



Beyond the Veil of Death: The Ethics of Euthanasia Worldwide

P. Sowjanya¹ and Dr. G. Indira Priyadarshini²

1. Research Scholar, Department of Law, Sri Padmavathi Mahila Viswa Vidyalayam, Tirupati

2. Assistant Professor, Department of Law, Sri Padmavathi Mahila Viswa Vidyalayam, Tirupati

Abstract: Euthanasia, or "mercy killing," is a controversial ethical and legal issue affecting the quality of life for terminally ill individuals. The European Court of Human Rights has influenced the legal environment surrounding euthanasia, with NGOs promoting its legalization in countries where it is prohibited. However, cultural norms, public opinion, and religious convictions also influence the development of euthanasia laws. The slippery slope argument is a prevalent objection, arguing it could lead to abuse and compulsion. In India, the Supreme Court maintains the ban on euthanasia, emphasizing the importance of palliative care as alternatives. The Aruna Shanbaug Case (2011) established the right to decline life-sustaining treatment, while the Common Cause case (2018) supported the right to die with dignity. New draft rules on passive euthanasia have been released by the Union Health Ministry.

Key Words: Euthanasia, Mercykilling, Article 21, Aruna Shanbaug, Common Cause, Humanlife, dignity

Introduction:

Euthanasia, sometimes referred as "mercy killing," is a complex ethical and legal issue that has been debated for a very long time. Throughout the time and civilizations the philosophers have argued about the ethics of taking a life to alleviate suffering. Due to improvements in medical technology that have extended life expectancy and sparked worries about the quality of life for individuals with terminal illnesses, euthanasia has gained increasing attention recently, despite the fact that it is still highly controversial. Although the terms are often used interchangeably, they are not exactly the same. While euthanasia is a more general term that refers to the deliberate taking of a life in order to reduce suffering but mercy killing specifically implies a compassionate or merciful effort¹. The term "euthanasia" is frequently misinterpreted or abused which causes misunderstandings and confusion.

Different cultural and religious viewpoints have led to different kinds of euthanasia throughout history. For instance, infants that were undesired or

handicapped were occasionally put to death by being exposed to the weather in ancient Greece². Exposure of infants in ancient Greece was a form of infanticide, not euthanasia. While the intent may have been to end the infant's suffering but the act itself is cruel and is considered as murder by modern standards. It's critical to distinguish between the contemporary idea of euthanasia and the past practices of infanticide. In most cases, euthanasia is an adult's conscious and intentional choice to take their own life or another person's life with their permission. In contrast, infanticide is the deliberate death of a baby. Those who mistakenly associate euthanasia with murder frequently fail to recognise the distinction between the deliberate and illegal killing of another person and the deliberate and informed decision made by an individual to end their own life or the life of another with their consent³. Furthermore, regardless of the circumstances or intentions, the term "euthanasia"

² Lane Fox, R. (1988). The classical experience: An introduction to Greek and Roman culture. Penguin Books.

³ Dana Elizabeth Hirsch, Euthanasia: Is It Murder or Mercy Killing? A Comparison of the Criminal Laws in the United States, the Netherlands and Switzerland, 12 Loy. L.A. Int'l & Comp. L. Rev. 821 (1990). Available at: <https://digitalcommons.lmu.edu/ilr/vol12/iss3/5>

¹ Beauchamp, T. L., & Childress, J. F. (2001). Principles of biomedical ethics (5th ed.). Oxford University Press.

is occasionally used too broadly to refer to any incident in which a person's life is taken. It should be noted that euthanasia and palliative care are also not synonymous. Palliative care is on providing comfort and support to individuals with terminal illnesses, as opposed to euthanasia, which involves taking a person's life on purpose⁴.

The T-4 Euthanasia Program, which was a eugenics project, was referred to as "euthanasia" in Nazi Germany. By sterilising individuals deemed unsuitable to procreate and executing those deemed unworthy of life, the goals were to save money and maintain the genetic quality of the German population. Euthanasia does not meet the criteria for being merciful because it was not done for the victims' benefit. However, it has tarnished the phrase, particularly in German-speaking nations, since Werner Catel, a prominent Nazi physician intimately engaged with T-4, was one of the primary proponents of euthanasia in Germany following World War II. The more traditional German phrase "Sterbehilfe," which literally translates to "helping to die," is still employed in modern German conversations⁵. By addressing such misconception there will be a room to promote proper discourse and play a role to clarify the euthanasia issue.

The rise in the number of people seeking euthanasia in recent years has sparked a renewed discussion regarding the ethical and legal implications of these techniques. This article will examine numerous perspectives on euthanasia and mercy killing, assessing the moral arguments for and against them as well as the legal framework around these controversial practices.

Understanding the International Landscape:

Euthanasia is a complicated moral and legal matter that is viewed differently across the world. Certain types of euthanasia are strictly prohibited in certain nations, while others have legalised or decriminalised them.

With its rulings impacting the creation of euthanasia legislation in member states, the

European Court of Human Rights (ECtHR) has played a significant role in forming the legal environment surrounding euthanasia in Europe. The Council of Europe has also contributed by passing resolutions and proposals pertaining to end-of-life care. Although the UN does not have any explicit euthanasia treaties, its principles about the right to health and the prohibition of torture are pertinent when discussing end-of-life decisions. Furthermore, the World Health Organisation (WHO) has released guidelines about palliative care, which in certain circumstances may be a viable substitute for euthanasia. Globally, the legal and ethical issues concerning euthanasia are influenced and guided by several international frameworks.

The European Court of Human Rights (ECtHR) has had a major influence on how euthanasia is governed in Europe. As stated in Article 2 of the European Convention on Human Rights⁶, the ECtHR has interpreted the right to life via its rulings.

Everyone's legal right to life will be upheld. No one's life may be purposefully taken from them. with the exception of carrying out a court's judgement that includes the death penalty for a crime for which it is legally permitted.

- The European Court of Human Rights (ECtHR) heard a historic case in 2002 that addressed the act of assisted suicide is *Pretty v. United Kingdom*⁷. A terminally sick woman with motor neurone disease named Diane Pretty asked her husband for help in ending her life. She claimed that her rights under the European Convention on Human Rights more especially about her rights to life, dignity, and autonomy which were infringed by the ban on assisted suicide. Pretty's argument was dismissed by the ECtHR, which held that the right to life did not include the right to die. The court did, however, recognise the intricacy of the matter and allowed for potential future challenges to the ban on assisted suicide. This ruling has sparked discussions regarding the rights of people with

⁴Herx, L. "Physician-assisted death is not palliative care." *Current oncology (Toronto, Ont.)* vol. 22,2 (2015): 82-3. doi:10.3747/co.22.2631

⁵<https://www.scribd.com/document/40635115/Amnesty-International>

⁶https://www.echr.coe.int/documents/d/echr/convention_ENG

⁷*Pretty v. United Kingdom* (2002) 36 EHRR 29

terminal conditions and significantly influenced the evolution of euthanasia legislation in European nations⁸.

Non-governmental organisations (NGOs) are essential in promoting the legalisation of assisted suicide and euthanasia in nations where these practices are prohibited. Human Rights Watch and Amnesty International⁹ are two organisations that frequently draw attention to the moral justifications for these actions, including the right to autonomy, dignity, and relief from pain. Along with gathering facts and doing research, they could also push governments to favour legislation reforms. NGOs may also help people who are thinking about or are faced with making end-of-life decisions, combat social stigma, and increase awareness of the topic. They can influence governmental choices on assisted suicide and euthanasia and change public opinion through their advocacy work.

Tony Nicklinson was a man with locked-in syndrome, requested a ruling in the 2014 case of *Nicklinson v. United Kingdom* that a doctor may legally help him end his life. He maintained that the ban on assisted suicide infringed upon his dignity and individuality. The European Court of Human Rights (ECtHR) upheld its earlier ruling in *Pretty v. United Kingdom* by dismissing Nicklinson's claim. The court did, however, recognise that public perceptions of end-of-life decisions are changing and left open the prospect of further challenges to the ban on assisted suicide. By bringing to light the intricate moral and legal dilemmas involved, this case strengthened the argument over assisted suicide and euthanasia in Europe.

The discussion of assisted suicide and euthanasia in Europe was greatly influenced by the *Nicklinson v. United Kingdom* case. Even though Nicklinson's petition was denied by the ECtHR, the case sparked more debates and legal challenges. A number of European nations have changed their laws pertaining to assisted suicide and euthanasia as a result of the *Nicklinson* case. The decision could have strengthened the case for preserving or enlarging regulations that were already rather lenient in nations like Belgium and the Netherlands. The *Nicklinson* case could have

helped other nations, like Luxembourg, gain momentum for legislative changes that would eventually legalise euthanasia.

However, different European nations had different reactions to the case, and cultural norms, public opinion, and religious convictions all have an impact on how euthanasia laws are developed. Switzerland's stance on assisted suicide is rather lenient, permitting terminally ill patients to receive life-ending drugs under specific circumstances. The *Nicklinson* case could have strengthened the case for preserving or increasing access to assisted suicide in Switzerland, considering its current legal system. Active euthanasia and assisted suicide are illegal in Germany because of stringent euthanasia regulations. Public opinion and political discourse may have been influenced by the *Nicklinson* case, which may have added to continuing discussions and legal problems surrounding the matter in Germany. Even though the *Nicklinson* case eventually failed to overturn the UK's ban on assisted suicide, it could have shaped public perception, fuelled an expanding discussion on the subject, and increased awareness of the difficult moral and legal dilemmas surrounding euthanasia. The case may involve assisted suicide and euthanasia, which might lead to more debates and perhaps legal issues down the road.

Understanding the Slippery Slope Argument

The slippery slope argument is a prevalent objection against the legalisation of assisted suicide or euthanasia. According to this theory, if euthanasia is made legal, qualifying requirements could progressively widen, which could have unanticipated and detrimental effects¹⁰.

The possibility of abuse and compulsion is one of the main issues brought up by those opposed to euthanasia. Euthanasia legalisation, they contend, may make it more likely that weaker people may feel compelled or forced to take their own lives. For people with mental health issues, impairments, or those who might be lonely or reliant on others, this could be very troubling. The sanctity of human life and society values may be compromised if

⁸<https://hudoc.echr.coe.int/fre?i=001-60448>

⁹<https://www.scribd.com/document/40635115/Amnesty-International>

¹⁰Benatar, D. "A legal right to die: responding to slippery slope and abuse arguments." *Current oncology (Toronto, Ont.)* vol. 18,5 (2011): 206-7. doi:10.3747/co.v18i5.923

euthanasia is legalised, according to another prevalent worry. According to others, it could lower the value of life overall by fostering a society that views death as a better alternative to suffering. Euthanasia legalization's possible effects on healthcare systems are another issue raised by critics. According to them, it may result in less palliative care services since funds might be diverted to end-of-life decisions. Legalising euthanasia is also feared to diminish the value of life with disabilities and could result in prejudice against those who have impairments. These are only a few of the main objections against euthanasia legalisation that are based on the slippery slope idea. The fight over euthanasia is still complicated and multidimensional, and it's vital to remember that there are arguments against these worries.

Counterarguments to the Slippery Slope Argument

Euthanasia proponents contend that the worries about a slippery slope are exaggerated and that suitable measures may be implemented to stop abuses. They stress the significance of upholding personal autonomy and the freedom to make life decisions, particularly in trying situations. Euthanasia proponents also contend that palliative care services do not always decrease when euthanasia is legalised. Euthanasia, they argue, can be an option for those who have tried every other treatment and are still in excruciating pain, and palliative care can coexist with euthanasia. The debate over euthanasia is complicated and multifaceted, as evidenced by the fact that countries such as Belgium, the Netherlands, and Switzerland have legalised euthanasia without any evidence of widespread abuse or deterioration of moral values, and they have put in place stringent safeguards and regulations to prevent abuses and ensure that euthanasia is only used in appropriate cases.

Safeguards and Regulations in Countries with Legalized Euthanasia:

Nations that have legalised assisted suicide or euthanasia have put in place a number of precautions and laws to guard against misuse and guarantee that these methods are applied correctly. Here are a few typical instances:

- To guarantee that only those with terminal conditions or excruciating pain are qualified for assisted suicide or euthanasia, stringent eligibility requirements are frequently in place.
- To make sure the choice is voluntary and made in the patient's best interests, requests for assisted suicide or euthanasia are usually examined by impartial medical professionals.
- Between the original request and the delivery of life-ending medicine, there could be required waiting periods that provide time for introspection and consultation with medical experts.
- Psychological tests are frequently necessary to make sure people are in good mental health and not under undue influence when they decide to take their own life.
- People who want or receive assisted suicide or euthanasia have their privacy protected by stringent confidentiality procedures.

Euthanasia in India:

Although there have been significant debates and legal issues surrounding euthanasia in India, the Supreme Court has continuously maintained the ban on the practice. The sanctity of human life and the value of palliative care as alternatives to euthanasia have been underlined by the court. But, there have been requests for legal amendments and revisions. Some contend that people with terminal conditions may suffer needlessly as a result of the ban on euthanasia. The possible advantages of a more humane and compassionate approach to end-of-life care have also been discussed. It is crucial to remember that India's euthanasia laws and moral standards are intricate and dynamic. Although euthanasia is illegal under present legislation, there may be continuous talks and debates over future revisions or modifications. The P. Rathinam case¹¹, which established the right to decline life-sustaining treatment, was a landmark in Indian legal history. But, there is still much discussion and controversy surrounding euthanasia in India. The key points to consider for euthanasia in India are -

There are many different religious and cultural viewpoints on life, death, and suffering in the varied nation of India. These viewpoints have the power to shape opinions towards euthanasia. The

¹¹P. Rathinam v. Union of India AIR1994SC1844

idea that human life is sacred is a fundamental part of Indian religion and culture. The legalisation of euthanasia has been significantly hampered by this. In India, palliative care is which attempts to offer consolation and support to those suffering from terminal illnesses is becoming more and more important. This has sparked discussions about whether euthanasia is always required or if palliative care can sufficiently meet the requirements of every patient. There have been ongoing legal challenges and debates regarding the legalization of euthanasia in India. While the Supreme Court has consistently upheld the prohibition, there is a possibility of future changes in the law.

The Indian Penal Code (IPC) does not specifically address euthanasia as a distinct offense. However, several provisions of the IPC could potentially be relevant to cases involving euthanasia or assisted suicide. Murder is included under Section 302 and is defined as the deliberate and illegal killing of another person. Euthanasia may come under this provision if it is deemed to be 304. It includes situations in which death is induced knowing that it is likely to cause death but without intending to do so. Abetment of suicide is covered under illegal and deliberate. For negligent homicide that does not qualify as murder, see Section Section 306 and is described as encouraging or assisting another individual in taking their own life. Potentially falling under this category is when a medical practitioner or another person helps someone terminate their life. It's crucial to remember that the particular circumstances and the legal interpretation will determine whether or not these parts apply to euthanasia instances. The legality of euthanasia is still a contentious and complicated topic, and the Indian judiciary has not yet issued a final decision on the matter. The dignity of human life and the necessity of palliative care as alternatives to euthanasia have also been highlighted by the Indian Supreme Court. This implies that the courts could be hesitant to apply an interpretation of the IPC that permits euthanasia.

A Deeper Dive into Indian judiciary on euthenasai:

The Aruna Shanbaug Case (2011)¹² -

After being viciously attacked in 1973, nurse Aruna Shanbaug¹³ suffered significant brain injury that placed her in a prolonged vegetative condition. A plea for her euthanasia was submitted to the Supreme Court of India in 2011, decades later, on the grounds that she was suffering needlessly and that it would be preferable for her to terminate her life. The petitioners argued that keeping Aruna Shanbaug alive was cruel and unusual punishment since she was in an irreversible coma and had no knowledge or awareness. The petition was denied by the Supreme Court of India, which emphasised the value of palliative treatment and upheld the sanctity of human life. The court decided that Aruna Shanbaug, being in a vegetative condition, lacked the competence to deny life-sustaining care, since only a competent person had the authority to do so. The court also voiced worries about the possibility of euthanasia being abused and misused if it were made legal. In India, the Aruna Shanbaug case spurred a national discussion on the ethics of euthanasia, the state's involvement in end-of-life decisions, and the right to life. The case brought up significant issues regarding the meaning of life, the worth of human life, and the boundaries of medical treatment. The sacredness of human life, even in situations of extreme disease or handicap, was upheld by the Supreme Court's ruling. The significance of palliative care in offering consolation and assistance to people in such circumstances was also emphasised. The Aruna Shanbaug case is still regarded as a major turning point in Indian legal history, even though it did not specifically address the topic of euthanasia for competent and cognizant people. The case is still being researched and contested, and it brings up significant issues regarding individual rights and the government's involvement in end-of-life decisions.

The Common Cause case (2018)¹⁴:

¹²Aruna Ramchandra Shanbaug vs Union Of India & Ors AIR 2011 SUPREME COURT 1290

¹³<https://articles.manupatra.com/article-details/Case-analysis-of-Aruna-Ramchandra-Shanbaug-vs-Union-of>

¹⁴Common Cause (A Regd. Society) vs. Union of India and Anr, AIR 2018 SC 1665

Common Cause, a recognised group, submitted this petition to have the right to die with dignity declared as part of the right to live with dignity under Article 21 of the Constitution. Additionally, it requested that the State develop appropriate procedures that would allow deteriorating or terminally ill people to execute Advance Medical Directives or Living Wills.

After closely reviewing Indian and international precedent, particularly the decision in *K.S. Puttaswamy & Anr. vs. Union of India & Ors*, the Court concluded that the right to die with dignity qualified as a fundamental right under Article 21. The use of advance medical directives was also supported by the Court, which noted that this instrument may preserve individual freedom while guaranteeing dignity in death. The Court noted in its thorough analysis of the development of the right to privacy that liberty cannot be achieved without privacy, which is essential to human dignity. Furthermore, it was thought that bodily autonomy, integrity, and freedom of choice—all of which would later be protected as fundamental rights—were dependent on the right to privacy. The Court considered the US ruling in *In Re Quinlan*, which indicated that as physical integrity was progressively violated and recovery possibilities decreased, the right to privacy grew and state interest decreased, in order to strike a balance between state interest and individual privacy.

New draft rules on passive euthanasia are released by the Union Health Ministry:

According to draft guidelines published by the Union Health Ministry, doctors should make a "considered decision" about removing life support from terminally ill patients based on a number of factors, including a documented informed refusal by the patient or their family.

1. The individual has been declared to have had a brainstem death (as per The Transplantation of Human Organs and Tissues Act (THOA), 1994)
2. There is medical prognostication and a considered opinion that the patient's disease condition is advanced and not likely to benefit from aggressive therapeutic interventions,

3. A patient/surrogate documented informed refusal, following prognostic awareness, to continue life support

4. Compliance with procedures prescribed by supreme court¹⁵.

The draft guidelines for medical treatment of end-stage diseases have been met with criticism from the Indian Medical Association (IMA). The IMA's president, Dr. R V Asokan, expressed concerns that these guidelines could expose doctors to legal scrutiny and unnecessary stress. He argued that doctors already make clinical decisions in good faith, taking into account the patient's situation and consulting with their relatives.

Dr. Asokan also emphasized that the assumption that doctors unnecessarily prolong lives with machines is incorrect. He believes that such guidelines could negatively impact the doctor-patient relationship, as it would require excessive documentation and legal scrutiny. Instead, he suggests that decisions about end-of-life care should be left to the discretion of doctors, patients, and their families, based on scientific evidence and individual circumstances.

Guidelines for terminally illness from the draft¹⁶:

The draft guidelines define terminal illness as an irreversible condition with no hope of recovery. This includes severe brain injuries with no signs of improvement after 72 hours.

The guidelines suggest that many ICU patients receive life-sustaining treatments (LST) that are not beneficial and may increase suffering. These treatments can be burdensome for both the patient and their family.

The draft proposes that withdrawing LST in such cases is a standard practice in many countries and is considered ethically and legally sound. It also suggests that these considerations should be taken into account when initiating life-support treatments for individuals with terminal illnesses.

¹⁵ <https://www.thehindu.com/news/national/supreme-court-eases-procedures-for-terminally-ill-patients-to-withdraw-medical-treatment/article66466280.ece>

¹⁶ <https://www.ndtv.com/opinion/draft-guidelines-on-passive-euthanasia-a-way-forward-6700686>

The draft guidelines suggest that in cases where a patient is unlikely to survive or recover, cardiopulmonary resuscitation (CPR) may not be necessary. This decision should be made carefully, considering the patient's condition and prognosis.

The guidelines also reference the Supreme Court's ruling on a patient's right to refuse life-sustaining treatment. This means that a competent adult can choose to decline medical interventions, even if it may lead to death.

The draft guidelines propose that life-sustaining treatments (LST) may be withheld or withdrawn from patients who lack decision-making capacity. This decision can be made based on the patient's fundamental rights to autonomy, privacy, and dignity.

In such cases, an Advance Medical Directive (AMD) can be used to guide treatment decisions. An AMD is a legal document where a person specifies their wishes for medical treatment in case they lose the ability to make decisions.

If the patient doesn't have an AMD, a Primary Medical Board (PMB) consisting of at least three doctors should make the decision to withhold or withdraw LST.

The Primary Medical Board (PMB) is responsible for making informed decisions regarding the withdrawal of life-sustaining treatment for patients who lack decision-making capacity. The PMB must fully inform the patient's surrogate decision-maker about the patient's condition, available treatment options, and the potential consequences of both continuing and withdrawing treatment.

To ensure the decision is made carefully, a Secondary Medical Board, appointed by the Chief Medical Officer of the district, must review and validate the decision made by the PMB. This two-tiered approach aims to provide additional safeguards and ensure that the decision is made ethically and legally.

Conclusion:

Death is not gracefully accepted by any one. It needs lot of the discourse surrounding end-of-life care is a complex one, influenced by so many factors including medical advancements, ethical considerations, and societal values. Doctors are not

taught about this in their UG / PG curriculum. Some renowned doctors are opined that there should be an integrated education according to new law. However, Modern medicine, while advancing rapidly, often overlooks the human element in favor of technological advancements. Dehumanization like using bots can be particularly evident in end-of-life care. Example for this is usage of "Sorcopod" in Switzerland for euthanasia. As individuals approach the end of their lives, they typically experience a range of psychological stages, including acceptance and grief. However, prolonged suffering can complicate this process, raising questions about the role of medical intervention. In such cases, it becomes crucial to consider the ethical and compassionate aspects of end-of-life care, ensuring a dignified and peaceful transition. In simple with all these possible doubts it is said that active euthanasia is illegal. "*Active Euthanasia is the intentional act of killing a terminally ill patient on voluntary request, by the direct intervention of a doctor for the purpose of the good of the patient. It is illegal in India,*" the draft document said¹⁷.

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¹⁷https://economictimes.indiatimes.com/industry/healthcare/biotech/healthcare/health-ministry-comes-up-with-new-draft-guidelines-on-passive-euthanasia/articleshow/113766897.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

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