

Human Rights and the Criminalization of Active Euthanasia

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ABSTRACT

Euthanasia, or self- killing, is the act where an individual, who is suffering from any incurable disorder is killed without pain. There are two kinds of euthanasia i.e., active and passive. Under active euthanasia, an individual is killed directly through injecting lethal substance whereas in passive euthanasia, an individual is killed by withholding life support. In India, the Supreme Court has allowed passive euthanasia under certain circumstances as stated in Aruna Shanbaug case, but active euthanasia is still not allowed. The Court was of the view that 'right to life' includes 'right to die with dignity' but only under passive euthanasia. This paper analyses the various reasons and theories behind illegality of active euthanasia. Also, the human rights concerns that are related to the allowing of active euthanasia. The doctrinal method of research has been used in making this paper. This research methodology focuses on analysing legal principles, statutes, case laws, and legal doctrines to understand, interpret, and systematize the law. Article 21 of the Indian Constitution guarantees the 'right to life' which is fundamental as well as basic human right. Allowing active euthanasia can lead to violation of this basic right since it involves causing the death through an active human act i.e., injecting lethal substance.

KEYWORDS

Euthanasia, Right to Life, Human Right, Active Euthanasia, Health

INTRODUCTION

The legalization of active euthanasia in India is a deeply complex and evolving issue involving constitutional rights, ethical considerations, religious beliefs, and medical practice. As of now, active euthanasia is illegal in India, though the Supreme Court in Aruna Shaunbagh's case has recognized passive euthanasia under specific circumstances¹. The major reason behind this is human right concerns since active euthanasia involves an active step so as to cause the death of individual suffering from incurable illness.

The question of whether individuals have the right to end their own lives in the face of terminal illness or unbearable suffering is one of the most pressing ethical and legal issues in contemporary human rights discourse. The Hon'ble Supreme Court in the case of *Common Cause v Union of India*, addressed

the issue that whether 'Right to Life' under Article 21 covers 'Right to die with dignity'. To this, the Supreme Court answered in affirmative.

"The Law Commission of India in its 210th Report found Section 309 of the IPC inhuman. It said that an attempt to commit suicide is a manifestation of a 'diseased condition of the mind'."

In an age where human rights are increasingly interpreted to support personal agency and freedom of choice, the blanket criminalization of active euthanasia appears to many as an outdated policy that undermines individual self-determination. While opponents argue that legalizing euthanasia may devalue life and expose vulnerable populations to abuse, proponents contend that denying the right to die in a humane and controlled manner can itself constitute a violation of basic human rights.

MATERIAL & METHODS

The doctrinal method of research, also known as library-based or black-letter law research, is a traditional legal research method that focuses on analysing legal rules, principles, and case law. It's commonly used in legal studies to examine statutes, legal codes, court decisions, and scholarly commentary. This paper has been made through the doctrinal method of research through analysis of various existing materials.

Active Euthanasia

Meaning: Active euthanasia refers to the deliberate and intentional act of ending a person's life to alleviate intractable and unbearable suffering, typically at the explicit request of the person. Unlike passive euthanasia—which involves withholding or withdrawing life-sustaining treatment—active euthanasia involves a positive action, such as administering a lethal dose of medication, carried out by a physician or another party with the primary intention of causing death.

“The term euthanasia, which derives from the Greek words “eu” and “thantos”, can be taken to mean gentle or “easy death”.”

The term is most often used in the context of terminal illness, where patients may face prolonged pain or a loss of bodily autonomy, and wish to exert control over the manner and timing of their death. Active euthanasia is distinct from assisted suicide, in which the individual self-administers the means of death with assistance from another, usually a physician.

While active euthanasia remains criminalized in most parts of the world, several countries—including the Netherlands, Belgium, and Canada—have established legal frameworks that permit it under strict conditions, such as voluntary, informed consent and the presence of unbearable physical or psychological suffering. Its legality and moral justification continue to be debated in relation to ethical principles and international human rights norms, especially those concerning autonomy, dignity, and freedom from cruel or degrading treatment.

Distinction Between Active and Passive Euthanasia:

Euthanasia, the act of deliberately ending a person's life to relieve suffering, is categorized into two major types: active and passive euthanasia. Though both aim to alleviate unbearable pain in cases of terminal illness or irreversible conditions, they differ fundamentally in their method, ethical acceptability, and legal recognition.

“In India, euthanasia is still in its early stages wherein passive euthanasia has been in practise since 2018, however, it is not the case with the practice of active euthanasia.”

Active euthanasia refers to the intentional and direct act of ending a person's life, often by administering a lethal substance, at the patient's request. The aim is to bring about a quick and painless death. In contrast, passive euthanasia involves withholding or withdrawing life-sustaining treatments such as ventilators, feeding tubes, or medications, thereby allowing the person to die naturally. While the outcome in both cases is death, passive euthanasia is often considered less ethically problematic because it does not involve a direct act of killing.

“A two-judge bench of the Supreme Court held that a person has a right not to live a forced life and attempt to suicide is not illegal.” “At presently, due to the decision of the apex judiciary passive euthanasia is legalised in India”.

The legal treatment of these forms differs significantly across jurisdictions. In *Aruna Shanbaug v. Union of India*, the Supreme Court of India legalized passive euthanasia under specific safeguards, recognizing that the right to die with dignity is a part of the fundamental right to life under Article 21 of the Indian Constitution. However, active euthanasia remains illegal in India. *“The Law Commission of India issued its 196th Report addressing the matter of terminally ill patients, wherein it advocated for the legalisation of ‘passive euthanasia’ under rigorous and well-regulated provisions.”*

On the other hand, the Supreme Court of Canada in *Carter v. Canada* ruled that the prohibition on physician-assisted dying violated individuals' rights to life, liberty, and security under the Canadian Charter of Rights and Freedoms. This judgment led to the legalization of medical assistance in dying (Maid) in Canada, under a regulated framework.

Internationally, countries like the Netherlands, Belgium, and Luxembourg permit both active and passive euthanasia under strict guidelines. Meanwhile, many others permit only passive euthanasia, reflecting a more conservative approach to end-of-life care.

Human Rights Framework: The legal and ethical debate surrounding active euthanasia often centres on its compatibility with international human rights norms. Although no international human rights instrument explicitly guarantees a "right to die," several foundational rights—such as the right to life, the right to be free from cruel or inhuman treatment, and the right to privacy and autonomy—are frequently invoked in discussions about euthanasia. The interpretation and application of these rights shape whether the criminalization of active euthanasia is justifiable under international law.

1. Right to Life

The right to life is a core human right enshrined in Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 2 of the European Convention on Human Rights (ECHR). Traditionally, this right is interpreted as a protective obligation on states to safeguard human life. However, debates arise over whether this right also encompasses the freedom to choose when and how one dies, especially in cases of terminal illness or intolerable suffering. Some argue that a rigid interpretation of the right to life can conflict with individual autonomy and dignity if it forces people to endure prolonged suffering against their will⁵.

2. Right to be Free from Cruel, Inhuman, or Degrading Treatment

The criminalization of active euthanasia may be challenged under the prohibition of torture or cruel, inhuman, or degrading treatment, especially when terminally ill individuals are denied the ability to end prolonged and unbearable suffering. In *Pretty v. United Kingdom* the European Court of Human Rights held that denying assisted suicide did not violate Article 3, but the case sparked widespread debate. Many scholars argue that forcing individuals to endure agony at the end of life may amount to inhuman treatment by the state.

3. Right to Privacy and Personal Autonomy

The right to privacy includes the right to make decisions about one's body and personal life. In *Carter v. Canada*, the Supreme Court of Canada recognized that criminalizing physician-assisted dying infringed on individual liberty and security of the person, protected under Section 7 of the Canadian Charter of Rights and Freedoms. The Court emphasized that competent adults have the right to make fundamental choices about their own lives, including how and when they die, particularly when facing grievous and irremediable medical conditions.

4. Right to Human Dignity

Though not always explicitly codified in human rights instruments, dignity is a foundational principle underpinning all human rights. The denial of active euthanasia may be seen as denying individuals the ability to die in a manner consistent with their personal values, thereby infringing on their dignity. In legal systems that recognize dignity as a constitutional value—such as Germany and South Africa—this principle plays a significant role in debates over end-of-life rights.

Ethical Dimensions of Criminalization

The ethical debate over the criminalization of active euthanasia is deeply rooted in competing moral values, including respect for human life, autonomy, dignity, and the role of medical professionals. Ethical frameworks such as deontology,

utilitarianism, and virtue ethics offer differing perspectives on whether active euthanasia should be permitted or outlawed. This section explores the primary ethical arguments both supporting and opposing the criminalization of active euthanasia.

"Through the legalisation of passive euthanasia under controlled conditions, the court demonstrated a judicious approach that respects the autonomy and dignity of individuals facing irreversible vegetative states with no prospects of recovery, and the same was expected for active euthanasia. However, the court left it to legislative wisdom⁶."

1. Ethical Arguments in Favor of Criminalization

a. Sanctity of Life

One of the most common ethical justifications for criminalizing active euthanasia is the belief in the sanctity of human life. From this perspective, human life has intrinsic value and intentionally ending it—even to relieve suffering—is morally wrong. This view is often informed by religious doctrines, especially in Christianity, Judaism, and Islam, which consider life to be sacred and only for a higher power to take away.

"It is occasionally questioned that specialists have some specific moral obligations, a flat-out impulse by no means to take life, and it is only for this motive that they are never willing to contribute to wilful extermination¹¹."

b. Slippery Slope Argument

Opponents of legalizing active euthanasia often invoke the slippery slope argument: allowing euthanasia in limited cases may lead to broader, less ethical practices, such as non-voluntary or involuntary euthanasia. They warn that once the intentional ending of life is normalized, vulnerable groups—such as the elderly, disabled, or mentally ill—may be pressured into euthanasia or denied proper care.

"The rationale for legalising active euthanasia not only includes the unbearable pain but also the loss of autonomy and diminished quality of life which is the primary reason associated with its legalisation⁷."

c. Protection of the Vulnerable

Criminalization is also seen as a protective measure to safeguard individuals who may be coerced or feel obligated to choose death due to social, financial, or emotional pressure. Legal prohibitions are thought to reinforce societal support for life and ensure that all lives, regardless of condition or dependency, are equally valued.

"There is the claim that the euthanasia debate conceals, under the cloak of the best interests of the patient, a hidden agenda in support of the best

interests of the community expressed in terms of allocation of scarce economic resources¹⁰."

d. Ethical Role of Medicine

Many argue that active euthanasia contradicts the fundamental role of medical professionals, which is to heal and preserve life. The Hippocratic Oath traditionally forbids physicians from administering lethal drugs. Critics worry that permitting euthanasia may erode public trust in the healthcare system and alter the nature of the doctor-patient relationship.

2. Ethical Arguments Against Criminalization

a. Respect for Autonomy

A foundational principle in modern ethics and human rights is individual autonomy—the right of competent individuals to make decisions about their own lives, including the manner and timing of their death. Criminalizing active euthanasia denies this autonomy and forces some people to endure prolonged suffering against their will.

b. Alleviation of Suffering (Beneficence)

From a utilitarian or compassionate ethics standpoint, the goal of medical care is not only to preserve life but also to relieve suffering. When no curative treatment is available and pain becomes unbearable, euthanasia may be the most humane option. Preventing it can be seen as prolonging unnecessary and avoidable suffering.

c. Human Dignity

The right to die with dignity is often cited in opposition to criminalization. For many, being reduced to a state of complete dependency or pain that strips them of their identity and self-worth is undignified. Allowing euthanasia is considered a way to preserve dignity by letting individuals end life on their own terms.

d. Inconsistency with Accepted Medical Practices

Critics argue that current laws create ethical inconsistencies: practices such as palliative sedation, withdrawal of life support, and "do not resuscitate" orders are often permitted, even though they may lead to death. The distinction between these and active euthanasia is sometimes seen as ethically arbitrary.

LEGAL AND POLICY CONSIDERATIONS

The legal and policy considerations surrounding active euthanasia are multifaceted, involving a complex balance between protecting human rights and safeguarding public morality. While international human rights law does not explicitly address euthanasia, key principles, including autonomy, dignity, and the prohibition against cruel, inhuman, or degrading treatment, shape how laws in various countries approach this issue.

1. Right to Life and Autonomy

The right to life, enshrined in legal documents such as Article 6 of the International Covenant on Civil

and Political Rights (ICCPR), is often seen as an obstacle to legalizing active euthanasia. However, modern human rights frameworks increasingly recognize the right to autonomy, which includes the right to make decisions about one's own life and death, especially in cases of terminal illness. This has led some jurisdictions to reconsider the criminalization of active euthanasia. For example, in *Carter v. Canada* (2015), the Supreme Court of Canada ruled that the blanket ban on physician-assisted dying violated the right to life, liberty, and security under the Canadian Charter of Rights and Freedoms. Following this ruling, Canada legalized medical assistance in dying (MAiD), allowing patients to choose an assisted death under strict conditions⁸.

2. Protection of Vulnerable Groups

A major concern in legalizing active euthanasia is the potential risk to vulnerable individuals. Critics argue that allowing euthanasia may lead to abuse, particularly of those who are elderly, disabled, or mentally ill. The slippery slope argument posits that once euthanasia is legalized in some cases, it may expand to include non-voluntary euthanasia or pressure vulnerable individuals into choosing death due to societal or familial expectations. This concern is reflected in the stringent safeguards and regulations in countries that have legalized euthanasia. In the Netherlands, for instance, active euthanasia is permitted only under strict conditions, such as the patient's voluntary and informed consent, the presence of unbearable suffering, and a second medical opinion.

"In the USA, it is legal for a patient to refuse medical treatment and order his life support system stopped, but it is not legal throughout the country to take a lethal dose of a medical treatment. Thus suicide by omission is legal, but by commission is generally not."

3. National Policy Differences

Legal approaches to euthanasia vary widely across countries, reflecting different cultural, religious, and ethical norms. In Europe, countries like Belgium and the Netherlands have adopted policies that allow both active euthanasia and physician-assisted suicide under regulated frameworks. These laws are grounded in the protection of individual rights, particularly the right to die with dignity. Conversely, in many countries, especially in Asia and the Middle East, the criminalization of active euthanasia persists due to deeply ingrained religious and cultural beliefs regarding the sanctity of life.

"Where euthanasia is permitted in the USA, a doctor may write the prescription but not administer the drugs. In the Netherlands in 1995, the law was tightened to ensure that, whenever possible, the patient should administer the lethal drugs himself⁹."

4. Ethical and Medical Professionalism

From a medical ethics standpoint, there is a longstanding debate about whether euthanasia aligns with the profession's duty to preserve life. The Hippocratic Oath, historically considered a guiding principle for physicians, opposes interventions intended to end life. However, many argue that physicians' ethical duties also include alleviating suffering, which can, in some circumstances, involve aiding in death. The decision to legalize euthanasia thus also touches upon the role of medical professionals in end-of-life care and the extent to which they should be involved in life-ending procedures. Some argue that allowing euthanasia can help preserve the physician-patient relationship by allowing patients to feel they are not being abandoned to their suffering.

5. Public Opinion and Policy Change

Public opinion plays a crucial role in shaping national policy on euthanasia. In many jurisdictions, public support for euthanasia has risen in response to high-profile cases of individuals suffering from terminal illnesses or irreparable conditions. This shift in societal values has led to calls for reform of existing laws to allow greater autonomy for patients. For instance, in the United States, while active euthanasia is illegal under federal law, states like Oregon and California have enacted laws permitting physician-assisted suicide. The success of such state-level initiatives reflects growing public support for the right to choose a dignified death.

RESULTS

"In order to give effect to this right, the Court in Common Cause issued guidelines regarding Advance Directives ('AD') which are documents that detail the choices of the patient regarding treatment decisions along with who would be competent to take decisions on their behalf in case of their inability to do so."

Active euthanasia is the deliberate act of ending a person's life to relieve intractable suffering—typically with their informed consent—remains criminalized in most countries, even as societal attitudes shift and medical capabilities advance. This legal prohibition has raised significant concerns regarding its compatibility with international human rights standards, particularly in relation to autonomy, dignity, and protection from inhuman or degrading treatment.

DISCUSSION

This paper explores the complex relationship between human rights law and the criminalization of active euthanasia, analysing whether such prohibitions are justified under modern

interpretations of the rights to life, privacy, dignity, and freedom from cruel or inhuman treatment. Through legal analysis, ethical reflection, and comparative examination of jurisdictions that have legalized active euthanasia, this study argues for a re-evaluation of current legal frameworks to better align with evolving human rights principles.

The ethical debate over active euthanasia is deeply rooted in philosophical principles such as utilitarianism, deontology, and virtue ethics. Scholars like Peter Singer (1995) advocate for euthanasia under utilitarian principles, arguing that it can reduce overall suffering. In contrast, Leon Kass and Daniel Callahan uphold the sanctity of life doctrine, warning against the moral and societal dangers of normalizing intentional death.

CONCLUSION & RECOMMENDATION

The criminalization of active euthanasia presents a profound ethical and legal challenge at the intersection of human rights, medical ethics, and public policy. As this paper has shown, while international human rights instruments do not explicitly recognize a "right to die," evolving interpretations of key rights—such as the rights to autonomy, dignity, privacy, and freedom from inhuman or degrading treatment—suggest that absolute prohibitions on active euthanasia may conflict with fundamental human freedoms.

Legal systems that continue to criminalize active euthanasia often do so to protect vulnerable populations and uphold the sanctity of life. However, such blanket bans can result in prolonged suffering for terminally ill individuals, denying them agency over deeply personal decisions about their own death. Comparative analysis demonstrates that countries with regulated euthanasia frameworks, like the Netherlands, Belgium, and Canada, have managed to uphold individual rights while implementing robust safeguards to prevent abuse.

Ultimately, the question is not simply whether the state should allow euthanasia, but whether it should continue to deny individuals the moral and legal right to choose a dignified end to life under specific, tightly controlled circumstances. As societies grapple with aging populations, advances in medical technology, and changing cultural values, it is essential for legal systems to move beyond punitive approaches and toward compassionate, rights-based policies that recognize the complexity of end-of-life decisions.

RELEVANCE OF THE STUDY

Active euthanasia is relevant in debate on autonomy, dignity and end of life care. It offers

terminally ill patient relief from unbearable suffering while raising ethical, legal and medical dilemmas.

AUTHORS CONTRIBUTION

All authors have contributed equally.

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CONFLICT OF INTEREST

There are no conflicts of interest.

DECLARATION OF GENERATIVE AI AND AI ASSISTED TECHNOLOGIES IN THE WRITING PROCESS

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REFERENCES

1. Centre for Law and Policy Research. Euthanasia and the right to die in India [Internet]. 2023 May 26 [cited 2025 Jun 20]. Available from: <https://clpr.org.in/blog/euthanasia-and-the-right-to-die-in-india/>
2. Griffith G, Swain M. Euthanasia. Volume 1: Text. Sydney: New South Wales Parliamentary Library Research Service; [cited 2025 Jun 20]. p. 5. Available from: <https://www.parliament.nsw.gov.au/researchpapers/Documents/euthanasia-volume-one-text/01-01.pdf>
3. Law Commission of India. Report No. 196: Medical treatment to terminally ill patients (Protection of patients and medical practitioners) [Internet]. New Delhi: Government of India; 2006 [cited 2025 Jun 20]. Available from: <https://lawcommissionofindia.nic.in/reports/rep196.pdf>
4. Law Commission of India. Report No. 210: Humanization and decriminalization of attempt to suicide [Internet]. New Delhi: Government of India; 2008 [cited 2025 Jun 20]. Available from: <https://lawcommissionofindia.nic.in/reports/report210.pdf>
5. Routh S. Right to euthanasia: A case against criminalization. *Crim Law J*. 2006;112:194.
6. Agrawal A. Much awaited response: Legalising active euthanasia in India. *Bennett J Legal Stud*. 2024 Apr;5(1):29–38.
7. Kalita M. Euthanasia: A comprehensive analysis on Indian perspective. *Law World J* [Internet]. [cited 2025 Jun 20]. Available from: <https://lawandworld.ge/index.php/law/article/view/621>
8. Encyclopaedia of World Problems and Human Potential. Criminalization of euthanasia [Internet]. [cited 2025 Jun 20]. Available from: <https://encyclopedia.uia.org/problem/criminalization-on-euthanasia>
9. Council of Europe. European Convention on Human Rights, Article 2 [Internet]. 1950 [cited 2025 Jun 20]. Available from: <https://www.echr.coe.int/>
10. Council of Europe. European Convention on Human Rights, Article 3 [Internet]. 1950 [cited 2025 Jun 20]. Available from: <https://www.echr.coe.int/>
11. United Nations. International Covenant on Civil and Political Rights, Article 6 [Internet]. 1966 [cited 2025 Jun 20]. Available from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
12. United Nations. International Covenant on Civil and Political Rights, Article 7 [Internet]. 1966 [cited 2025 Jun 20]. Available from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
13. United Nations. International Covenant on Civil and Political Rights, Article 17 [Internet]. 1966 [cited 2025 Jun 20]. Available from: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
14. Council of Europe. European Convention on Human Rights, Article 8 [Internet]. 1950 [cited 2025 Jun 20]. Available from: <https://www.echr.coe.int/>