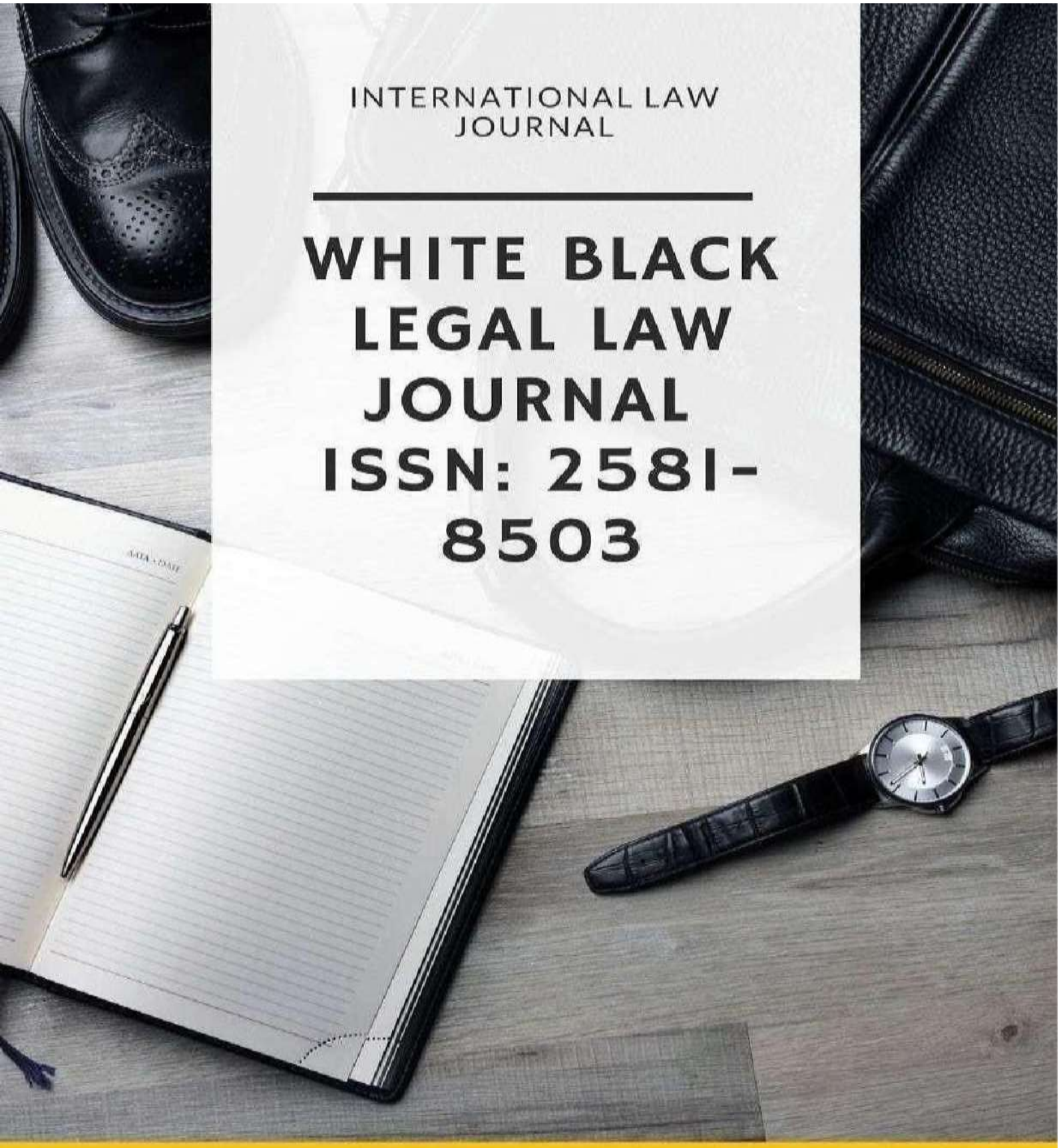

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With this thought, we hereby present to you

# BETWEEN DIGNITY & LIFE: ASSESSING THE JUSTIFICATION OF EUTHANASIA IN INDIAN LAW AND ETHICS

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## Abstract

This paper examines whether euthanasia can be justified in India by exploring its ethical, legal, and historical dimensions. It investigates how the right to life under Article 21 of the Indian Constitution has been interpreted by the courts to include or exclude the right to die with dignity. Through analysis of landmark judicial precedents and recent 2023 modifications to passive euthanasia guidelines, this study assesses the evolving legal framework. International perspectives and classifications of euthanasia and also highlight global practices and safeguards. The research argues that euthanasia may be justified under very specific circumstances: when suffering is unbearable, recovery is not possible, informed consent is clear, and strong legal and ethical safeguards are in place. The paper concludes that passive euthanasia, supported by living wills and regulated medical boards, is more defensible within the Indian legal-ethical context, whereas active euthanasia remains legally and morally controversial.

**Keywords**: Right to Die, Palliative Care, Euthanasia, Advance Medical Directives.

## Introduction

"We die in the desire to die, Death comes but does not come." The opening words of Justice Markandey Katju in the landmark case of Aruna Shanbaug v. Union of India enlarged the ambit of the concept of euthanasia along with taking one back to the fact that even after all the advancement so far made in the medical field certain things cannot be changed and controlled by humans. Humans have always been considered to be the most powerful creatures present to date, having the ability to make decisions from time to time. It is often argued that man being an independent creature should have freedom and the right to make decisions even in crucial

matters including matters such as ‘Right to Die.’ Meanwhile the core conflict lies between the free will and justice system wherein on the one hand there is individual’s right to self determination versus the nation’s duty to protect life and debar abuse. Further creating a complex ethics and legal debate questioning whether it is under a person’s capacity to take decision to end his life and whether right to life includes right to die. As such, the hypothesis guiding this paper is: Is euthanasia justified? This paper will explore the history of euthanasia, and examining whether the right to life under Article 21 of the constitution of India also encompasses a right to die. Moreover, the paper will also analysis the judicial precedents on euthanasia.

When a person ends his own life the act is termed as suicide and when a person requests other person or with the medical assistance ends his life the act is termed as Euthanasia. The right to die is also known as the right to euthanasia, mercy killing and physician-assisted suicide. Euthanasia is a practice wherein a person voluntarily holds the opinion to end their life without any undue influence. The main aim behind practising euthanasia is to mitigate the pain and suffering that the person is going through. Moreover, the term euthanasia is not a contemporary concept, it is derived from the Greek word “euthanatos” which is further divided into two parts i.e., ‘Eu’ which means good and ‘Thanatos’ which means death. The history of euthanasia can be traced to the 17th century wherein for the first time it was introduced by Francis Bacon, in his work Euthanasia Medica. Even Karl Marx had the opinion that it is a doctor’s duty to reduce the suffering of death which could also include reducing medication usage.

Today, in the 21st century although there have been immense developments made in the fields of medicine, legal and science in order to improve one’s life. However, there are several incurable diseases such as Ischemic heart disease, Chronic obstructive pulmonary disease, Respiratory cancers, Alzheimer's disease, Cirrhosis, and many more wherein people suffer from agony and tormenting situations. During such situations, pain-free death by euthanasia often comes as a ray of hope for those who are suffering through such unbearable pain and cannot take it anymore. Meanwhile, on the other hand, people argue to encourage palliative care to reduce pain rather than killing the patients. Palliative sedatives are given to patients with the intention of easing their pain and suffering, however, in euthanasia the main intention is to cause the death of the patients in order to relieve their pain and suffering. Furthermore, euthanasia is also misinterpreted in certain suicidal cases and depression cases of people having trauma or being of an unsound mind. However, there is a significant difference between suicide

and euthanasia, wherein suicide is when a person voluntarily kills himself by taking his life either by hanging himself, consuming poisonous substances, or jumping from a reasonable height. Whereas, in euthanasia, there is a third-party assistance that aids the other one in ending his life. This practice of suicide if often also known as Felo de se. There are several countries where active euthanasia has been made legal such as in 2009 Luxembourg, 2014 Colombia, in 2021 Spain and recently in 2024 even Ecuador allowed the practice of euthanasia to relieve unbearable suffering. In contrast, countries like Germany, Romania, Serbia, Slovakia and many more have still kept euthanasia illegal. The concept of euthanasia being broad is divided into two halves i.e., active euthanasia and passive euthanasia. Active euthanasia is the practice of killing the patient by injecting a dose of a lethal drug. Whereas passive euthanasia is the practice of letting a patient die by removing artificial life support. In India passive euthanasia is allowed under certain situations that are in accordance with the Supreme Court's Guidelines however, active euthanasia is still illegal as it falls under the ambit of Section 105 of Bharatiya Nayaya Sanhita i.e., Culpable Homicide not amounting to Murder which states that the person committing this offence had the knowledge that the act is likely to cause death. Hence, because of this people travel to countries where euthanasia is legal to end their life. This process is popularly known as Euthanasia Tourism or Suicide Tourism. Recently, in the year 2022, a woman went to the Supreme Court pleading to stop her friend from going on a euthanasia trip to Switzerland. According to the reports her friend has been suffering from severe Chronic Fatigue Syndrome since 2014. There are many such cases wherein people are travelling to countries where euthanasia is legal.There are several cases arguing the right to euthanasia is under the ambit of Article 21 i.e., the right to die along with the right to life. Apart from that, there are several other aspects including the moral, ethical and legal grounds questioning whether it is right or wrong.

## Historical context of euthanasia-

The idea of mercy killing and euthanasia is not newly developed. Historically, during wars and conflicts when a person is seriously injured or ill, and death is inevitable during such situation in order to reduce his suffering and pain or even because if a person in war and conflict has severely damaged him resulting in permanent vegetative situations having no wish to live further. In ancient Greece and Rome, hemlock is a classic example of mercy killing used for a quick and painless death. Hemlock is a genus of Apiaceae flowering plant that is poisonous to humans. Further according to Phaedo written by Plato the death of Socrates in 399 BCE was

due to drinking poisonous hemlock. Later in the 17th century, it was for the first time coined by Francis Bacon in his work 'Euthanasia Medica.' In the year 1848 after the recommendation of John Warren Morphine became a means to be used for treating mercy killing cases. Furthermore, In the year 1866 chloroform was introduced by Joseph Bullar as another means of mercy killing cases. Annie Besant was one of the supporters of euthanasia. Also, in the year 1936 King George V who was suffering from cardio-respiratory failure was given a dose of morphine and cocaine in order to relieve his suffering along with a quick and painless death. The supporters of euthanasia also argue that it is an individual's right to self-determination without any external interference.

## Classification of euthanasia-

The term euthanasia has been divided into two broad parts i.e., Active euthanasia and Passive euthanasia. Active euthanasia is the practice of injecting a lethal dose with the intention of killing the patient to achieve the goal of mercy killing or painless death. On the other hand, passive euthanasia is the practice of removing artificial life support systems like ventilators with the intention of letting the patient die rather than using any external means in order to cause the patient's death. On these two basis, the term euthanasia is further classified into 3 types, i.e., voluntary, non-voluntary and involuntary.

1) Voluntary euthanasia – it is always practised under the consent of a patient suffering from immense pain and incurable diseases. Countries like Belgium, Tasmania etc have allowed active euthanasia to be practised.
2) Non-voluntary euthanasia – it is conducted when the patient's consent is not available however, the other family members of the patient can be asked for the consent.
3) Involuntary euthanasia – it is conducted without the consent of the patient and against their expressed wishes.

## The connection between Article 21 and Sections 108 of BNS-

Article 21 of the Constitution of India states, "No person shall be deprived of his life or personal liberty except according to procedure established by law."[1] The article mainly aims to secure the two most important rights of a citizen i.e., the right to life and the right to personal liberty until it is in accord with the legal procedures. Hence article 21, entitles people to enjoy their natural rights, privacy and self-determination. The first half of the article i.e., 'the right to life'

[1] "Article 21" https://indiankanoon.org/doc/1199182/

does not just merely mean that a person has a right to live rather it also includes the right to live with dignity. Thus, the interpretation of Article 21 is liberal with the intention of advancing its purpose rather than the literal interpretation that is interpreting using the exact words. While dealing with euthanasia Article 21 has always been there raising a question that does it includes the right to die under its ambit. However, on the other hand, Section 108[2] of the Bharatiya Nyaya Sanhita states, "if any person commits suicide, who abets the commission of such suicide shall be punishable with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine." Hence, when a person encourages or influences anyone in order to end his life that person is said to commit a crime.

Moreover, the Indian Penal Code, 1860 which got repealed in June 2024 after the enactment of Bhartiya Nyaya Sanhita mentioned about Section 309 i.e., Attempt to commit Suicide as a punishable offence for upto a year imprisonment. Bhartiya Nyaya Sanhita has decriminalize this section after the introduction of Mental Healthcare Act 2017 wherein, section 115(1) of the Act states "anyone who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said code." The decriminalisation took place after the recommendations made by the Law Commission[3] in 210th Report titled "Humanisation and Decriminalisation of Attempt to Suicide". The report emphasised that recommendations were made for decriminalisation of attempt to suicide under section 309 of IPC and not for abetment to suicide under section 306.

## Case laws on euthanasia in India-

**Gian Kaur v State of Punjab (1996)[4] –**

Harbans Singh and his spouse Gian Kaur were held liable for abetting the suicide of their daughter-in-law Kulwant Singh and were convicted under Section 306 of the Indian Penal Code i.e., Abetment of Suicide with imprisonment that may extend up to ten years and Section 309[5] of Indian Penal of Code i.e., attempt to commit suicide with imprisonment that may extend to one year. This case is further linked with the P. Rathinam[6] case wherein the constitutionality of section 309 of IPC was challenged. Here, in this case the court observed that Section 309 of

[2] "Section 108" https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688&sectionId=45842&sectionno=108&orderno=112
[3] "210th Law Commission" https://indiankanoon.org/doc/73577534/
[4] "Gian Kaur v. State of Punjab" 1996 SCC (2) 648
[5] "Section 309" https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_23_00037_186045_1523266765688&sectionId=46074&sectionno=309&orderno=347
[6] "P. Rathinam v. State of Madras" 1994 SCC (3) 394

IPC is unconstitutional because it infringes Article 21 that is, right to life and personal liberty. The court also stated that the word personal liberty includes the decision of a person related to his life and death hence including right to die under the ambit of Article 21. However, this decision of the court in the case of P. Rathinam was upheld by the court in the case of Gian Kaur v State of Punjab. In the latter case the court observed that in Article 21 the right to life in to be interpreted in the sense with right to a dignified life. Moreover, Article 21 which states, "No person shall be deprived of his life or personal liberty except according to procedure established by law," here the first half of the statement explains the situation when a person who wants to live however, and if someone is restricting him from enjoying this right which is not only an individual's fundamental right but also a natural right then the person restricting will be held liable for the same. Further the dying in a dignified manner should not be misinterpreted with dying in an unnatural manner. Hence, Section 309 of IPC does not violate Article 21 of the Constitution of India.

**Aruna Shanbuag v Union of India (2011)[7] –**

This is considered to be a landmark case in the history of mercy killing. The petitioner Aruna Shanbuag was a nurse in the King Edward Memorial Hospital and Sohanlal Valmiki the accused sodomized her. Further to restrict her movements he strangled her with a dog chain around her neck resulting in a stoppage of oxygen supply to her brain. For more than 3 decades she was in Persistent Vegetative State (PVS) and Pinky Virani filed the writ petition in the court asking for the right to euthanasia for Aruna. Pinky Virani, the author of Aruna's Story – the true account of a rape and its aftermath had filed the writ petition in the apex court for the same. There were several issues raised before the court however, the question of utmost importance raised in this case was whether passive euthanasia should be allowed for people suffering from Permanent Vegetative State or not? The court allowed passive euthanasia in certain cases. Guidelines were also issued by the apex court stating the following procedure –

1) A petition should be filed in the High Court by the patient's parents, spouse, relative, next friend or by the doctors taking care of the patient.
2) The High Court must form a bench of at least two judges for the same.
3) The High court must also form a committee of three doctors for examining the medical condition of the patient.

Although in the case of Aruna passive euthanasia was not allowed because she was neither was

[7] "Aruna Shanbaug v. Union of India" 2011 (4) SCC 454

she brain dead nor was she on any artificial life system. Hence, the case of Aruna Shanbuag was a landmark case which gave the clarification for euthanasia.

**Common Cause v Union of India (2018)[8] –**

In 2014, a PIL was filed by a new delhi based, NGO Common Cause wherein a bench of three judges observed that the ruling in the case of Aruna Shanbaug was partial incorrect. The bench observed that the procedural guidelines laid down in Aruna Shanbhag case was impractical and time consuming in urgent medical cases where the decisions need to be made quicker.

A bench of five judges gave a landmark judgment while deciding one of its issues whether Article 21 includes right to die in a dignified manner under its ambit by means of executing a living will. It was declared by the court that if a patient is suffering from a tremendous illness or in vegetative state then the patient can use advanced medical directives and refuse to continue their treatment further. Living will also known as advance medical directive is a legal document wherein a person specifies what action should be taken for their health in case they are not able to make decisions due to tremendous illness. Hence, the court recognised living will. Moreover, the court again rejected active euthanasia from being practice.

**Modification of Guidelines (2023):**

In 2023 the Apex Court of India made certain modifications in guidelines for passive euthanasia to make it a simplify process and more practical. Under new guidelines the attestation by notary or gazetted officer is sufficient. Further making living will a part of National Health Digital Records for making the process faster. The Medical Board consisting of doctors with 5 years of experience to be formed in hospitals. This medical board needs to make decision within the 48 hours regarding passive euthanasia. In case the medical board denies the permission then the patient's family can appeal in the High Court.

**International Bodies on Euthanasia –**

The United Nations is one of the international bodies relentlessly working with the objective of attaining international peace and security along with fighting against atrocities that have affected human rights worldwide. According to the Universal Declaration of Human Rights (UDHR) the main aim of human rights is to particularly safeguard the right to life rather than

[8] "Common Cause v. Union of India" 2018 (5) SCC 1

intertwining it with right to die because although there seems to be a very thin line of distinction between them however these two are diametrically opposite to each other. Furthermore, The Conventions on the Right of Persons with Disabilities (CRPD)[9], does not encourage right to die because the main aim of it is to protect, promote and ensure the equal enjoyment of human rights along with the fundamental rights by all the people irrespective of their medical conditions and also to spread the awareness for the same. Article 10 of CRPD, i.e., Right to Life which states that a person irrespective of being physically disabled, or medically challenged has the equal rights to enjoy their life as compared to others. Also, the term liberty which means freedom should not be misinterpreted as a person has liberty to act according to his desire.

According to the Human Rights Committee, international law as a whole is not clear with respect to the Right to die. This is because permitting the practice of euthanasia can again lead to several distress in future. Further, Article 6 (1) of International Covenant on Civil and Political Rights (ICCPR)[10] i.e., "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." This specifically protects the life of a person rather than giving the right to die. Further in simple words if due to any arbitrary act a person is not able to enjoy right to life and faces unjust restriction then again, this article will act as a rescue on international level. However, in contrast Article 7 of ICCPR which states "No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment." This on the other hand supports the practice of euthanasia in order to ease the suffering of patients from incurable diseases or permanent vegetative state, because not allowing such patients to die even after being aware that their condition cannot get better is no lesser than any torture or cruelty for patients and their families.

Even the European Court of Human Rights mentioned in the case of Pretty v. United Kingdom (2002) that Article 2 of the European Convention on Human Rights[11] that Article 2 i.e., Right to Life, cannot be misinterpreted nor can create a right to self-determination in terms of choosing death rather than life. Hence, the court ascertained that the right to die does not fall under the ambit of Article 2 of the European Convention on Human Rights. Moreover, the

[9] "CRPD" https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities
[10] "ICCPR" https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights
[11] "European Convention on Human Right" https://www.coe.int/en/web/compass/the-european-convention-on-human-rights-and-its-protocols

parliamentary assembly of the council of Europe in 1999 stated that the main aim of human rights is to respect and protect the rights and dignity of people suffering from severe and irreversible or incurable disease rejecting the idea of euthanasia or right to die; because practicing euthanasia is in a way an intentional act of killing a person either by performing the act or by omission of the act. Further right to die is nowhere mentioned in any of the treaties of the United Nations supporting euthanasia or mercy killing. However, the human right committees are concerned for the countries that have legalised the practice of euthanasia with reference to having a proper administration of the usages of euthanasia. Apart from euthanasia being legal or illegal it is also argued by the World Medical Association (WMA) that the practice of euthanasia is unethical because the main purpose of a doctor is to give their best treatment to the patient even though the disease is ought to be very severe rather than just ending their life.

## Conclusion-

In examining the question, "Is euthanasia justified?", this paper has explored its ethical, legal, historical, and international dimensions. Euthanasia raises deep conflicts between individual autonomy and the state's duty to protect life; between relieving suffering and upholding the sanctity of life; and between medical pragmatism and moral concerns. From the legal perspective, India's constitutional framework especially Article 21's guarantee of the right to life and dignity and Supreme Court judgments (Aruna Shanbaug, Common Cause) recognize passive euthanasia and living wills under strict safeguards. The 2023 modifications further simplify the procedural requirements, allowing notary attestation, incorporating living wills into the national health records, and imposing tighter timelines and medical board requirements. These changes suggest growing acceptance that individuals have some moral-legal right to refuse life-prolonging treatment when suffering becomes unbearable and hope of recovery is negligible. Considering the international experience, countries where euthanasia or physician-assisted dying is legal enforce rigorous safeguards. That suggests that justification does not lie simply in whether euthanasia might be abused, but whether the legal, ethical, and medical systems can sufficiently guard against those abuses while enabling relief and dignity for the terminally ill or those in irreversible vegetative states.