient's life through direct intervention, typically by administering a lethal substance. The intention is explicit: to hasten death in order to relieve unbearable suffering. This method is often considered the most ethically and legally contentious, as it blurs the line between mercy and homicide. In jurisdictions where active euthanasia is legalized such as the Netherlands, Belgium, and Canada it is governed by stringent safeguards, including repeated voluntary consent, terminal illness, and approval by independent medical boards. In India, active euthanasia remains illegal, and any medical professional administering such intervention would fall within the ambit of Section 103 and 105 of Bharatiya Nyaya Sanhita[191]("BNS") (Section 302 or 304 of the Indian Penal Code)[192]("IPC"), amounting to murder or culpable homicide. Even if performed with consent, such an act does not receive statutory immunity under the current legal regime.

- **Passive Euthanasia** – It refers to the cessation or non-initiation of life-sustaining measures, thereby, permitting the patient to die a natural death. It includes actions such as turning off ventilators, discontinuing feeding tubes, or halting medication. Crucially, the intention is not to kill, but to cease artificial prolongation of life where recovery is medically impossible and continued intervention violates the patient's dignity. The Supreme Court of India in *Aruna Shanbaug v. Union of India* and reaffirmed in *Common Cause v. Union of India*, formally recognized passive euthanasia as constitutionally permissible under Article 21, provided specific legal and procedural safeguards are met. This recognition included the right of patients through "living wills" or advance directives to refuse treatment under certain conditions. Passive euthanasia thus occupies a legally sanctioned space in India's

[191] Bharatiya Nyaya Sanhita 2023, § 103, 105, No. 45, Acts of Parliament, 2023 (India).
[192] Indian Penal Code 1860, § 304, 304, No. 45, Acts of Parliament, 1860 (India).

end-of-life framework, premised on the principle that allowing death, when life can no longer be lived with dignity, does not equate to causing death.

- **Physician-Assisted Suicide ("PAS")** – Closely related to active euthanasia is the concept of PAS, wherein a medical professional provides the means such as prescribing lethal medication but the final act of administering it is carried out by the patient. Unlike active euthanasia, where the physician directly causes death, PAS shifts the agency to the individual, who takes the final act themselves. This model is legal in countries like the United States (in states such as Oregon and Washington) and Switzerland under regulated circumstances. In India, PAS remains unlawful and would attract liability under Section 108 of BNS (Section 306 IPC), abetment of suicide, irrespective of the suffering endured by the individual. The method employed in euthanasia is not just a clinical decision it determines the legality, moral defensibility, and societal acceptance of the act. While passive euthanasia has been judicially embraced within the Indian constitutional framework, active euthanasia and PAS remain criminal offences. This asymmetry underscores the need for a more holistic statutory framework that can reconcile the method with intention, consent, and dignity. The method of dying, in this context, is not a mere technicality it is a statement of how the law interprets suffering, autonomy, and human agency at the edge of life.

CONSENT IN EUTHANASIA

Consent lies at the heart of any ethically defensible and legally permissible act of euthanasia. It distinguishes compassionate medical care from criminal culpability, and patient autonomy from involuntary termination. The classification of euthanasia based on consent is thus foundational in assessing both its moral legitimacy and legal status.

- **Voluntary Euthanasia** – It takes place when a competent individual knowingly and expressely requests the termination of life, typically due to terminal illness or unrelievable suffering. The patient's consent is central not only as an ethical safeguard, but also as a legal shield for the physician involved. Jurisdictions that have legalized euthanasia or physician-assisted dying, such as the Netherlands, Belgium, and Canada, place great emphasis on repeated, informed, and unequivocal voluntary consent. In the Indian context, while active voluntary euthanasia remains prohibited, the recognition of "living wills"

under *Common Cause v. Union of India* effectively grants individuals the right to predetermine their refusal of life-sustaining treatment. This judicial innovation reinforces autonomy, allowing individuals to shape their dying process even in a future state of incapacity.

- **Non-Voluntary Euthanasia** – It is undertaken when the individual is unable to provide consent due to coma, persistent vegetative state, infancy, or cognitive disability and the decision is made by surrogates, guardians, or courts, ostensibly in the patient's best interests. This form is fraught with ethical complexity and legal ambiguity, given the impossibility of verifying the patient's will. The Supreme Court in Aruna Shanbaug laid down procedural safeguards involving medical boards and judicial oversight precisely to regulate such scenarios. India permits non-voluntary passive euthanasia, subject to strict scrutiny by multidisciplinary medical panels and approval from relevant High Courts, thereby aiming to protect the patient from exploitation and ensure that the decision truly reflects therapeutic futility and not familial convenience.

- **Involuntary Euthanasia** – Involuntary euthanasia is carried out against the explicit wishes of the patient and is unequivocally condemned as illegal. Regardless of intent or context, it constitutes homicide under the law. No jurisdiction that recognizes euthanasia condones its involuntary form. Such acts are not only illegal but ethically indefensible, violating the core tenet of human dignity and consent.

ARGUMENTS AGAINST LEGALIZING EUTHANASIA

Despite judicial and philosophical support for the right to die with dignity, the legalization of euthanasia continues to evoke strong resistance in India. The objections span ethical, social, legal, and cultural dimensions, reflecting both principled concerns and pragmatic anxieties.

India's socio-religious fabric is deeply rooted in doctrines that sanctify life. Hinduism, Islam, Christianity, and other major faiths largely view life as sacred and divinely ordained. The deliberate termination of life, even in the name of mercy, is often equated with spiritual transgression. Legalizing euthanasia could thus face significant societal resistance in a country where morality is often guided more by scripture than statute.

In a system fraught with familial disputes and property conflicts, legal euthanasia could become a tool for coercion or manipulation. Vulnerable patients particularly the elderly, disabled, or terminally ill may be pressured to consent to euthanasia for ulterior motives, such as securing inheritance or avoiding the burden of caregiving.

Opponents argue that euthanasia, especially in its active form, contradicts the very essence of Article 21, which guarantees the right to life. They contend that allowing state-sanctioned termination of life even with consent undermines the constitutional sanctity attached to life and risks eroding the principle of non-derogability inherent in fundamental rights.

In a country where millions still lack access to basic healthcare, legalizing euthanasia may disproportionately affect the poor and marginalized. There is a legitimate fear that euthanasia could be used as a cost-cutting substitute for palliative care, further marginalizing those already deprived of adequate medical support.

Critics argue that the need for euthanasia arises not from the inevitability of death, but from the failure of the healthcare system to manage suffering. With increased investment in palliative care, psychological support, and hospice services, much of the pain and despair that drives euthanasia requests can be alleviated without resorting to life-ending measures.

The legalization of euthanasia opens the door to its commodification. In the absence of strong regulatory mechanisms, there is a risk of a profit-driven "death industry" emerging, where decisions are influenced by economic calculus rather than ethical deliberation.

There is also a socio-cultural concern that euthanasia could serve as a convenient escape for families unwilling to bear the burden emotional, financial, or physical of long-term care. In societies that idealize familial duty, this shift may corrode the moral bonds between generations.

ARGUMENTS IN FAVOUR OF LEGALIZING EUTHANASIA

Advocates of euthanasia invoke a competing set of values autonomy, dignity, and compassion to argue that a humane legal system must allow individuals to exercise control over the manner and timing of their death, particularly when life becomes synonymous with prolonged agony.

The most compelling argument is anchored in compassion; euthanasia provides a dignified exit from unrelenting physical or psychological torment. To compel an individual to endure unbearable suffering when death is inevitable is not an act of protection, but of cruelty masquerading as care.

The principle of bodily autonomy is a cornerstone of constitutional jurisprudence. Just as patients have the right to consent to or refuse treatment, they should also possess the right to decline artificial prolongation of life. Forcing unwanted treatment upon a competent individual is ethically indefensible and, arguably, legally actionable as assault.

The prolonged suffering of a terminally ill patient often imposes immense physical, emotional, and financial strain on family members. Legalizing euthanasia can offer closure and prevent undue hardship, while also allowing a dignified farewell on the patient's own terms.

From a public health perspective, legal euthanasia could enable better allocation of scarce medical resources. Maintaining individuals in irreversible vegetative states or terminal decline consumes hospital infrastructure that could otherwise serve patients with curative prospects.

If the right to life under Article 21 includes the right to live with dignity, it must logically include the right to die with dignity. It must embrace both its positive and negative aspects, for a right to hold true significance, just as the right to speak inherently includes the right to stay silent, the right to life must equally entail the right to reject a life stripped of dignity.

The euthanasia debate is not merely a clash of values it is a constitutional conversation between liberty and restraint, between moral duty and individual choice. Both sides present valid concerns, and any legal framework must reflect a balanced synthesis of ethical clarity, procedural safeguards, and societal compassion.

SUICIDE, ASSISTED SUICIDE, AND EUTHANASIA: DISTINCTIONS IN LAW AND ETHICS

The right to die discourse is often clouded by conceptual overlap between suicide, assisted suicide, and euthanasia. However, these acts are fundamentally distinct in their motivation,

agency, intent, and legal treatment. Conflating them dilutes the complexity of end-of-life ethics and undermines the precision required for constitutional and legislative evaluation.

1. **Suicide** – Suicide is the intentional and voluntary act of ending one's own life, typically due to psychological distress, despair, mental illness, terminal disease, or social stigma. It is inherently self-inflicted and autonomous, though often a consequence of impaired mental health or acute emotional turmoil. Historically viewed as a moral transgression and criminal offence, contemporary approaches increasingly emphasize the need for mental health intervention rather than penalisation. Under Section 226 of BNS (Section 309 of the IPC), attempting suicide remains a criminal offence, although the Mental Healthcare Act, 2017[193] now decriminalizes the act for individuals suffering from mental illness, mandating care and rehabilitation rather than punishment. While suicide is often linked to existential dissatisfaction, it does not require medical justification or third-party involvement, distinguishing it sharply from euthanasia.

2. **Assisted Suicide and Physician-Assisted Suicide** – Assisted suicide occurs when another person facilitates or provides the means for someone to end their own life often by supplying medication, tools, or guidance with the clear intent that the person will use them to commit suicide. It is a specific form wherein a medical professional provides the means (e.g., prescribing lethal medication) but does not administer it. This model retains patient autonomy the final act is performed by the patient but introduces a third-party contributor, raising both ethical and legal implications. In India Section 108 of BNS (306 IPC) criminalize the abetment of suicide, making both general and PAS expressly punishable under law, regardless of motive or medical context. Internationally, PAS is legal in several jurisdictions (e.g., Oregon, Switzerland, parts of Canada) under strict regulatory frameworks emphasizing consent, terminal illness, and mental competence.

3. **Euthanasia** – Euthanasia, colloquially known as "mercy killing," involves the intentional termination of a patient's life by a third party, typically a medical professional, to relieve intractable suffering or terminal illness. Unlike suicide and PAS, the act of causing death in euthanasia is carried out by someone other than the patient, with or without the patient's explicit consent. It is further divided into: Active euthanasia and Passive euthanasia. In

[193] Mental Healthcare Act, 2017, No. 10, Acts of Parliament, 2017 (India).

India, only passive euthanasia has been legalized, and even then under a narrow judicially regulated framework following the landmark decisions in *Aruna Shanbaug* and *Common Cause.* Active euthanasia and PAS remain outside the legal pale, considered equivalent to culpable homicide or abetment of suicide.

While suicide, assisted suicide, and euthanasia may converge in their outcome the intentional ending of life their moral, legal, and procedural landscapes differ sharply. The intent behind the act, the agency involved in carrying it out, and the legal responsibility of third parties define their respective ethical boundaries. A nuanced understanding of these distinctions is essential to frame coherent end-of-life laws that are both compassionate and constitutionally sound.

THE RIGHT TO LIFE VIS-À-VIS THE RIGHT TO DIE UNDER ARTICLE 21 OF THE INDIAN CONSTITUTION

India's constitutional discourse on euthanasia and the right to die is grounded in the profound philosophical and legal interpretations of Article 21, which guarantees the right to life and personal liberty. This provision, originally a protective clause against arbitrary state action, has evolved into a rich fountain of substantive rights including the right to live with dignity, the right to privacy, and, most recently, the right to die with dignity.

Constitutional framework

Article 21 of the Constitution of India, derived from the Government of India Act, 1935, states – *"No person shall be deprived of his life or personal liberty except according to procedure established by law."* The judiciary has interpreted this provision expansively, ensuring that life under Article 21encompasses more than mere animal existence, it guarantees a life imbued with dignity and autonomy. The recognition of this right until life's natural end implies that the right to life necessarily extends to the right to die with dignity. However, it is important to distinguish this from a mere "right to die," which could be interpreted as legitimising suicide. The law and courts have sought to draw a nuanced line between a dignified end to suffering and an unnatural curtailment of life.

Judicial evolution

The Indian judiciary's treatment of euthanasia has undergone considerable evolution through landmark cases –

1. *Maneka Gandhi v. Union of India 1978*- Expanded the scope of Article 21 to include substantive due process, integrating Articles 14 and 19 with Article 21. This decision laid the interpretive foundation for future right-based expansions, including the right to die with dignity.
2. *Maruti Sripati Dubal v. State of Maharashtra 1987*[194] - The Bombay High Court held that Section 309 IPC, which criminalizes attempted suicide, "unconstitutional", reasoning that the right to die is intrinsically embedded in the right to life.
3. *P. Rathinam v. Union of India 1994*[195] - Affirmed that Article 21 includes the right to die, striking down Section 309 IPC as violative of fundamental rights.
4. *Gian Kaur v. State of Punjab 1996* - A Constitution Bench overruled *Rathinam*, holding that the right to life does not include the right to die, but crucially, introduced the concept of the "right to die with dignity", especially in the context of terminal illness.
5. *Aruna Ramachandra Shanbaug v. Union of India 2011* - In this harrowing case of a nurse in a permanent vegetative state for over three decades, the Supreme Court allowed passive euthanasia under strict judicial oversight. The judgment laid down conditions for withdrawal of life support in exceptional cases.
6. *Common Cause v. Union of India 2018* - A Constitution Bench delivered a landmark ruling that legalized passive euthanasia and affirmed that the right to die with dignity is part of Article 21. The Court further acknowledged the validity of advance directives or living wills, which empowers individuals to decline life-prolonging treatment in cases of terminal illness.

Justice D.Y. Chandrachud eloquently articulated this in his concurring opinion – *"Life and death are inseparable... From a philosophical perspective, there is no antithesis between life and death. Both constitute essential elements in the inexorable cycle of existence."*[196]

[194] Maruti Shripati Dubal v. State of Maharashtra, 1987 Cri LJ 743 (Bom).
[195] P. Rathinam v. Union of India, AIR 1994 SC 1844.
[196] Common Cause v. Union of India, (2018) 5 SCC 1.

The Indian constitutional jurisprudence on euthanasia reflects a careful balancing act affirming human dignity without trivialising human life. While the right to die with dignity has been judicially acknowledged, its practical realization demands legislative clarity, institutional safeguards, and a robust ethical framework. As India moves toward codifying end-of-life rights, the challenge lies in ensuring that the law honours both autonomy and protection, compassion and caution, life and the liberty to let it go.

COMPARATIVE JURISPRUDENCE

The legal treatment of euthanasia around the world reflects diverse cultural, ethical, and constitutional values. A comparative overview reveals a spectrum from complete prohibition to full legalisation often shaped by societal attitudes toward autonomy, suffering, and the sanctity of life.

Country	Legal Status	Remarks
Netherlands	Legal	Active and passive euthanasia permitted since 2001
Belgium	Legal	Legalised active and passive euthanasia since 2002
Canada	Legal	Medical assistance in dying legal under federal law
USA	Partially Legal	Physician-assisted suicide legal in select states (e.g., Oregon, Washington)
UK	Illegal (Active), Legal (Passive)	Euthanasia prohibited; withdrawal of futile treatment allowed
Germany	Illegal (Active), Legal (Passive)	Assisted suicide permitted with limitations
Japan	Legal (Passive only)	Allowed in limited cases; lacks comprehensive legislation

Switzerland	Legal (Assisted Suicide)	Permits assisted suicide if not for selfish motives

This comparative lens reveals that while jurisdictions differ in their thresholds and terminology, many liberal democracies are increasingly accommodating euthanasia within a rights-based human dignity framework, albeit with procedural safeguards and moral checks.

LEGISLATIVE INITIATIVES IN INDIA

Despite significant judicial progress, the lack of comprehensive legislation remains a major concern in India's end-of-life jurisprudence. One notable development in this regard is –

The Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2016[197]

It recognises living wills and the right to refuse treatment. Applies to terminally ill patients aged 16 and above. It requires medical board review and High Court approval and protects both patients and medical practitioners from legal liability. It draws from Law Commission's 196th and 241st Reports. It also seeks to legalise passive euthanasia within a clear statutory framework. Though the Bill remains unpassed, it reflects growing legal consciousness and aligns closely with the principles laid down in *Common Cause*. Its enactment would mark a decisive shift from judicial improvisation to statutory codification, embedding the right to die with dignity within India's formal legal architecture.

CRITICAL APPRAISAL

While the legal recognition of euthanasia in India particularly passive euthanasia, marks a historic affirmation of individual autonomy, its practical implementation raises several ethical and systemic concerns that demand close scrutiny –

- Risk of Coercion – Terminally ill or elderly patients, especially those dependent on others, may be vulnerable to subtle or overt coercion. Legal safeguards must ensure that consent is truly voluntary and not driven by familial pressure, neglect, or economic compulsion.

[197] The Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill, 2016 (Union Health Ministry, India).

- Lack of Procedural Uniformity – The absence of uniform national guidelines for medical boards, review procedures, and documentation standards increases the risk of arbitrariness in life-ending decisions.

- Disparity in Access to Palliative Care – A significant segment of India's population lacks access to quality end-of-life care. In such contexts, choosing death may be less a matter of autonomy and more a reflection of inadequate medical support.

- Cultural and Religious Resistance – Deeply ingrained beliefs in the sanctity of life pose social barriers to acceptance. Religious objections continue to influence both public discourse and policymaking.

- Potential for Commercial Exploitation – In a healthcare system not immune to corruption, euthanasia could be misused for pecuniary gain under the guise of consent, especially in cases involving inheritance or medical malpractice liability.

Despite these challenges, a blanket denial of euthanasia, particularly in cases involving irreversible suffering can amount to a denial of dignity. The real task ahead lies in designing a legal framework that operationalises compassion without compromising accountability.

RECOMMENDATIONS

The right to die with dignity is not antithetical to the right to life. Rather, it is its most humane expression in circumstances where suffering strips life of meaning and dignity. Legal and ethical recognition of this right must now translate into actionable policy. India must –

- Enact clear legislation defining the scope, process, and safeguards for passive euthanasia.
- Establish uniform medical review boards across states to ensure consistency and transparency.
- Promote public awareness and accessibility of advance directives, ensuring individuals can make informed choices about end-of-life care.
- Integrate palliative and hospice care into the public health system, so that the right to die is not a substitute for the right to comprehensive care.

A harmonized legal framework, grounded in constitutional morality and human dignity, is essential to balance autonomy, compassion, and protection in India's end-of-life jurisprudence.

CONCLUSION: RECONCILING DIGNITY WITH DEATH

Indian constitutional jurisprudence on euthanasia reflects a delicate yet resolute balancing act affirming the inviolability of human dignity without undermining the sanctity of life. Judicial recognition of the right to die with dignity under Article 21 has marked a progressive evolution in the interpretation of personal liberty. However, translating this recognition into enforceable rights demands clear legislative articulation, institutional safeguards, and a robust ethical framework that navigates the complex intersection of autonomy, medical ethics, and public interest. In this regard, the 2016 Draft Bill on passive euthanasia, emerging from the Law Commission's 241st Report 2012[198], offers a vital starting point. However, its practical viability must be tested through rigorous scrutiny to identify and address its legislative gaps. A law dealing with such profound human questions must be not only legally sound but ethically sensitive, administratively feasible, and socially responsive. This research underscores the paradox that while the Right to Life itself remains a partially fulfilled promise for many in India, a parallel movement advocating for the Right to Die often seen as antithetical to the former has gained momentum, influenced in part by global discourse. Yet, the Indian context demands an indigenous legal response, grounded not in borrowed ideologies but in constitutional morality and the lived realities of its people. Ultimately, recognizing the right to die with dignity as part of the constitutional fabric affirms the individual's right to choose not just how to live, but how to exit life with grace. As India stands on the threshold of codifying end-of-life rights, the true challenge lies in crafting a legal regime that harmonizes compassion with caution, freedom with protection, and above all, life with dignity even in death.

[198] LAW COMMISSION OF INDIA, 241ST REPORT ON PASSIVE EUTHANASIA – A RELOOK (August 2012), https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081061-1.pdf.