



Active Euthanasia in India

Suffering in a Life Support Machine or Dying With Drugs?



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ABSTRACT

Suicide is the deliberate taking of one's own life; euthanasia or "mercy killing" is the deliberate taking of another person's life at the deceased person's request. This essay aims to explain what euthanasia is and how it might be used in three different situations involving a person who has been alive since birth. Although self-destruction is the goal of both suicide and euthanasia, there is a definite distinction between the two. There are five categories in which euthanasia can be categorised, as well as numerous applications for it. In addition to them, the legal status of euthanasia in India in light of the Indian Constitution, Indian Criminal Code, and other current laws, as well as the position of several other nations throughout the world, are all taken into consideration for discussion. Although the Highest Court has already made a judgement on this matter, there are still some questions that need to be thoroughly examined. Finally, both reasons in favour of and against legalising euthanasia are

presented, and this paper is ended with a firm recommendation in favour of allowing passive euthanasia in India.

I. INTRODUCTION TO EUTHANASIA

Euthanasia refers to the intentional act of ending the life of an individual who is suffering from an incurable illness that causes severe and unrelenting pain. The term "euthanasia" is derived from the Greek words "eu" and "thanatos," which mean "good death." There are several types of euthanasia, including active euthanasia, which involves taking deliberate steps to end a person's life, such as administering a lethal dose of medication. Passive euthanasia, on the other hand, involves not providing or withdrawing medical treatment or life-sustaining measures that would prolong the person's life.

When a person who is of sound mind and capable of making decisions asks to end their life, it is known as voluntary euthanasia. On the other



hand, when a person is unable to make such a request due to their condition, such as someone in a coma or with severe dementia, it is referred to as non-voluntary euthanasia. The issue of euthanasia is a contentious and sensitive topic as it raises questions about the morality of taking a life, the right to die, and the role of healthcare providers in end-of-life care. While some countries have laws prohibiting euthanasia, others allow it under specific circumstances, as is the case in the Netherlands and Belgium.

Active euthanasia involves taking deliberate actions to end the life of a person who is suffering from an incurable disease or unbearable pain. This can involve administering medication to cause death or performing some other action to bring about the person's demise. The debate around active euthanasia is complex because it raises ethical questions about the sanctity of human life and the role of healthcare providers in end-of-life care. ¹Supporters of active euthanasia argue that it can be a compassionate and humane way to relieve the suffering of people with terminal illnesses, while opponents believe that it goes against the fundamental principle of preserving human life and is therefore morally wrong.

CLASSIFICATION OF EUTHANASIA

1. ASSISTED SUICIDE:

Physician-aided suicide is another name for assisted suicide (PAS). PAS stands for purposeful patient assistance in ending their lives. This person must be in excruciating pain all the time. They could have also been informed that they were in a paraplegic condition. Their doctor will select the most effective, painless technique.

Sometimes, doctors may offer patients a medicine that may allow them to end their life. For this, a lethal dosage of "opioids," for example, would be advised. In the end, it is up to the person whether or not to take the medication.

¹[https://medicine.missouri.edu/centers-institutes-labs/health-ethics/faq/euthanasia#:~:text=Euthanasia%20is%20the%20practice%20of,%E2%80%9Cthanatos%E2%80%9D%20\(death\)](https://medicine.missouri.edu/centers-institutes-labs/health-ethics/faq/euthanasia#:~:text=Euthanasia%20is%20the%20practice%20of,%E2%80%9Cthanatos%E2%80%9D%20(death))

2. ACTIVE EUTHANASIA:

When most people think of euthanasia, they picture a doctor killing a patient in front of them. This is what is meant by active euthanasia. Active euthanasia is defined as purposefully administering a lethal dose of a sedative to a person.

3. PASSIVE EUTHANASIA:

One approach to describe passive euthanasia is the refusal of or restriction of life-sustaining treatments in an effort to speed up a person's demise. Moreover, a doctor might advise gradually increasing the dosage of painkillers. Eventually, the doses can become hazardous.

4. VOLUNTARY EUTHANASIA:

When a person decides to seek for help terminating their life freely, this is known as voluntary euthanasia. The person must demonstrate full understanding and declare their complete consent.

5. NON-VOLUNTARY EUTHANASIA:

²Non-voluntary euthanasia involves a third party making the choice to end a person's life. A close relative usually makes the decision. This is often done when a person is completely unconscious or permanently disabled. The word "suicide" is frequently used to describe someone who has killed themselves.

ASPECTS OF EUTHANASIA IN THE WORLD

Euthanasia or assisted dying has been a topic of controversy globally for many years. This entails intentionally terminating the life of a person who is suffering from unbearable pain or a terminal illness. People often opt for euthanasia to avoid prolonged suffering and to have control over their death. The permissibility of euthanasia varies widely across the globe, with some nations allowing it only under certain circumstances, while others have it entirely prohibited.

As of 2022, euthanasia is legally allowed in all the states of Australia including New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia, as well as Belgium, Canada, Colombia, Luxembourg, the Netherlands, New Zealand, and Spain are among the countries where euthanasia is legal.

²<https://blog.ipleaders.in/euthanasia-india-legal-aspect/>



Euthanasia involves the deliberate action of ending someone's life. When it is done intentionally to alleviate a person's suffering, it is referred to as voluntary euthanasia, where the final action is carried out by a third party, usually a medical professional, at the request of the individual.

In Belgium, Luxembourg, Canada, and Colombia, both assisted suicide and euthanasia are legal, although there are some variations in the laws. For example, in Colombia, only patients with terminal illnesses are allowed to request it, whereas in Belgium, there is no minimum age requirement. The legality of some countries are mentioned in the following points:

- **UNITED KINGDOM:**

In the United Kingdom (UK), euthanasia is prohibited by law and is considered a form of manslaughter or murder. Even though physician-assisted suicide is prohibited, the Director of Public Prosecutions in the UK has published guidelines that suggest prosecutions are less probable if the assisting person acted with compassion. There have been various efforts to modify the law in the UK to allow for assisted dying. During the year 2021, the parliament discussed the Assisted Dying Bill, which, if passed, would have allowed adults with terminal illnesses and less than six months to live to request assisted dying. However, the bill was ultimately defeated. Organizations such as Dignity in Dying are advocating for a legal change to permit assisted dying. Advocates argue that people with terminal illnesses who suffer from constant pain should have the freedom to opt for ending their lives, while those who oppose the idea claim that it might weaken the value of human life and create possibilities for exploiting the system.

- **AUSTRALIAN STATES:**

Voluntary assisted dying is permitted in two Australian states - Victoria and Western Australia. In Victoria, the Voluntary Assisted Dying Act of 2017 came into force in 2019, allowing patients with terminal illnesses and less than six months (or 12 months for those with neurodegenerative diseases) to apply for access to voluntary assisted dying. The request must be made by the patient themselves, be voluntary, and approved by two independent medical practitioners. Likewise, Western Australia enacted the Voluntary Assisted Dying Act 2019, permitting patients with terminal

illnesses to apply for access to voluntary assisted dying under the same terms as Victoria. Although other states have considered legalizing euthanasia, no legislation has been passed, though Queensland and New South Wales have discussed and examined the issue.

- **BELGIUM:**

Euthanasia was made legal in Belgium in 2002, it made Belgium the second country³ in the world to legalize euthanasia after the Netherlands, to do so In Belgium, euthanasia is allowed for individuals who are experiencing unbearable physical or mental suffering due to an incurable and severe medical condition, and who have provided their informed and voluntary consent for the procedure. The law requires that the patient's condition is irreversible and that they are experiencing constant and unbearable physical or mental suffering. To ensure that euthanasia is only performed in appropriate circumstances, the law establishes several safeguards. One of the requirements for euthanasia in Belgium is that the patient must make their request in writing and sign it in front of two witnesses, with at least one of them being a medical doctor. Additionally, the patient must be examined by at least two physicians who confirm the diagnosis and prognosis of the illness and certify that the patient meets the legal requirements for euthanasia.

- **CANADA:**

In Canada, medical assistance in dying (MAID), also known as euthanasia, is permitted under certain circumstances. In 2016, the Canadian government approved the Medical Assistance in Dying (MAID) legislation, which permits qualified individuals to receive medical aid in dying. In order to be eligible for Medical Assistance in Dying (MAID) in Canada, certain criteria must be met; a person must meet specific criteria, which include being a Canadian citizen or permanent resident, at least 18 years of age, and suffering from a grievous and irremediable medical condition. This criterion specifies that the person must have a serious ailment, medical condition, or impairment, be in an advanced stage of deterioration, and their natural passing is

³<https://www.wionews.com/photos/countries-where-euthanasia-assisted-suicide-is-legal-281943>



expected to occur within a reasonable timeframe. Additionally, the person must have the capacity to make decisions regarding their health. To request MAID, a person must provide a written and signed request to a physician or nurse practitioner. This request must be witnessed by two independent witnesses who are not beneficiaries of the person's will or their healthcare providers. The person must also be informed of all available options for medical treatment, including palliative care. If deemed eligible for MAID, the person can receive it in their home, a healthcare facility, or another location. The process of MAID involves administering medications that cause death, typically through injection. MAID remains a controversial issue in Canada, with opposition from some religious and conservative groups. Meanwhile, supporters believe it provides individuals with control over their deaths and allows them to end their suffering.

- **COLOMBIA:**

Euthanasia is a subject that sparks controversy in Colombia. Presently, euthanasia is permitted in Colombia, but it is subject to specific requirements and circumstances. In 1997, the Colombian Constitutional Court determined that euthanasia is lawful when a patient agrees to it, is struggling with an incurable ailment, and is experiencing unbearable physical or emotional pain. This verdict has been upheld in subsequent cases, and in 2015, the Colombian government enacted legislation that regulates euthanasia. To qualify for euthanasia, a patient in Colombia must have a terminal illness or an incurable condition that causes severe, intolerable pain, and only licensed physicians can perform it with written, explicit consent from the patient. Although euthanasia is legal in Colombia, it is still a contentious issue. Some groups, such as religious and conservative factions, oppose it, citing that it violates the sanctity of life. Others argue that it is a person's right to terminate their suffering and pass on with dignity. As a result, the debate over euthanasia in Colombia remains unsettled, with discussions ongoing concerning the ethical, legal, and moral implications of the practice.

- **LUXEMBOURG:**

In Luxembourg, euthanasia is permitted but only under specific circumstances. The law

legalizing euthanasia and assisted suicide was approved in 2009 and took effect in 2010, making Luxembourg the third country to legalize euthanasia after the Netherlands and Belgium. Euthanasia is permitted by law only if the patient is enduring unmanageable agony with no prospect of improvement, and the desire for euthanasia is a willing and thoroughly thought-out decision. The patient must also be fully informed about their medical condition and prognosis, and two physicians must confirm that the patient is eligible for euthanasia. Any cases of euthanasia must be reported by physicians to a national commission that reviews each case to ensure the legal criteria were met. It's worth noting that only residents of Luxembourg are eligible for euthanasia, and physicians who perform euthanasia outside of the legal requirements may face criminal charges. Despite controversy around the issue, euthanasia is legal in Luxembourg, and eligible patients may have access to it.

- **NETHERLANDS:**

The Dutch Euthanasia Act, passed in 2002, permits euthanasia in specific circumstances in the Netherlands. The law allows physicians to perform euthanasia or assisted suicide on patients who meet certain criteria. Under the law, euthanasia is only allowed if the patient is experiencing unbearable suffering and there is no chance of improvement, and if the request for euthanasia is made voluntarily and after careful consideration. The patient must also be fully informed about their medical condition and prognosis, and a second, independent physician must confirm the patient's eligibility for euthanasia. All cases of euthanasia must be reported by physicians to a regional review committee, which examines each case to ensure that the legal requirements are met. Despite its legalization, euthanasia remains a controversial issue in the Netherlands, with some opposing it on ethical or religious grounds. However, since its legalization, euthanasia has gained wider acceptance in the country, with an estimated 4% of all deaths resulting from euthanasia or assisted suicide.

- **NEW ZEALAND:**

The New Zealand Parliament passed the End of Life Choice Act in 2019, legalizing euthanasia or medically assisted dying. This was followed by a national referendum, and in November



2021, the law came into effect. The new legislation allows New Zealand residents who are 18 years or older, suffer from a terminal illness, or in order to be eligible for medically assisted dying, the individual must have a medical condition that is causing severe and unmanageable suffering that cannot be relieved through treatment. This decision must be voluntary and the person must have the capacity to make an informed choice. This means that the person must be able to understand the information given to them about their medical condition and the potential consequences of their decision. To request medically assisted dying, the individual must provide a written request to their healthcare provider. This means that the person must submit a written document to their medical practitioner in order to seek assistance in ending their life, who will assess if they meet the eligibility criteria. If both healthcare providers agree that the person is eligible, they must wait for 48 hours before making a final request. If they still want to proceed, they will be given a date for the procedure, which can take place in a hospital, hospice, or at home. The person must self-administer a lethal dose of medication unless they are unable to do so, in which case, a healthcare provider may assist. Although the legalization of medically assisted dying in New Zealand is a controversial topic, with the passing of the End of Life Choice Act, the country has become one of the limited number of nations to legalize euthanasia or medically assisted dying. This means that the country has joined a small group of countries that have made it legal to seek assistance in ending one's life under certain circumstances.

- **SPAIN:**

In Spain, euthanasia is allowed under specific circumstances, as of March 2021 when a new law was implemented. This law permits euthanasia and assisted suicide for individuals who suffer from an incurable or serious illness that causes unbearable suffering. The patient must be a Spanish citizen or legal resident and provide a written and signed request for euthanasia, which must be reviewed by a second physician. The procedure can be performed by a physician after a waiting period of 15 days. Penalties are imposed on physicians who do not comply with the legal requirements for euthanasia, and also for anyone who coerces a patient into requesting euthanasia. However,

the legalization of euthanasia in Spain is a controversial issue, with opposition from some religious groups and conservative politicians. Despite this, a majority of the population and the medical community support the right to euthanasia for those suffering from incurable and hopeless conditions.

ACTIVE EUTHANASIA IN INDIA

Till date even though active euthanasia is legal in certain parts of the world, when it comes to India this category of killing people has been illegalised since long. Mercilessly killing human just because he/she is in a critical condition isn't taken. As we all know the most important fundamental right mentioned in Article 21 is violated, active euthanasia came into question at the apex court.

In the landmark judgement of "Gian Kaur Vs State of Punjab"⁴, it was filed in order to legalise active euthanasia in India. The petitioner held that in the Fundamental Right of Right to Life includes Right to Die as well. But this petition was rejected by the Supreme Court on the basis that right to life does not include and mean the same as right to life. Hence after this active euthanasia was illegalised.

In the famous case of "Ramachandra Shanbaugh Vs Union of India (2011)",⁵ In this case Aruna Shanbaugh who was a nurse at KEM Hospital Mumbai was molested by Sohanlal Bhartha who was a sweeper at the same hospital. Aruna remained in coma for more than 37 years until any action was taken for her. The supreme court after rejecting numerous pleas, accepted the plea of Pinki Virani who was a journalist. It held that when someone isn't in a condition to take any decision regarding removal of life support for himself/herself then the state can intervene in the following decision as a Parent of the Country. Moreover, it even stated that active euthanasia being illegal, passive euthanasia can be made legal.

In one more judgement of "Common Cause Case"⁶ the superior court decided that "right to die with

⁴<https://lawplanet.in/gian-kaur-vs-state-of-punjab-case-summary-1996/>

⁵https://en.wikipedia.org/wiki/Aruna_Shanbaugh_case

⁶[https://blog.ipleaders.in/common-cause-v-union-of-india-case-analysis/#:~:text=Union%20of%20India%20\(2018\),,right%20to%20live%20with%20dignity.](https://blog.ipleaders.in/common-cause-v-union-of-india-case-analysis/#:~:text=Union%20of%20India%20(2018),,right%20to%20live%20with%20dignity.)



dignity” be made a Fundamental Right. It even stated that a person of sound mind should have the choice of natural death instead of staying in a persistent state for years together supported with treatments.

After all the above judgements, active euthanasia was illegalised in India and passive euthanasia came into effect. This category of euthanasia is getting a lot of appreciation and due to advancement of technology and law, passive euthanasia is even getting better with days.

OPINIONS IN FAVOUR OF ILLEGITIMATION OF ACTIVE EUTHANASIA IN INDIA:

Legal professionals and organizations in India have varying opinions on euthanasia, making it difficult to provide a comprehensive overview of their views. However, active euthanasia is currently illegal in India, with the exception of passive euthanasia, which was legalized by the Supreme Court in 2018. Some renowned legal professionals and organizations in India support the legalization of euthanasia, especially in cases where individuals are suffering from incurable illnesses or unbearable pain. There is a wide range of views and opinions on active euthanasia in India. Some people and groups oppose it due to moral, religious, and ethical reasons, arguing that intentionally ending someone's life goes against the value of preserving human life. They also fear it could be abused and exploited, particularly among vulnerable individuals, and negatively affect end-of-life care and palliative care services. In general, the topic of active euthanasia remains a controversial and divisive issue in India, with differing opinions among individuals and groups. To many people in India who are against euthanasia, intentionally ending someone's life is considered a violation of the sanctity of life and a moral wrong. They argue that human life has inherent value and that ending it prematurely is not a decision that should be made lightly. Some religious and cultural beliefs in India, such as the principle of ahimsa in Hinduism, also oppose euthanasia. Moreover, instead of legalizing euthanasia, opponents suggest improving end-of-life care and palliative care services to ensure that patients receive the best possible care and support during their final days. Overall, the issue of euthanasia remains a contentious and polarizing topic in India, with differing views among individuals and groups.

OPINIONS AGAINST LEGALISING EUTHANASIA

There are many distinct arguments against euthanasia and/or PAS being legal. The desire to heal and prolong life is what drives the medical profession, as is commonly stated in the editorials of many medical magazines. They believe that providing individuals with the option to make a choice about the end of their life can be a compassionate and humane response to their suffering. There are some opinion of people who oppose to the legalization of euthanasia, arguing that it goes against the fundamental right to life guaranteed by the Indian Constitution and could result in the exploitation of vulnerable individuals such as the elderly and disabled.

Lawmakers have included a number of safeguards to reduce the possibility that physician assisted suicide may be used inappropriately. These requirements include a patient's voluntary request for aid in dying, proof of a fatal illness, and documentation by the patient's primary doctor of the basis for the request and any steps made to improve the patient's care. However, detractors claim that these restrictions are more whimsical than science based and contend that the legal and medical fields will eventually reach a "slippery slope" where euthanasia becomes legalised as a legitimate practise for a larger patient group, including non-terminal, non-volunteer patients. A further claim made by opponents of euthanasia is that people from lower socioeconomic strata or other marginalised groups will be "coerced," either through direct or indirect means, into asking for euthanasia as a way to deal with the problems brought on by their sickness. Because of the economic and social obligations associated with caring for terminally sick family members, family members may quietly indicate that death, since it is unavoidable, would be preferred if it came sooner rather than later. Hence, because they feel that they would not desire to live in a position comparable to that of their patients, doctors may be particularly bad at spotting "irrational" requests for PAS. Even more terrifying is the prospect that doctors or other healthcare professionals would suggest PAS since the only other choice that offers proper palliative care is either outrageously costly or hard to get. Due to poorly managed or untreated medical and psychological symptoms, sufferers with poor healthcare coverage or limited financial means may feel as though their only options are to continue to suffer or die, which may "coerce" them into requesting PAS.



There are multiple reasons why some individuals and groups in India are opposed to the legalization of active euthanasia, including concerns about its impact on end-of-life care, potential for abuse, violation of the right to life, religious and moral objections, and fears of a slippery slope, which include:

1. The violation of the right to life is a major argument against active euthanasia in India. Critics contend that ending someone's life intentionally is against the fundamental right to life enshrined in the Indian Constitution. They argue that life is valuable and should be protected at all costs.
2. Potential for abuse is another argument against legalizing active euthanasia. Opponents fear that vulnerable individuals, such as the elderly and those with disabilities, may be exploited by family members or caregivers to pressure them into choosing euthanasia for financial or other reasons.
3. Some opponents believe that legalizing active euthanasia may negatively impact end-of-life care and palliative care services. They fear that healthcare providers may be more likely to suggest euthanasia as an easy solution to end-of-life suffering, rather than providing adequate care and support to manage symptoms and improve the patient's quality of life.
4. The slippery slope argument is another concern raised by critics of active euthanasia. They worry that legalizing euthanasia could lead to its misuse in situations where it is not necessary. Once it is legalized, it could become difficult to regulate its use and prevent abuse.
5. Religious and moral objections are also raised against active euthanasia in India. Some people argue that ending someone's life intentionally is morally and religiously wrong and goes against the principles of most religions practiced in India. They believe that all life should be respected and preserved.

II. CONCLUSION

The issue of legalizing active euthanasia in India is a contentious one, with arguments for and against the practice. Supporters suggest that it can provide a humane solution to relieve the pain and suffering of terminally ill patients, while detractors contend that it violates the fundamental right to life and could lead to abuse of vulnerable individuals. Therefore, it is crucial for policymakers and healthcare professionals to thoroughly analyze the ethical, legal, and moral implications of active euthanasia. Furthermore, improving end-of-life and

palliative care services is essential to ensure that patients receive appropriate care and support in their final stages of life. Overall, the decision to legalize active euthanasia in India should be made after considering the views of various stakeholders, including patients, families, healthcare providers, and religious and cultural leaders