VOLUNTARY EUTHANASIA AND THE RIGHT TO DIE IN SRI LANKA: A JURISPRUDENTIAL AND COMPARATIVE LEGAL ANALYSIS

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ABSTRACT

This paper examines the legal foundations of the right to die and assesses their relevance within the Sri Lankan legal framework. It analyses constitutional provisions and the Penal Code in relation to voluntary euthanasia, and draws comparative insights from jurisdictions such as India, Canada, and the Netherlands. The paper evaluates the legal, ethical, and jurisprudential implications of introducing a regulated euthanasia framework in Sri Lanka, with particular attention to individual autonomy, the right to dignity, and the role of medical professionals in end-of-life decision-making. The paper adopts doctrinal and comparative legal research methods to analyse statutes, case law, and constitutional principles, with a view to providing a balanced assessment of both supportive and opposing perspectives on the multifaceted concepts of voluntary euthanasia and the right to die. The findings reveal that Sri Lanka's existing legal framework does not permit voluntary euthanasia, and there remains room for future law reforms in this area. Finally, the paper concludes by outlining potential legal reforms relating to end-of-life regulation in light of medical advances, evolving global attitudes, and heightened human rights awareness.

***Keywords**: Autonomy and dignity, End-of-life decision making, Right to Die, Sri Lankan Legal Framework, Voluntary Euthanasia*

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1. INTRODUCTION

The term voluntary euthanasia and the concept of the right to die remain debatable topics and contested issues in the contemporary legal and ethical arena.[1] This paper examines the complex issue of the right to die, which involves intentionally ending a person's life at their informed and voluntary request to alleviate severe suffering, through the lens of Sri Lankan law.[2] Even though certain jurisdictions have recognised and legalised euthanasia under strict conditions; it remains a highly debated and sensitive topic in Sri Lanka, where cultural, religious, and moral values heavily influence legal and public policy decisions.

Sri Lankan legal framework has no explicit recognition of a right to die, and actions which may be associated with euthanasia are criminally prohibited under the Penal Code. Although the Sri Lankan Constitution does not explicitly provide a 'right to die with dignity,' judicial interpretation, particularly the Supreme Court has implied aspects of dignity and autonomy through the expansive reading of Article 12, which guarantees equality before the law and equal protection of the law.[3] However, the growing global discussions on human dignity, autonomy, and end-of-life care validated by jurisprudential theories such as natural law, utilitarianism, deontological ethics and feminist jurisprudence have prompted important queries about whether and how Sri Lankan law might evolve to address the complexities of voluntary euthanasia and right to die.

This paper endeavours to examine the extent to which Sri Lanka's current legal framework acknowledges or permits the right to die through voluntary

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1 J Keown, *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation* (2nd edn, Cambridge University Press 2018).

2 See Generally MP Battin, *Ending Life : Ethics and the Way We Die* (Oxford University Press 2005).

3 *Supreme Court Special Determination No 13/2023 on the Penal Code (Amendment) Bill* (SC SD No 13/2023, 2023).

euthanasia. It will explore the jurisprudential foundations of the right to die and assess their relevance within the Sri Lankan legal context. A comparative legal analysis will also be conducted by examining how other jurisdictions such as India, Canada, and the Netherlands, have approached the legal regulation of voluntary euthanasia and what lessons may be drawn from their experiences.

2. CONCEPTUAL UNDERSTANDING OF EUTHANASIA

The word 'euthanasia' comes from the Greek words 'eu' and 'thanatos', meaning a 'good,' or 'peaceful death'.[4] According to *Black's Law Dictionary*, euthanasia is '[an] act or practice of painlessly putting to death a person suffering from an incurable and excruciating disease or condition, especially a hopeless one, as an act of mercy'.[5] The Legal Information Institute (LII) at Cornell Law School defines euthanasia as 'the intentional act of ending another person's life, usually by a physician administering a lethal drug, for the purpose of relieving suffering from a serious or incurable condition'.[6] The American Medical Association (AMA), in its Code of Medical Ethics, defines euthanasia as 'the administration of a lethal agent by another person to a patient for the purpose of relieving the patient's intolerable and incurable suffering'.[7] From a legal perspective, the method used is important for distinguishing between acts and omissions in end-of-life care. one common classification distinguishes between active and passive euthanasia.[8] In active

4 K Annadurai, R Danasekaran and G Mani, 'Euthanasia : right to die with dignity' (2014) 3(4) Journal of Family Medicine and Primary Care 477.

5 Bryan A Garner (ed), *Black's Law Dictionary* (11th edn, Thomson Reuters 2019) 657.

6 Legal Information Institute, 'Euthanasia' (Cornell Law School).

7 American Medical Association, *ode of Medical Ethics*, Opinion 5.8 'Euthanasia'.

8 BBC, 'Euthanasia and assisted suicide' <https://www.bbc.co.uk/ethics/euthanasia\> accessed 7 June 2025; K Annadurai, R Danasekaran and G Mani, 'Euthanasia: right to die with dignity' (2014) 3(4) Journal of Family Medicine and Primary Care 477.

euthanasia a person directly and deliberately causes the patient's death, for example by administering a lethal injection, whereas in passive euthanasia they do not directly take the patient's life but allow death to occur by omitting treatment, such as withdrawing or withholding life-sustaining measures.[9] Based on consent euthanasia can be classified as voluntary, non-voluntary and involuntary euthanasia. Voluntary euthanasia occurs when a person explicitly consents , being fully aware of the consequences of the decision and seeking relief from unbearable suffering.[10] Non-voluntary euthanasia is carried out when a third party decides on behalf of a person who is unable to consent, for example, due to a coma, persistent vegetative state, infancy, or severe cognitive disability. Involuntary euthanasia occurs when a person's life is ended deliberately without their explicit consent, often against their wishes, and is treated under criminal law as unlawful killing.[11]

3. LEGAL ANALYSIS

The Constitution of Sri Lanka does not expressly recognise the right to life as a fundamental right.[12] However, judicial interpretation has indicated that Article 11, which provides that "no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" when read with Article 13(4) which prohibits the imposition of any punishment except according to procedure established by law, implies certain protections associated with the right to life. In the case of *Kotabadu Durage Sriyani Silva v. Chanaka Iddamalgoda, Officer-in-Charge, Police Station, Paiyagala,*[13] Justice

9 ibid.

10 M Vidanapathirana, 'Non-voluntary passive euthanasia should be legalized in Sri Lanka' (2017) 5(1) Medico-Legal Journal of Sri Lanka 1-5.

11 ibid.

12 *Kotabadu Durage Sriyani Silva* v *Chanaka Iddamalgoda, Officer in Charge, Police Station, Payagala and Others* (Fundamental Rights Application No 471/2000) (2003) 2 Sri LR 63 (SC).

13 ibid.

Fernando, observed that the Article 13(4), when expressed in positive terms, signifies that every individual possesses a right to life, except where a competent court of law determines otherwise. Similarly, in *Wewalage Rani Fernando v. Officer-in-Charge, Minor Offences, Seeduwa Police Station,*[14] Justice Shirani Bandaranayake emphasized that, in the absence of a lawful order from a competent court, no individual should be subjected to capital punishment or deprived of liberty, thereby reinforcing the implicit constitutional safeguard of the right to life.

In the case of *Sriyani Silva v. Iddamalgoda, Officer-in-Charge, Police Station, Paiyagala and Others,*[15] Justice Mark Fernando held that:

> I hold that Article 11 (read with Article 13(4)), recognizes a right not to deprive of life - whether by way of punishment or otherwise - and, by necessary implication, a right to life. That right must be interpreted broadly, and the jurisdiction conferred by the Constitution on this Court for the sole purpose of protecting fundamental rights against executive action must be deemed to have conferred all that is reasonably necessary for this Court to protect those rights effectively (cf. Article 118(b)).

This interpretation aligns, to some extent, with international human rights standards, in which the right to life is explicitly recognised and guaranteed under Article 3 of the Universal Declaration of Human Rights (UDHR)[16] and Article 6 of the International Covenant on Civil and Political Rights (ICCPR).[17] These provisions affirm the inherent right to life as a foundational principle of

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[14] *Wewalage Rani Fernando (wife of Lama Hewage Lal, deceased)* v *Officer in Charge, Minor Offences, Seeduwa Police Station, Seeduwa and Others* SC (FR) 700/2002, Supreme Court, 26 July 2004.

[15] Sriyani Silva (n 15).

[16] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 3.

[17] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 6.

human dignity and legal protection. The International Covenant on Civil and Political Rights (ICCPR) Act No. 56 of 2007 is Sri Lankan legislation intended to give selected civil and political rights with much-needed statutory recognition and legal enforceability.[18] However, the Act does not generally incorporate all ICCPR rights, nor does it explicitly affirm the right to life. Only certain respects, such as legal personality, the prohibition on war propaganda and hate speech, protection of alleged offender, and certain rights of the child, are covered.[19]

The first widely reported case of an *"act of love"* killing in Sri Lanka involved a husband who killed his terminally ill wife by slitting her throat, allegedly to relieve her from prolonged suffering.[20] Although the act was portrayed as one of compassion and mercy, Sri Lankan law does not recognise euthanasia or mercy killing in any circumstance. Consequently, the husband was prosecuted under the penal provisions relating to homicide. This case marked the first documented instance of a mercy killing in Sri Lanka and ignited legal and ethical debate surrounding voluntary euthanasia, the right to die with dignity, and the boundaries of criminal liability under the existing legal framework.[21]

If a person commits suicide, any individual who abets, aids, or instigates the act shall be liable to the punishment of death under Section 299 of the Penal Code of Sri Lanka.[22] Section 300 provides that a person who commits an act which would constitute murder if death resulted is liable to imprisonment for

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18 International Covenant on Civil and Political Rights Act No 56 of 2007 (Sri Lanka).

19 R Edrisinha and others, *GSP Plus and the ICCPR: A Critical Appraisal of the Official Position of the Sri Lankan Government* (Centre for Policy Alternatives 2007) ch 3.

20 S Raveendran, PB Dassanayakke and D Aryarathna, 'A Husband Cut His Ailing Wife's Throat in "Act of Love": First Reported Case in Sri Lanka' (2021) 8(3) International Journal for Research in Applied Sciences and Biotechnology <doi:10.31033/ijrasb.8.3.6>.

21 ibid.

22 Penal Code of Sri Lanka (Ordinance No 2 of 1883) s 299.

up to ten years and a fine.[23] If the act causes hurt, the penalty may extend to twenty years' imprisonment and a fine. The offences of attempted murder and abetment of suicide are thus clearly criminalised in Sri Lanka, implying that a physician may be held criminally liable for murder or attempted murder if they assist a patient to die, regardless of whether such assistance is provided in good faith.

Section 302 of the Penal Code of Sri Lanka, which previously criminalised attempts to commit suicide, was formally repealed by the Penal Code (Amendment) Act, No. 29 of 1998.[24] This legislative amendment marked a significant shift in the legal treatment of individuals who attempt suicide. Prior to this amendment, such attempts were considered criminal offences punishable by imprisonment. With the repeal of Section 302, suicide attempts are no longer criminal acts under Sri Lankan law. The change reflects a move towards a more compassionate and public health–oriented approach, recognizing the need for medical and psychological support rather than penal sanctions. However, While repeal of Section 302 removed any criminal liability for attempted suicide, it did not alter the stringent prohibition on assisting another person to die. Abetment of suicide, therefore remains a serious offence under Sections 299 and 300.[25] This contrast shows that, while the law now takes a non-punitive attitude towards a person who attempts to take their own life, it remains firmly opposed to third-party intervention in the termination of life.

Section 303 of the Sri Lankan Penal Code criminalizes the voluntary causing of a miscarriage, with specific penalties outlined based on the stage of pregnancy.[26] The section permits an exception only when the miscarriage is

[23] ibid s 300.

[24] Penal Code (Amendment) Act No 29 of 1998 (Sri Lanka) s 4 (repealing Penal Code s 302).

[25] ibid ss 299–300.

[26] ibid s 303.

induced in good faith to save the life of the pregnant woman. This provision reflects the legal system's strong emphasis on protecting prenatal life and permitting intentional termination of pregnancy only when necessary to preserve maternal health. Under section 304, any person who voluntarily causes a miscarriage without the consent of the pregnant woman, whether or not the foetus is 'quick with child', is liable to imprisonment for a term of up to twenty years and to a fine.[27] Section 305 provides that any person who, with intent to induce the miscarriage of a pregnant woman, commits an act that results in her death is liable to imprisonment of either description for a term not exceeding twenty years and to a fine.[28]

In Sri Lanka, even when a pregnancy results from rape, she possesses no legal authority to procure an abortion or to request one from a healthcare provider.[29] The prevailing laws governing abortion are therefore highly restrictive, permitting termination of pregnancy only when it is necessary to preserve the life of the mother.[30] Taken together, these provisions underscore the stringent protection afforded to human life from conception onwards. Although the abortion offences are distinct from euthanasia, they reveal a wider legislative attitude that permits intentional ending of life only in narrowly defined, life-saving circumstances, and this philosophy also underlies the current absolute prohibition of voluntary euthanasia.

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27 ibid s 304.

28 ibid s 305.

29 KAAN Thilakarathna and N Jayarathne, 'Reforming Abortion Laws in Sri Lanka: A Socio-Legal Approach with Special Reference to Rights of Women' (International Journal of Law Management & Humanities [ISSN 2581-5369), March 2023) < https://www.researchgate.net/publication/369217723>.

30 Penal Code of Sri Lanka (Ordinance No 2 of 1883) s 303.

4. JURISPRUDENTIAL ANALYSIS

Jurisprudence is the scientific and philosophical study of the law and justice. It draws on research, hypotheses, and theories that use concepts and methods from several disciplines.[31] It is fundamentally concerned with the regulation of human conduct in alignment with the evolving needs, values, and goals of each society. In this context, even if euthanasia is not yet recognised as a legal category in Sri Lanka, it nonetheless raises important jurisprudential questions as it directly engages with moral and ethical questions about the value of human life, personal autonomy, and the state's role in end-of-life decisions. As societal attitudes toward death with dignity, individual rights, and medical ethics evolve, the jurisprudential analysis of euthanasia also changes. What may have once been universally condemned as morally and legally impermissible is now subject to nuanced debates grounded in changing social values and conceptions of justice.[32] Thus, jurisprudence provides the critical framework through which the legality and legitimacy of euthanasia can be examined, debated, and, in time, redefined in the light of contemporary social and moral developments.

Thomas Aquinas' Natural Law theory and his Theological views on suffering in his Summa theologiae holds that the first principle of the natural law is that “good is to be done and pursued, and evil avoided”.[33] Aquinas argues that “the good” consists in whatever enables a creature to realise its innate qualities. On this view, human life is a basic good since being a living biological organism is an essential part of human nature.[34] Intentional

[31] See generally R Wacks, *Understanding Jurisprudence: An Introduction to Legal Theory* (6th edn, OUP 2021).

[32] SA Petra, ‘Investigation of the Ethical and Legal Issues of Euthanasia and Assisted Suicide’ (2024) 7(1) Open Access Journal of Science 205–212.

[33] JT Eberl, ‘Aquinas on Euthanasia, Suffering, and Palliative Care’ (2003) 3(2) National Catholic Bioethics Quarterly 331-354.

[34] J Finnis, ‘Aquinas’ Moral, Political, and Legal Philosophy’ in EN Zalta and U Nodelman (eds), The Stanford Encyclopedia of Philosophy (Spring 2023 edn, Metaphysics Research

interference with, or destruction of, innocent human life is therefore classified as a moral evil.[35] Therefore, it is important to protect and preserve life, and to refrain from doing anything that threatens or interferes with it.

'The evils which are in this world,' Aquinas says, 'aren't to be desired for their own sake but insofar as they are ordered to some good'.[36] In itself suffering is a bad thing; it acquires positive value only when it contributes to spiritual well-being. Goodness in relation to the body consists in its health, which enables it to perform its proper functions. Such goodness should be promoted through any means that do not contravene natural law. Accordingly, it can be concluded that Aquinas would endorse medical interventions aimed at maintaining or restoring bodily health, provided they remain consistent with the principles of natural law. Euthanasia thereby violates natural law; as such, it cannot be justified, even for the purpose of alleviating suffering.

Utilitarianism, a consequentialist ethical theory associated with philosophers such as Jeremy Bentham and John Stuart Mill, evaluates the morality of actions by their consequences for overall happiness and suffering.[37] In the context of active, voluntary euthanasia, utilitarianism offers two compelling lines of support. First, it emphasises the minimisation of unnecessary pain and suffering, especially in the final stages of life, when patients may endure severe physical or emotional distress.[38] For hedonistic utilitarians, who seek to maximise pleasure and minimise pain, euthanasia may be viewed as a morally justifiable means of relieving such suffering. Second, utilitarianism often gives weight to individual autonomy, so long as the exercise of personal freedom does not cause greater harm to others. John Stuart Mill, in his

Lab, Stanford University 2023) <https://plato.stanford.edu/archives/spr2023/entries/aquinas- moral-political/> accessed 28 December 2025.

35 T Aquinas, *Summa Theologiae* I-II, q 94, a 2.

36 ibid.

37 JS Mill, *Utilitarianism* (Roger Crisp ed, Oxford University Press 1998).

38 P Singer, 'Voluntary Euthanasia: A Utilitarian Perspective' (2003) 17 Bioethics 526.

principle of liberty, famously argued that the only legitimate reason for limiting individual freedom is to prevent harm to others, not to protect individuals from their own choices.[39] From this perspective, respecting a competent person's choice to end their own life in circumstances of unbearable suffering aligns with utilitarian principles of both well-being and autonomy.

Deontologists do not claim that every autonomous choice must be respected; where a person's decision is morally wrongful, it can be justified to prevent them from acting on it. Consequently, voluntary euthanasia may be regarded as morally wrong if the desire to die is deemed morally wrongful. Immanuel Kant's Categorical Imperative requires that human beings as ends in themselves must never be treated merely as means to achieve some further benefit.[40] The power to dispose life shouldn't be given to human beings and Kant was of the perspective that permitting euthanasia would be undermining the intrinsic value of human life.[41]

'Deontologists [do not] argue that we should always respect someone's choice when what they want is morally wrong; sometimes it is morally right to prevent them from doing what they want'.[42] Some deontologists maintain that there exists a categorical duty not to intentionally end the life of a human being, even where the individual concerned expressly requests death. This view reflects one interpretation of the principle of the sanctity of life, which holds that the right to life must be respected irrespective of a person's subjective desire to die. Within this framework, some theorists may regard

39 JS Mill, *On Liberty* (first published 1859, Penguin 2010) 14 to 15.

40 I Kant, *Groundwork of the Metaphysics of Morals* (Mary Gregor tr, CUP 1997) 41–2.

41 Michael Lacewing, 'Kant's Categorical Imperative and Euthanasia' (A Level Philosophy handout, 2013) https://www.alevelphilosophy.co.uk/handouts_ethics/KantEuthanasia.pdf accessed 10 December 2025.

42 ibid.

passive euthanasia as permissible in limited circumstances, while continuing to reject active euthanasia as morally impermissible.[43]

In contemporary debates on assisted death and euthanasia, it is increasingly recognised that these issues should also be examined from a feminist jurisprudential perspective. Feminist jurisprudence offers critical insights into how gender, power dynamics, and societal structures influence laws and policies related to euthanasia.[44] Jocelyn Downie and Susan Sherwin, in their article "A Feminist Exploration of Issues around Assisted Death", argue that debates on end of life decision making cannot be separated from the social realities of gendered oppression.[45] They suggest that women, particularly those who are elderly, disabled, economically dependent or socially marginalised, may face subtle pressures, limited choices and internalised devaluation that influence requests for assisted death and make traditional notions of autonomy inadequate.They therefore advocate legal frameworks that are neither completely permissive nor entirely prohibitive but, rather, carefully responsive to the ways in which structural inequity shapes decision-making. They conclude that assisted death should be legal only where stringent safeguards are adopted, and wider social inequities are addressed, emphasising that meaningful choice is possible only when the oppressive conditions are transformed.[46] From this perspective, legalising voluntary euthanasia without addressing underlying social injustices risks deepening existing vulnerabilities. Therefore, a feminist perspective stresses that ethical and legal protections must guarantee that decisions are genuinely free and

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43 ibid.

44 SM Wolf, 'Gender, Feminism, and Death: Physician Assisted Suicide and Euthanasia' in Susan M Wolf (ed), *Feminism and Bioethics: Beyond Reproduction* (Oxford University Press 1996) 282.

45 J Downie and S Sherwin, 'A Feminist Exploration of Issues around Assisted Death' (2004) 14 Health Law Journal 1.

46 ibid.

informed, situated within a framework of social justice, rather than simply adopting a categorical opposition voluntary euthanasia.

5. ARGUMENTS FOR AND AGAINST EUTHANASIA

5.1 Arguments against euthanasia

A common argument against euthanasia appeals to the sanctity of life and the view that the deliberate killing of an innocent human being is ethically unjustifiable.[47] From a religious perspective, the principle of the sanctity of life holds that human life is sacred and inviolable, as it is regarded as a gift from a divine source. Many religious traditions, including Christianity, Islam, Hinduism, and Buddhism, uphold the belief that only God or a higher power has the authority to give and take life. Consequently, euthanasia is viewed as morally impermissible, as it involves the deliberate ending of a life, which is considered a violation of divine will and natural law. Critics also emphasise the risk of medical errors, including misdiagnosing non-terminal illnesses as terminal, which could lead to irreversible and unethical outcomes if euthanasia is permitted.[48] Given the constant evolution of medical science, the premature resort to euthanasia may also deprive patients of the opportunity to benefit from future life-saving treatments.[49] The legalization of euthanasia may open the door to abuse, where individuals with ulterior motives could influence or coerce patients into choosing death for personal advantage. In certain cases, individuals may feel compelled to choose

[47] DB Awuor, *Euthanasia and Physician-Assisted Suicide: An Argumentative Analysis for the Legalisation of Euthanasia and Physician-Assisted Suicide* (Bachelor's thesis, Malmö University 2022) https://urn.kb.se/resolve?urn=urn:nbn:se:mau-51883 accessed 10 December 2025.

[48] House of Lords Select Committee on the Assisted Dying for the Terminally Ill Bill, *Report* (HL 86–I, 2005) paras 118–125.

[49] The slippery slope argument suggests that allowing voluntary euthanasia would inevitably lead to non-voluntary or involuntary cases. See J Keown, *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation* (Cambridge University Press 2002) 102-4.

euthanasia not out of genuine personal desire, but due to financial hardship or the burden their illness imposes on their families. Economic constraints, such as the high cost of long-term medical care, lack of access to quality healthcare, or fear of becoming a financial liability, may pressure vulnerable patients into viewing euthanasia as the only viable option.[50] This raises serious ethical concerns about whether such a choice can truly be considered voluntary or autonomous.

Critics also question whether euthanasia can ever be reconciled with truly independent decision-making by patients. They point out that many terminally ill individuals may struggle to make sound choices because of pain, illness, or mental impairments.[51] Additionally, external influences like family, social pressures, or financial concerns could unfairly sway their decisions. Opponents believe that respecting a person's autonomy isn't enough to justify legalizing euthanasia, as we also have moral and social responsibilities to consider when making decisions about life and death.[52]

5.2 Arguments for euthanasia

Euthanasia permits individuals to choose a dignified and peaceful death, recognizing autonomy, human dignity and the right to choose.[53] In the Netherlands, the rationale behind legalizing euthanasia was the notion that an individual of sound mind deserves to make the decision to end his life and the doctors have a duty to provide him with the necessary means to assist

[50] RC Inglehart and others, 'Attitudes Toward Euthanasia: A Longitudinal Analysis of the Role of Economic, Cultural, and Health-Related Factors' (2021) 61 Journal of Pain and Symptom Management 78.

[51] DI Callahan, 'When Self-Determination Runs Amok' (1992) 22(2) Hastings Center Report 52 to 55.

[52] ibid.

[53] H Kuhse, *The Sanctity of Life Doctrine in Medicine: A Critique* (Oxford University Press 1987) ch 7.

him to execute such decision.[54] Peter Singer famously argues that 'no one can fear being killed at his or her own persistent, informed autonomous request' and that the right to life is closely connected to a right to die, since the point of a right is that it can be exercised by its holder".[55] Moreover, euthanasia allows a compassionate solution to those who are suffering from physical pain and mental agony due to a terminal illness which is incurable. From a utilitarian perspective, continuing life-sustaining treatment for patients who freely request euthanasia may represent an overconsumption of scarce medical resources, whereas euthanasia is said to allow those resources to be redirected to patients with prospects of recovery. One empirical study entitled 'Effects of euthanasia on the bereaved family and friends' suggests that relatives of cancer patients who died by euthanasia in the Netherlands experienced fewer traumatic grief symptoms and less post-traumatic stress than relatives of comparable patients who died a natural death.[56] The study manifested that family and friends of cancer patients who underwent euthanasia were grieving less because they had the opportunity to bid farewell to them while the patient was conscious and alert.

6. COMPARATIVE ANALYSIS

6.1 Legal status of euthanasia in India

Article 21 of the Constitution of India guarantees the right to life and personal liberty: 'No person shall be deprived of his life or personal liberty except according to procedure established by law'.[57] It has interpreted as securing

[54] J Griffiths, H Weyers and M Adams, *Euthanasia and Law in Europe* (Hart Publishing 2008) 75-110.

[55] P Singer, *Rethinking Life and Death: The Collapse of Our Traditional Ethics* (Oxford University Press 1994) 194-6.

[56] N B Swarte and others, 'Effects of Euthanasia on the Bereaved Family and Friends: A Cross Sectional Study' (2003) 327 BMJ 189.

[57] Constitution of India 1950, art 21.

the dignity of life and protecting persons from unlawful detention and arbitrary arrest. Indian courts have had to consider whether the right to life includes a right to die with dignity particularly in connection with Section 306 and Section 309 of the Indian Penal Code. Section 306 under the heading “Abetment of Suicide” emanates that "If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine".[58] This provision is directly relevant to euthanasia and physician-assisted suicide, as it involves scenarios where a physician or another individual actively facilitates or provides the means for a terminally ill patient to end their life. Under a strict legal interpretation, such assistance could be regarded as abetting suicide, thereby potentially rendering the physician liable under Section 306 of the Indian Penal Code.

Further, Section 309 of the Penal Code highlights that "Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both". The continued criminalisation of attempted suicide, alongside the use of section 306, underscores the tension between proposals for euthanasia or physician assisted suicide and a criminal law framework that penalises acts intended to end one’s life, whatever the motivation. This tension has led to calls for legal reform and for clearer procedural safeguards to protect both patients and medical practitioners.[59]

In *Maruti Shripati Dubal v. State of Maharashtra,*[60] Bombay High Court decided that Section 309 was unconstitutional and violated Article 14, 19 and 21 of the Constitution and quashed the charge of attempted suicide. However,

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58 Indian Penal Code 1860 (Act 45 of 1860), s 306.

59 Law Commission of India, *Humanization and Decriminalization of Attempt to Suicide* (Report No 210, 2008).

60 *Maruti Shripati Dubal v. State of Maharashtra* (1987) Cri LJ 743 (Bom).

in the case of *Gian Kaur v. State of Punjab,* Gian[61] the Supreme Court of India held that Section 309 of the Penal Code is constitutional and doesn't violate Article 14 and 21 of the Indian Constitution. The Court clarified that the right to die with dignity at the end of one's natural life should not be equated with the right to end life through unnatural means.

Aruna Ramchandra Shanbaug v. State of India[62] is a landmark judgment that first recognised the possibility of passive euthanasia in India. The petition, brought by journalist Pinki Virani as Aruna Shanbaug's "next friend", concerned a woman who had remained in a persistent vegetative state for decades following a violent assault. The Petitioner, along with her counsel contended that Aruna had no chance of recovery and she should be relieved of her pain and suffering by granting the option of passive euthanasia. By withdrawal of medical support, Pinki desired a dignified death to Aruna. The learned counsel for the Respondents. KEM Hospital and Bombay Municipal Corporation drew the attention of the courts towards the danger in permitting euthanasia in India. The aforementioned case recognized the legal possibility of passive euthanasia, while preserving moral and legal standards. It brought to the limelight the importance of the balance between ethical reliefs from suffering with the state's duty to protect life.

In its 241st Report (2012), the Law Commission of India recommended that Parliament enact legislation to regulate passive euthanasia and prevent abuse.[63] The Report proposed detailed safeguards and a statutory framework for withholding and withdrawing life sustaining treatment from competent and incompetent patients. Following these recommendations, the Ministry of Health and Family Welfare introduced the Medical Treatment of Terminally Ill

61 *Gian Kaur v. State of Punjab,* Gian (1996) 2 SCC 648.

62 *Aruna Ramachandra Shanbaug v Union of India* (2011) 4 SCC 454.

63 Law Commission of India, *Passive Euthanasia – A Relook* (Report No 241, 2012).

Patients (Protection of Patients and Medical Practitioners) Bill, but it has not yet been enacted.[64]

In *Common Cause (A Regd. Society) v. Union of India,*[65] the court introduced the concept of "Living Will". In India, a Living Will (also known as an Advance Medical Directive) is a legally recognized document that allows a person to declare their wishes regarding end-of-life medical treatment, in case they become incapacitated and unable to communicate their decisions. The living will enables individuals to maintain autonomy and dignity even if they become incapacitated.

In comparison to India, Sri Lanka can be regarded as having a more conservative stance towards euthanasia and assisted suicide. While India has achieved certain legal advancements, notably the recognition of passive euthanasia and the establishment of provisions for living wills, Sri Lanka continues to uphold a stringent prohibition on both active and passive euthanasia, with no existing legal framework to accommodate assisted suicide.

6.2 Legal status of euthanasia in the Netherlands

The Netherlands is the first nation in the world to legalize euthanasia and assisted suicide by introducing the Termination of Life on Request and Assisted Suicide (Review Procedures) Act.[66] The legalization of euthanasia was supported further by amending the Netherlands Criminal Code so that the termination of life upon request and assistance with suicide will not constitute a criminal offense when performed by a medical professional,

[64] Ministry of Health and Family Welfare, *Medical Treatment of Terminally Ill Patients (Protection of Patients and Medical Practitioners) Bill* (draft, 2016).

[65] *Common Cause (A Regd Society) v Union of India* (2018) 5 SCC 1.

[66] Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2001 (Netherlands).

provided that specific criteria are met.[67] The issue of legal ambiguity concerning euthanasia in the Netherlands has historically generated considerable confusion and uncertainty for healthcare providers and patients alike. The Dutch Euthanasia Act addressed this by codifying the practice into a clear and comprehensive legal framework, thereby transforming the previously informal, and case-by-case approach into a structured and predictable system.[68] This legislation has clarified the legal boundaries and requirements for euthanasia, ensuring that all parties involved can operate within a well-defined legal context, ultimately promoting transparency, accountability, and ethical practice in end-of-life care.[69]

The Dutch Euthanasia Act requires physicians to satisfy specific "due care" criteria, including a voluntary and well-considered request, unbearable suffering with no prospect of improvement, and consultation with at least one independent doctor. In addition, every case must be reported to a Regional Euthanasia Review Committee composed of a legal expert, a physician and an ethicist. If the Committee finds that the due care criteria have not been met, it must notify the Public Prosecution Service, which may open a criminal investigation. The reporting and review system is a central safeguard, reinforcing both ethical and legal accountability.[70]

The development of euthanasia law in the Netherlands was significantly influenced by two key Supreme Court decisions: the *Schoonheim* case in 1984 and the Chabot case in 1993. In *Schoonheim,*[71] the Court acknowledged

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67 Penal Code of the Netherlands, arts 293–294 (as amended).

68 Griffiths, Weyers and Adams (n 54).

69 Regional Euthanasia Review Committees, 'Due care criteria' (Regional Euthanasia Review Committees) https://english.euthanasiecommissie.nl/due-care-criteria accessed 28 December 2025.

70 Government of the Netherlands, 'Is euthanasia legal in the Netherlands?' (Government.nl) https://www.government.nl/topics/euthanasia/is-euthanasia-allowed accessed 28 December 2025.

71 *Schoonheim* (Hoge Raad (Netherlands), 27 November 1984) NJ 1985, 106 (ECLI:NL:HR:1984:AC8615).

that a doctor helping a terminally ill patient end their life could be justified in exceptional circumstances of unbearable and hopeless suffering, as long as due care was taken. This marked the first judicial recognition of justifiable euthanasia. Nearly a decade later, the Chabot[72] case expanded on this by ruling that serious psychological suffering alone could also justify euthanasia if all due care criteria were met. It emphasized the need for independent professional consultation and oversight, especially in cases involving psychiatric conditions. These two cases laid the foundation for the legal and ethical framework for euthanasia in the Netherlands, well before the formal law was passed in 2002.

The Dutch experience offers several lessons for Sri Lanka. First, if a state chooses to legalise voluntary euthanasia, clear procedural safeguards, mandatory reporting and independent review are essential to ensure ethical accountability. Secondly, the Dutch focus on “due care” emphasises careful assessment of the patient’s suffering and voluntary request within a patient-centred process rather than a purely legalistic one. Thirdly, euthanasia law in the Netherlands emerged gradually through professional guidelines, case law and public debate before formal legislation was enacted, illustrating the importance of sustained social and legal discussion in such a sensitive area. For a jurisdiction like Sri Lanka, with strong religious and cultural commitments to the sanctity of life, these developments suggest that any future consideration of end-of-life law reform would need to proceed cautiously, alongside investment in palliative care and broad consultation with medical, ethical, religious and legal stakeholders.

[72] *Chabot* (Hoge Raad (Netherlands), 21 June 1994) NJ 1994, 656 (ECLI:NL:HR:1994:AD2122).

6.3 Legal status of euthanasia in Canada

In a historic ruling, *Carter v Canada (Attorney General),*[73] the plaintiffs contended that the prohibition against assisted death in sections 14 and 241(b) of the *Criminal Code*[74] was inconsistent with sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*. This judgment paved the pathway for an amendment to the Criminal Code of Canada with the introduction of Bill C-14.[75] The transformation allowed provisions for the medical assistance in dying (MAiD) provided that certain eligibility criteria are fulfilled. The Supreme Court put forth the term 'grievous and irremediable medical condition' to justify MAiD where persons requesting it must be diagnosed with a serious and incurable illness, disease, or disability that causes an irreversible decline in their physical abilities. Additionally, the individual must be enduring physical or psychological suffering that is persistent, intolerable, and cannot be alleviated in a manner they find acceptable. Crucially, their natural death must also be reasonably foreseeable.[76]

Legalisation of MAiD in Canada in 2016 was followed by a steady increase in the number of assisted deaths.[77] However, the expansion was not limited to a numerical increase; the law itself underwent significant broadening following the changes made in 2016. Canadian philosopher Wayne Sumner's "deprivation theory" was highlighted in the Supreme Court of British Columbia in the Carter case.

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73 *Carter v Canada (Attorney General)* 2015 SCC 5, [2015] 1 SCR 331.

74 *Criminal Code*, RSC 1985, c C-46, ss 14, 241(b).

75 Bill C-14, *An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)*, SC 2016, c 3.

76 J Downie, 'Medical Assistance in Dying: Lessons for Australia from Canada' (2017) 17(1) QUT Law Review 127-146.

77 Government of Canada, 'First Annual Report on Medical Assistance in Dying in Canada, 2019' (Health Canada, 2020) https://www.canada.ca/en/health-canada/services/medical-assistance -dying-annual-report-2019.html accessed 02 June 2025.

Sri Lanka can learn several important lessons from Canada's approach to euthanasia, known as Medical Assistance in Dying (MAiD). Canada focuses on individual choice and the right to die with dignity under carefully regulated conditions. This offers a rights-based model that Sri Lanka could study for future legal changes. The Canadian system has strict eligibility criteria, which include incurable illness, irreversible decline, and intolerable suffering. It also features safeguards like voluntary, informed consent and evaluations by independent medical professionals. Canada combines euthanasia with palliative care to ensure that patients do not feel pressured into end-of-life decisions due to a lack of support. In addition, Canada promotes transparency through mandatory reporting and seeks input nationwide when shaping policy.[78]

Additionally, the Canadian system has protections in place, such as requiring informed consent, having an independent medical assessment prior to proceeding with assisted dying, and having mandatory reporting after assisted dying occurs, to help limit the possibility of abuse and coercion. For Sri Lanka, this framework highlights the need for this type of legal, ethical and procedural system to maintain respect for individual dignity while providing oversight and allowing for a potentially reasonable framework for the establishment of an end-of-life care system that includes euthanasia where legally permitted.

7. LEGAL AND POLICY RECOMMENDATIONS

One key recommendation is the supplementation of the Fundamental Rights Chapter of the Constitution with a new provision, which would introduce a Right to Life Article that includes a Right to die with dignity in cases where medical treatment becomes incapable of providing a life of quality. This would

[78] J Downie (n 45) 43.

also validate an individual's right in autonomous decision-making in end-of-life medical care, including the right to decline or discontinue life-sustaining interventions.

Another recommendation involves the amendment of the Penal Code, specifically Section 299 on Abetment of Suicide. It is proposed to insert a proviso to exempt the liability of medical practitioners acting in good faith and within the parameters of passive voluntary euthanasia, as defined by a new End-of-Life Care Act. Similarly, Section 300 on Attempt to Murder should be amended by adding a new Explanation or Exception stating that a medical practitioner acting bona fide, with a patient's informed consent who is terminally ill, and in compliance with the End-of-Life Care Act (proposed), shall not be charged with murder when withholding or withdrawing medical treatment.

To ensure legal precision and remove ambiguity, it is recommended that Section 5 of the Penal Code of Sri Lanka, under the heading "General Explanations," clarify and interpret terms such as "Passive euthanasia," "Voluntary euthanasia," "Medical practitioner," "Informed consent," and "Terminal illness". Furthermore, a specific exemption should be formulated as an addition to the Right of Private Defence Section in the Penal Code.

Another recommendation is the enactment of a separate End-of-Life Care Act unique to the Sri Lankan context, which would create a distinct legislative framework regulating end-of-life decisions, including passive voluntary euthanasia and the legal status of advance medical directives. The Act would set forth patient eligibility conditions, procedural safeguards, and the roles and duties of healthcare professionals regarding voluntary euthanasia. In conjunction with this, it is recommended to establish a Euthanasia Review Committee comprising medical, legal, and religious representatives, along with an expert in ethics or philosophy, to evaluate and review whether a case of termination of life on request or assisted suicide complies with the due care criteria.

The legislative framework should also recognize advance medical directives as legally binding documents, validating Living Wills that enable individuals to communicate their consent to end-of-life care and their preferences for medical treatment beforehand, in case they become incapable of conveying their wishes later. Additionally, a dedicated tribunal to adjudicate euthanasia cases in Sri Lanka is recommended. Draft provisions suggest the establishment of an Euthanasia Tribunal with exclusive jurisdiction to consider, review, and determine applications for euthanasia within the Democratic Socialist Republic of Sri Lanka.

To complement the legal and procedural framework, it is suggested to implement public education and awareness programs, including nationwide campaigns to inform the public about the legal, medical, and ethical aspects of passive voluntary euthanasia. Collaboration with global service organisations, such as Lions Clubs in Sri Lanka, as well as seminars and community discussions featuring healthcare experts, legal authorities, and religious leaders, can help promote awareness and build trust to shift public perceptions and attitudes toward euthanasia.

8. CONCLUSION

This article has critically analysed the legal, ethical, and jurisprudential facets of voluntary euthanasia and the right to die within the Sri Lankan context. Rooted in doctrinal exploration and comparative jurisprudence, the research uncovered that Sri Lanka's legal framework has failed to explicitly recognise a right to die and lacks any statutory or constitutional provision accommodating voluntary euthanasia. While judicial interpretations engage in an implicit recognition of a right to life, there remains a loophole in legal mechanisms to uphold dignity and self-determination in end-of-life choices. Euthanasia continues to be perceived through the prism of criminal culpability rather than as an aspect of personal dignity, choice, and empathetic care.

In light of the findings, it is apparent that Sri Lanka currently outlaws voluntary euthanasia and implicitly prioritises preservation of life. However, there is a compelling need for reform and to introduce and implement a precisely regulated legal architecture comprising advance directives, healthcare protocols, and judicial supervision facilitating compassionate, dignified end-of-life choices without compromising the inherent value of life. The moment has arrived for Sri Lanka to engage in a national dialogue on the right to die, ensuring that such discourse acknowledges the end of life autonomy not as a devaluation of life, but as a validation of individual autonomy, rational decision making and dignity in the face of suffering.