



## Euthanasia and the value of life: a critical study

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*“Making someone die in a way that others approve but he believes a horrifying contradiction of his life, is a devastating, odious form of tyranny” - Dworkin*

*“I believe that decisions about the timing and manner of death belong to the individual as a human right. I believe it is wrong to withhold medical methods of terminating life painlessly and swiftly. When an individual has a rational and clear-minded sustained wish to end his or her life” – A.C. Grayling*

### Abstract

The theory of word ‘Euthanasia or Mercy Killing’ can be best described as ‘the newest form of death’ or ‘end of life’, which means eliminate lives or to put an end to dire suffering of “The Mentally Ill or Incurably Sick”, and years of miserable life. Euthanasia is a matter of a controversy all over the world, it is covered by decisions of court, medical practitioners, religions etc. The questions of euthanasia arise. But, like right to life as defined in Article-21, does it have a Right to Die? “Is medical help in dying a crime”. Is there a nexus between crimes of murders? The aim of this research is to find the answers of these questions. It will explore the Medical, Religious, Legal and Global perspective. This paper’s aim is to know the issue surrounding Euthanasia in relation to Right to Life (Article-21) in India and other developments in other countries.

### Introduction

‘Euthanasia’ a most debated word derived from Greek literature. In Greek “EU” means both “Well & Easy” and “THANATOS” is “Death”. The Oxford dictionary defines ‘Euthanasia as gentle death of a person whose disease is painful and incredible’.

Euthanasia is one of the most concerned matters, which inspire and endless debate. There is no legislature on Active Euthanasia or Passive Euthanasia both are matter of debate, situation about question of whether to permit or not to permit has remained ambiguous. All over the world with increasing no. of dangerous diseases like Cancer, AIDS and other terrible diseases, sparked a global controversy on the Question of ‘legalization’ of Euthanasia

### Terms of Euthanasia

Euthanasia, According to Mason and McCall Smith, is a “Small, Painless end of life, and willingly putting to death by Artificial Means, of persons with and incurable or painful disease”. Euthanasia can be divided with a view whether a person. Express his/her consent or not. Keep it in mind we can divide it into two categories “Voluntary Euthanasia and Involuntary Euthanasia”.

- 1. Voluntary Euthanasia:** Voluntary Euthanasia refers that euthanasia in which a patient asks to dies or make a request, Either by itself or by his legal representative. This is usually conducted





with the consent of the patient. It can further be divided into “*Active Voluntary Euthanasia* and *Passive Voluntary Euthanasia*”

- a) **Active Voluntary Euthanasia:** When a Doctor Injects a patient with lethal substance with the consent of patient. It involves painless method to end a life.
  - b) **Passive Voluntary Euthanasia:** It involves not taking any steps to prevent death of a patient. In these cases Medical practitioners refrain from using necessary steps or medicine to keep alive a patient in a persistent vegetative state.
2. **Involuntary Euthanasia:** In this a Patient’s life is put to an end without his express will. In this type of euthanasia decision is taken by *the society* or *the family*. This practice is generally denied by the medical practitioners.

### Legal status in India

In India, there is always a controversy on euthanasia i.e., distinguished between “Active Euthanasia and Passive Euthanasia”. Active Euthanasia includes direct usage of lethal substances by doctors which is illegal in India. Passive Euthanasia means withdrawal of life support system. It is legal in India, with limited Conditions. Supreme Court of India issues guidelines through judgements like “Aruna Shanbaug (2011) , Common Cause (2018), and an order modifying the guidelines issued in Common Cause (2023)”.

According to Indian legal system ‘*Attempt to Suicide* or *Direct Death*’ is a crime. “Any person who attempts to commit suicide and perform any act in order to commit such an offence shall be punished by simple minimum sentence of up to one year or with fine or both”. It has been challenged that section 309 of the IPC. Violates the Fundamental Rights provided in Article 21&14 of the Indian Constitution. In *P. Rathinam vs Union of India*, Supreme court stated that Section- 309 of IPC is contradictory to Article-21 and find it unconstitutional. It was considered as a cruel law that drag a person into a bad situation in which he is already suffering. Constitution of India provides basic human rights as defined in Article-21 which protect right to life and personal liberty. Now a **Question** arises, **Whether Article-21 covers Right to Die or not?**

It was first involved in the case of: -

1. **Maruti Sripati Dubal vs State of Maharashtra.**

In this case Bombay High Court Held Section-309 of IPC as unconstitutional and said that “*Article-21 of Indian Constitution forms an Inherent part of Right to Die*”

2. **P. Rathinam vs UOI**

In this case Supreme Court stated that any criminal sentence for an attempt to suicide amounts to double punishment as it violates the Fundamental Right to Life under Article-21 finalize right to die implicit in right to life

3. **Gian Kaur vs State of Punjab**

In this case P. Rathinam case was overruled. The Constitutionality of Section-309 was upheld by the Supreme Court.

4. **Aruna Ramchandra Shanbaug vs UOI**

In this case passive euthanasia is allowed. In this case the Doctrine of Parens Patriae (The State right to act as a parent) was taken and it was held that “ Upon the opinion given by a Medical Board of Doctors, and after considering the Physical and mental Condition, order is passed to allow passive euthanasia”

5. **Common Cause vs UOI**





In this case Supreme introduced a term 'Living Well' of terminally ill patients to seek death. In this case, the petitioners appeal for the Right to Life with Dignity to be declared a Fundamental Right. It is also requested to issue directions on the concept of 'living wills'

Further, on 24<sup>th</sup> Jan, 2023 a 5-Judge Constitutional Bench modified the 2018 Euthanasia Guidelines to ease in the Procedure of Granting Passive Euthanasia to Terminally Ill Patients.

### **Conclusion**

As we can see, Euthanasia and its Practice is a sensitive matter in India. There is no Legislative act or Statute for its Legalization or Established Law on it. Until, Passive Euthanasia is allowed by the Supreme Court in Shanbaug case(2011). Active Euthanasia is Illegal till date in India. There is no law on it. The concept of Euthanasia and perceptions regarding it are very sensitive and matter of more concern. Euthanasia has both benefits and Drawbacks. In views of many Religious organizations, societies, and Legal Practitioners the practice of Euthanasia is illegal, unethical and cruel and is never to be legalised and on the other side there are various supporters of Euthanasia for example Human Rights Organisation

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