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**THE RIGHT TO DIE: LEGAL AND ETHICAL CHALLENGES OF
EUTHANASIA AND ASSISTED SUICIDE**- Saanika Singh¹**Abstract**

Euthanasia is the practice of intentionally ending a life to relieve pain and suffering. Euthanasia is a complex and controversial issue in India, raising ethical, moral, and legal considerations. The principle of autonomy respects the right of individuals to make their own decisions about their bodies and lives, while the principle of the sanctity of life holds that all human life is sacred and should be protected. In India, euthanasia is currently illegal, but there is a growing movement to legalize it. This paper will explore the ethical, moral, and legal issues surrounding the euthanasia debate in India. It will examine the arguments for and against euthanasia, as well as the perspectives of patients, healthcare professionals, religious leaders, and legal experts. It will also discuss the current legal status of euthanasia in India and the potential implications of legalizing it. The paper concludes by arguing that euthanasia should be legalized in India, subject to strict safeguards. It argues that legalizing euthanasia would give people the right to choose how and when they die, and that it would relieve the suffering of many people who are terminally ill. The goal of this paper is to contribute to a more informed and nuanced understanding of the euthanasia debate in India. It will argue that the key to balancing autonomy and the sanctity of life is to develop a legal framework that safeguards the rights of terminally ill patients while also protecting vulnerable people from abuse.

Keywords: Euthanasia, Right to Die, Assisted Suicide, Autonomy and the Sanctity of Life

Introduction

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Euthanasia is the practice of intentionally ending a life to relieve pain and suffering. It is a controversial topic, with strong arguments both for and against it. In India, euthanasia is currently illegal, but there is a growing movement to legalize it.

This paper examines the ethical and legal debate surrounding euthanasia in India. It begins by providing a brief overview of the history of euthanasia in India and the current legal landscape. It then discusses the main arguments for and against euthanasia, from both a religious and secular perspective.

One of the key ethical issues in the euthanasia debate is the balance between autonomy and the sanctity of life. Autonomy refers to the right of individuals to make their own decisions about their lives, including the right to choose how and when they die. The sanctity of life refers to the belief that all human life is sacred and should be protected.

Proponents of euthanasia argue that it is a matter of personal autonomy and that people should have the right to choose to die if they are terminally ill and suffering. Opponents of euthanasia argue that it is morally wrong to kill another person, even if they are suffering. They also argue that legalizing euthanasia could lead to the abuse of vulnerable people.

This paper will explore the ethical and legal arguments for and against euthanasia in India. It will also examine the current legal landscape and the growing movement to legalize euthanasia in India

Legal Implications

Euthanasia is the practice of intentionally ending a life to relieve pain and suffering. It is a controversial topic, with strong arguments both for and against it. In India, euthanasia is currently illegal, but there is a growing movement to legalize it.

The Indian Penal Code (IPC) does not explicitly mention euthanasia. However, Section 309 of the IPC deals with the attempt to commit suicide, and Section 306 of the IPC deals with the abetment of suicide. Both of these actions are punishable.

Despite the lack of an explicit provision on euthanasia, the Indian courts have begun to recognize the right to die with dignity as a fundamental right under Article 21 of the Indian Constitution. Article 21 guarantees the right to life and personal liberty. The courts have interpreted this provision to include the right to live with dignity and to die with dignity.

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In the landmark case of Aruna Ramachandra Shanbaug v. Union of India (2011), the Supreme Court of India held that a patient in a persistent vegetative state (PVS) has the right to refuse medical treatment and to withdraw life support. The court also recognized the concept of “living wills” or “advance directives,” which allow individuals to state their wishes regarding end-of-life care.

In the more recent case of Common Cause (A Regd. Society) v. Union of India (2018), the Supreme Court reiterated its earlier decision in Shanbaug and held that the right to die with dignity is a fundamental right. The court also laid down guidelines for the withdrawal of life support in cases of terminally ill patients and patients in a PVS.

The court’s decision in Common Cause is a significant development in the law on euthanasia in India. It has paved the way for the legalization of passive euthanasia, which involves the withdrawal or withholding of life-sustaining medical treatment. However, active euthanasia, which involves the administration of a lethal substance to end a life, remains illegal in India.

The following are some of the key legal considerations surrounding euthanasia in India:

- **The right to die with dignity:** The Supreme Court has held that the right to die with dignity is a fundamental right under Article 21 of the Indian Constitution. This right includes the right to refuse medical treatment and to withdraw life support.
- **Living wills and advance directives:** Living wills and advance directives are legal documents that allow individuals to state their wishes regarding end-of-life care. These documents are legally binding in India.
- **Passive euthanasia:** Passive euthanasia is the withdrawal or withholding of life-sustaining medical treatment. It is now legal in India, subject to certain safeguards.
- **Active euthanasia:** Active euthanasia is the administration of a lethal substance to end a life. It remains illegal in India.

Ethical Considerations

The debate on euthanasia is often framed in terms of two competing ethical principles: autonomy and the sanctity of life.

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The principle of autonomy holds that individuals have the right to make their own decisions about their lives and bodies, including the right to die with dignity. The principle of the sanctity of life holds that all human life is sacred and should be protected.

Proponents of euthanasia argue that the principle of autonomy should outweigh the principle of the sanctity of life in cases where terminally ill patients or patients in a PVS are suffering and express a desire to die. They argue that individuals should have the right to choose to end their lives if they are suffering and have no hope of recovery.

Opponents of euthanasia argue that the principle of the sanctity of life is absolute and that no one should have the right to intentionally end a human life. They also argue that euthanasia could be open to abuse, and that vulnerable people could be pressured into ending their lives. There are also a number of practical challenges to legalizing euthanasia. One challenge is developing clear and enforceable guidelines to ensure that euthanasia is only carried out with the consent of the patient and in accordance with strict medical and legal safeguards. Another challenge is preventing the abuse of euthanasia, such as by pressuring vulnerable people into ending their lives.

In addition to the ethical and legal considerations discussed above, there are a number of other factors that need to be considered when thinking about euthanasia in India. These include:

- **Religious beliefs:** Many religions in India, such as Hinduism, Jainism, and Sikhism, have strong views on euthanasia. These views need to be respected when making any decisions about the legalization of euthanasia.
- **Socio-economic factors:** Euthanasia is a complex issue that is intertwined with a number of socio-economic factors, such as access to healthcare and palliative care. It is important to consider these factors when developing any policies on euthanasia.
- **Public opinion:** Public opinion on euthanasia is divided in India. Some surveys have shown that a majority of Indians support the legalization of euthanasia, while others have shown that there is significant opposition. It is important to consider public opinion when making any decisions about euthanasia.

Arguments for Euthanasia

- **Autonomy:** Individuals have the right to make their own decisions about their lives and bodies, including the right to die with dignity.

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- Compassion: Euthanasia can be a compassionate way to end the suffering of terminally ill patients.
- Quality of life: Euthanasia can allow terminally ill patients to die with dignity and on their own terms, rather than suffering a prolonged and agonizing death.
- Medical futility: In some cases, medical treatment may be futile and only serve to prolong the patient's suffering. Euthanasia can be a way to end this suffering and allow the patient to die peacefully.

Arguments against Euthanasia

- Sanctity of life: Many people believe that all human life is sacred and should be protected, even in cases of terminal illness.
- Abuse: Some people worry that euthanasia could be abused, such as by pressuring vulnerable people into ending their lives.
- Slippery slope: Some people worry that legalizing euthanasia could lead to a “slippery slope,” where euthanasia is eventually allowed for less and less compelling reasons.
- Lack of safeguards: Some people worry that there are not adequate safeguards in place to prevent the abuse of euthanasia.

International Law of Euthanasia

There is no specific international treaty that deals specifically with euthanasia. However, there are a number of international human rights instruments that are relevant to the issue of euthanasia.

One of the most important instruments is the Universal Declaration of Human Rights (UDHR). The UDHR (United Nations, 1948) states that “everyone has the right to life, liberty and security of person”(Article 3). This right has been interpreted by some to include the right to die with dignity.

Another important instrument is the International Covenant on Civil and Political Rights (ICCPR). The ICCPR states that “no one shall be arbitrarily deprived of his life” [United Nations. (1948). Universal Declaration of Human Rights. Article 6(1)]. However, the ICCPR also allows for the use of force in cases where it is “strictly necessary” to protect life or to prevent the commission of a serious crime.

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The European Convention on Human Rights (ECHR) also contains a right to life provision. However, the ECHR explicitly allows for the use of force in cases where it is “absolutely necessary” to prevent the commission of a crime or to apprehend a person suspected of having committed a crime.

The Committee on the Rights of the Child (CRC) has also issued a number of general comments on the issue of euthanasia. In its general comment on the right to life, the CRC stated that “the right to life is not absolute and may be subject to reasonable limitations.” However, the CRC also stated that “any limitations on the right to life must be strictly necessary and proportionate.”

The World Medical Association (WMA) has also issued a statement on euthanasia. The WMA statement states that “euthanasia is unethical and must be condemned by the medical profession.”(The WMA Declaration on Euthanasia and Physician-Assisted Suicide (World Medical Association, 2019)However, the WMA also acknowledges that there are “tragic cases” in which patients may request euthanasia. In these cases, the WMA recommends that doctors should “provide palliative care and support” to the patient and their family.

There is no clear consensus at the international level on the legality or morality of euthanasia. However, the international human rights instruments suggest that euthanasia may be permissible in certain circumstances, such as when it is necessary to relieve severe and intractable suffering.

Public Opinion regarding Euthanasia in India

Public opinion on euthanasia in India is complex and divided. Some people believe that euthanasia should be legal in order to give people the right to die with dignity, while others believe that it is morally wrong to kill another person, even if they are terminally ill.

A 2018 survey by the Indian Institute of Public Opinion found that 59% of Indians support the legalization of euthanasia in certain cases.[Palande, A. (2020). Euthanasia in India: A Complex Issue with No Easy Answers. Indian Journal of Medical Ethics] However, there is significant variation in public opinion depending on factors such as age, religion, and education level. For example, younger people and people with higher levels of education are more likely to support euthanasia than older people and people with lower levels of education.

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There is also a religious dimension to the euthanasia debate in India. Hinduism and Jainism, two of the major religions in India, teach the principle of non-violence. This principle is often interpreted as prohibiting euthanasia. However, there are also some Hindu and Jain scholars who argue that euthanasia can be justified in certain cases.

Another important factor to consider is the lack of public awareness about euthanasia. Many people in India are not familiar with the different types of euthanasia or the legal status of euthanasia in India. This lack of awareness can make it difficult to have an informed public debate about euthanasia.

Overall, public opinion on euthanasia in India is complex and divided. There is a growing movement to legalize euthanasia, but there are also significant ethical and religious objections to euthanasia. It is important to have a public conversation about this issue so that we can develop a law that is fair, just, and compassionate.

Challenges to the legalization of euthanasia in India

Despite the Supreme Court's decision in *Common Cause*, there are still a number of challenges to the legalization of euthanasia in India. One challenge is the lack of a clear and comprehensive law on euthanasia. This has led to uncertainty and confusion among doctors and patients.

Another challenge is the social stigma associated with euthanasia. In India, euthanasia is often seen as a taboo subject. This can make it difficult for people who are terminally ill to talk to their doctors about their end-of-life wishes.

Finally, there is a concern that legalizing euthanasia could lead to its abuse. For example, there is a risk that vulnerable people could be pressured into euthanasia by their families or caregivers.

In addition to the challenges mentioned above, there are a few other legal considerations that are worth noting. For example, it is important to ensure that any law on euthanasia is consistent with India's international obligations. India is a signatory to the Convention on the Rights of Persons with Disabilities (CRPD), which prohibits euthanasia and assisted suicide. It is important to ensure that any law on euthanasia is compatible with the CRPD.

Another important consideration is the need to protect the rights of vulnerable people. For example, it is important to ensure that people are not pressured into euthanasia by their

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families or caregivers. It is also important to ensure that people who are terminally ill have access to palliative care, which can help to relieve their pain and suffering.

One way to address these concerns is to develop a strict regulatory framework for euthanasia. This framework could include requirements for multiple medical opinions, independent assessments of the patient's mental capacity, and cooling-off periods. It is also important to develop clear and concise guidelines for the withdrawal of life support in cases of terminally ill patients and patients in a PVS.

The legalization of euthanasia in India is a complex and evolving issue. The Supreme Court has taken a progressive step by recognizing the right to die with dignity as a fundamental right. However, more needs to be done to develop a clear and comprehensive law on euthanasia that protects the rights of both patients and doctors. It is also important to address the challenges of ensuring that euthanasia is not abused and that vulnerable people are protected.

The Way Forward

The debate on euthanasia in India is likely to continue for some time. It is a complex issue with no easy answers. However, it is important to have a thoughtful and open discussion about euthanasia in order to develop policies that are both ethical and compassionate.

- One way to move forward is to establish a committee of experts to study the issue of euthanasia in India and make recommendations to the government. The committee should be composed of representatives from a variety of disciplines, including law, medicine, ethics, and religion.
- Another way to move forward is to conduct public consultations on the issue of euthanasia. This would allow the government to hear from a wide range of people and get their views on the issue.
- Once the government has gathered the necessary information, it can begin to develop policies on euthanasia. These policies should be based on the principles of autonomy, compassion, and respect for human life.
- The government should develop a clear and comprehensive law on euthanasia. This law should be based on the principles of autonomy, beneficence, non-maleficence, and justice.

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- The law on euthanasia should include strict safeguards to protect the rights of vulnerable people and to prevent the abuse of euthanasia. For example, the law should require multiple medical opinions, independent assessments of the patient's mental capacity, and cooling-off periods.
- The government should also develop clear and concise guidelines for the withdrawal of life support in cases of terminally ill patients and patients in a PVS.
- The government should also invest in palliative care services. Palliative care can help to relieve the pain and suffering of terminally ill patients, and it can provide support to their families and caregivers.
- The government should also launch a public education campaign to raise awareness of euthanasia and the law on euthanasia. This campaign should educate the public about the ethical and legal considerations surrounding euthanasia, and it should provide information about the resources that are available to terminally ill patients and their families.

It is important to have a public conversation about this issue so that we can develop a law that is fair, just, and compassionate.

Conclusion

Euthanasia is a complex and controversial issue, both ethically and legally. In India, euthanasia is currently illegal, but there is a growing movement to legalize it. The Supreme Court of India has recognized the right to die with dignity as a fundamental right, but there is still no clear and comprehensive law on euthanasia.

The legalization of euthanasia is a complex issue with both potential benefits and risks. On the one hand, it could give people the right to choose how and when they die, and it could relieve the suffering of many people who are terminally ill. On the other hand, there is a risk that euthanasia could be abused, and that vulnerable people could be pressured into euthanasia by their families or caregivers.

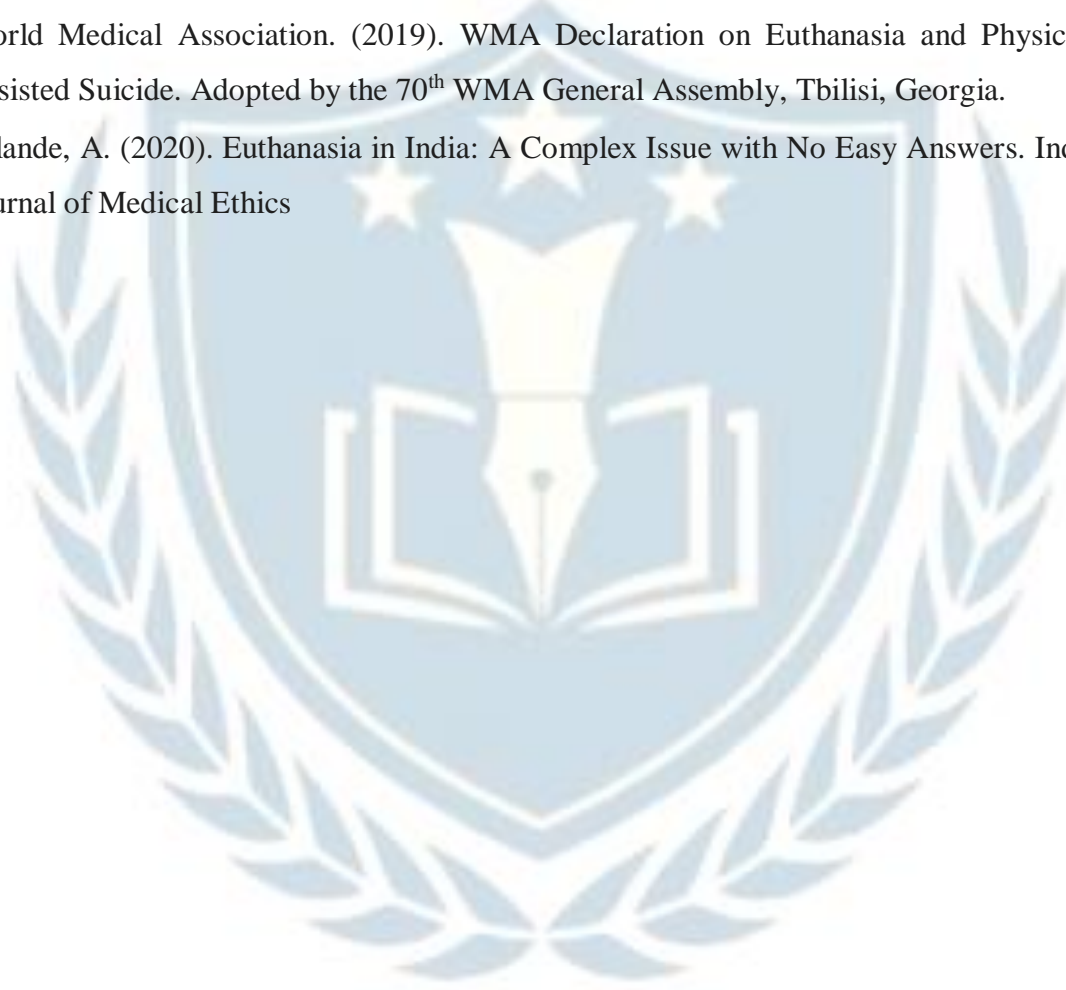
It is important to have a public conversation about euthanasia so that we can develop a law that is fair, just, and compassionate. Any law on euthanasia should be accompanied by strict safeguards to protect the rights of vulnerable people and to prevent the abuse of euthanasia.

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