

# The Right to Life and Euthanasia: Legislative and Constitutional Measures in India

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## Abstract

This research paper attempts to explore the legislative and constitutional framework governing the right to life and euthanasia in India. The focus of the study is to analyze the legal status of euthanasia with reference to the Indian Constitution, especially Article 21, and major statutes such as the IPC, the Transplantation of Human Organs Act, 1994, and the Indian Medical Council Act, 1956. Researcher tried to deliberate upon the conflict between the sanctity of life and the right to die with dignity by looking at the judicial interpretations, Law Commission's recommendations, and the possible explanations that a doctor can give in support of his actions. It accentuates the transition from the initially strong position of life support to the current stage of imparting legal force to decisions to withdraw medical support while constantly requiring legal measures to ensure the rights of all those involved in the healthcare field and the patients' safety and security.

**Keywords:** Euthanasia, Constitution, India, Law, Medical Council.

## Introduction

India has varied beliefs about living and dying, resulting from its being a country of many religions, customs, and traditions, each having their unique ways of life and death. Indian society, deeply ingrained with optimism and trust, perceives life as God's creation, and no religion propounds the killing of life, intentionally. Usually, euthanasia is ethically associated with being one of the issues that go against the morality of humans. The debate of whether to legalize euthanasia has been long and has revolved around the sanctity of life on one side and the right to end pain and suffering on the other.

It is the Indian Constitution which came into effect on the 26th of January 1950, that is the starting point when it comes to the legal provisions for the organization of the society in a democratic manner, where the rights and duties of the people determine the rules of the society. Part III which deals with the Fundamental Rights is responsible for protecting man's freedom and dignity. This paper is concerned with Article 21 of the Constitution which gives the right to life, on which the paper is tracing the connection of this right with euthanasia through the study of legislations, crimes, and the changing legal opinions.

## The Constitutional Foundation: Fundamental Rights and Article 21

Fundamental Rights are basic, natural, and inalienable entitlements essential for human development and democratic life, as per Part III of the Indian Constitution. In the case of Maneka Gandhi v. Union of

India (AIR 1978 SC 597), the Supreme Court observed that these rights protect human dignity and they also impose negative obligations on the state as they bar the state from encroachments on liberty.

Article 21 states: No individual shall be deprived of life or personal liberty except in accordance with procedures established by law. The right to life and personal liberty are given by the article, which furthermore makes it an obligation of the state to protect the same, but at the same time allowing deprivation only through proper, legal, and fair procedures (Maneka Gandhi case). The Article 21 right to life is not limited to physical survival only but also includes the right to live with dignity, to be taken care of, and to lead a life of one's choice until natural death. The scope of this right has been extended by the courts through judicial activism, which has had an impact on the Indian human rights jurisprudence (for example, *Zahida Begum v. Mushtaque Ahamed*, AIR 2006 Kant. 10).

### **Legal Framework Governing Euthanasia**

#### **Transplantation of Human Organs Act, 1994**

Due to this Act, the concept of death has changed to be included also brain-stem death, where all the brainstem functions have stopped permanently and a doctor certifies it. The act primarily aims at the regulation of organ transplantation, and the prevention of commercial dealings. For brain-dead persons connected to life support, such support must be continued if there is no consent for organ donation. The extent of the Act is limited to organ donation and not to euthanasia in general.

#### **Indian Medical Council Act, 1956**

The Medical Council of India establishes its ethical standards under S.20-A and 33(m). Euthanasia is the major cause of the unethical literature in medicine except for the case when the life support is removed, and only cardiopulmonary functions persist, the decision being certified by the medical team (Gazette of India, April 6, 2002, Part III, Section 4).

### **Amendments of the Indian Penal Code, 1860**

#### **Section 309: Attempt to Commit Suicide**

The section specifies a penalty of imprisonment for the term which may extend to one year or a fine or both for the offense of an attempt to commit suicide. In contrast to most countries that have decriminalized it, as a consequence of recognizing it as a reaction to distress, India still retains it. The 210th Report of the Law Commission (2008) proposed abolition considering the punishment as an instance of double jeopardy. The judicial pronouncements on various grounds of the constitutionality of this provision have been referred to in subsequent discussions.

#### **Section 306: Abetment of Suicide**

Helping in suicide can lead to a sentence of 10 years imprisonment along with a fine. Physician-assisted suicide is definitely one of those cases when the IPC is violated.

#### **Euthanasia and Culpable Homicide/Murder (Sections 299 and 300)**

Euthanasia will be considered as an instance of the killing of a living being under Section 299 if the main reason for death is the intent, knowledge of likely death or indented to cause fatal injury. Section 300 intensifies it up to murder if it is in compliance with the given conditions, punishable with death or life imprisonment under Section 302. Active euthanasia is considered as murder due to the presence of intent (*actus reus* and *mens rea*). The illustrations serve to explain the causation even in cases where the death is quickened or can be avoided.

According to Exception 5 to Section 300, consent given by an adult makes voluntary euthanasia a case of culpable homicide not amounting to murder (Section 304). Non-voluntary/involuntary euthanasia is not allowed as per Section 92's proviso, which forbids killing even in good faith.

### **Withdrawal of Life Support**

Patients who are competent and fully informed have the right to refuse treatment as per common law. They are to required comply with the doctors, or else the latter can be charged with battery. The act of refusal is not considered as suicide under Section 309, and as abetment under Section 306. In Section 299, the withdrawal may be associated with the knowledge of the probable death but lack the intent to commit murder. The general defenses (Chapter IV) are applicable.

### **General Defenses and Physician Liability**

Defenses are mentioned in Sections 76, 79, 81, and 88. Section 76 is one that safeguards actions that are compulsory by law (e.g if a patient refuses treatment). Section 79 supports good faith lawful acts. Section 81 deals with the situation of necessity when no harm is possible. Section 88 offers protection to the acts that happen with the consent of parties for their benefit, but death is not the intended result. *Jacob Mathew v. State of Punjab* (2005 (6) SCC 1) sets the concept of gross negligence as a requirement for the case of negligence under Section 304A. The execution of the treatment as per patient's desire or best interests cannot be labeled negligent.

### **Civil Liability under Tort Law**

Physicians have to bear the responsibility of negligence if they have drastically gone against the reasonable skill and care (Bolam test, 1957 (1) WLR 582). The court cases like *State of Punjab v. Shiv Ram* (2005 (7) SCC 1) supports that the doctor following the established ways of treatment, having the consent of the patient, is automatically free from liability problems.

### **Role of the Law Commission of India**

42nd Report (1971): Suggested repealing of Section 309.

156th Report (1997): After the *Gian Kaur* case, decided to keep Section 309.

196th Report (2006): Justified withdrawal of support for the terminally ill, ensured patient and doctor safety, required the intervention of High Court.

241st Report (2012): Made provisions for euthanasia of incompetent patients with court approval and care administration.

### **Discussion**

The interrelation of Article 21 and euthanasia depicts a paradigm shift towards dignified death. The court has affirmed the occurrence of passive euthanasia (e.g., *Aruna Shanbaug* case), but the active one still remains prohibited. In its recommendations, the Law Commission continues to support reform, but the legislature remains resistant. Defenses protect ethical medical decisions, balancing autonomy and sanctity of life.

### **Conclusion**

India's legal and constitutional framework of euthanasia is still a legal hotbed where the issues of moral-

ity, religion, and law are intermingled. Actually, the question of whether the right to die with dignity is a part of life rights dealt with under Article 21 of the Indian Constitution has been the talk among judges, lawmakers, and professors for quite some time.

Currently, euthanasia is prohibited by the Indian Penal Code and is treated as an act of killing or murder under Sections 299, 300, and 302, unless performed by authorized officers. However, the court rulings, the change in medical ethics, and the Law Commission's recommendation have altered the perception of the problem to a large extent, particularly with regard to passive euthanasia.

The support by the Supreme Court of the living will; concept and its acknowledgment of passive euthanasia exemplify a key moment in the recognition of personal autonomy and human dignity in the terminal illness decision. However, the absence of a comprehensive legislative framework still complicates the direct and certain application of the law.

The legislature should definitely enact a specific euthanasia law that would emphasize the individual Rights and the society's values and at the same time provide safety to both the patient and the doctor in order to get rid of all the doubtful law application areas. A legal such framework would not merely clarify the position of the law but would also be consistent with the constitutional principles of dignity and autonomy.

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