

Exploring the Right to Die with Dignity: A Legal Analysis of Indian Legislation and Global Perspectives

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Abstract: *Every human life has value. Every precaution needs to be taken to protect an individual's life. The question of whether someone should be allowed to take their own life is more complex than just logic. The right to die has been a major public discussion point and has gradually gained significance in recent years. The freedom to choose to continue or discontinue medical treatment or a life support system for a terminally ill person, or for someone who has tragically fallen into a comatose or persistent vegetative state, is known as the right to die, or the right to end life in one's own terms. As it should be, active euthanasia is not recognized in India. The Indian Supreme Court has declared that the right to passive euthanasia or to die with dignity is a fundamental right. By legalizing passive euthanasia in 2018, the Hon'ble Supreme Court of India, composed of a Constitutional Bench of five judges, appropriately acknowledged and upheld the right to die with dignity as an essential component of the right to life. Note that the Indian Constitution only specifies the parameters and authority of the right to life in Part III of the Indian Constitution. It is interesting to note that euthanasia is legal and accepted in a number of countries, including the Netherlands, Belgium, Luxembourg, Switzerland, Germany, Japan, Colombia, Albania, and Canada, where it is openly practiced. The author of this paper attempts to analyze the current Indian legislation regarding the right to die with dignity. The author examines Indian law in light of recent rulings by Indian judges regarding the right to pass away in dignity.*

Keywords: Euthanasia, Physician assisted Suicide, Mercy killing, Right to die

1. Introduction

The practice of euthanasia raises complex questions for legal and procedural compliance in many nations. Every adult who is of sound mind is entitled to decide what should happen to them. Without the agreement of an adult who is cognizant and in good mental health, it is illegal to treat them. Individuals in the Permanent Vegetative State (PVS) who do not have any chance of recovery are unable to decide what kind of treatment they should receive. What is in the patient's best interest is ultimately up to the Court to determine, *parens patriae*.

Every person wants to live and experience life to the fullest before passing away. A person is odd if they take their own life in an unusual method. We refer to ending a person's life on one's own as "suicide," whereas ending a person's life at another person's request is known as "euthanasia" or "mercy killing."¹

People who have a fatal illness or have grown incompetent and don't want to suffer for the remainder of their life are typically the ones who are linked with euthanasia. A terminally sick patient's right cannot be conflated with the right of an able-bodied, sane individual. The contentious topic of euthanasia includes morality, values, and societal views.

The topic of euthanasia has generated a lot of discussion worldwide. The developments made the debate more and more important. Euthanasia is permitted in the Netherlands, Belgium, Colombia, and Luxembourg. While assisted suicide is outlawed in places like Mexico and Thailand, it is permitted in Switzerland, Germany, Japan, and some US

states. While active euthanasia is still up for debate, passive euthanasia is permitted in India.

Meaning of Euthanasia

The Greek terms "eu" and "thanatos," which signify "good death" or "easy death," are the source of the word "euthanasia". Another name for it is Mercy Killing. Euthanasia refers to the deliberate and premature taking of another person's life, either through active euthanasia or passive euthanasia, which involves withholding resources and life-prolonging measures. Either explicitly or implicitly at their request (voluntary euthanasia) or without their consent (non-voluntary euthanasia).

Euthanasia is defined as "the act or practice of killing or bringing about the death of a person who suffers from an incurable disease or condition, especially a painful one, out of mercy" in Black's Law Dictionary (8th edition).

Euthanasia, put simply, is the act of taking a person who is suffering from an incurable illness or who is experiencing unbearable pain, suffering, and misery in life and releasing them from these conditions. The act of giving a patient medication with the express purpose of ending their life at their request is known as euthanasia. The term "euthanasia" refers to the practice of ending a person's life without causing them any pain, particularly in cases of unrelenting suffering or when a physical or mental disability renders life meaningless. The practice of killing someone to relieve them of unbearable pain or suffering or to allow or cause a painless death when life has become unpleasant and pointless is known as euthanasia or mercy killing.

In the contemporary setting, euthanasia is restricted to the act of physicians ending the life of a patient upon the patient's request in order to relieve them of severe pain or a terminal illness. Therefore, the main goal of euthanasia is to

¹<https://www.scobserver.in/cases/common-cause-euthanasia-and-the-right-to-die-with-dignity-case-background/>

ensure a less painful death for someone who is ultimately going to pass away after a protracted period of suffering.²

Legal Status of Right To Die:

Right to die with dignity as a fundamental Right

One of the most fundamental natural rights of humans is the right to life, as stated in Part III (Article 21) of the Indian Constitution. Article 21 forbids taking away someone's life or liberty unless it is done in accordance with a legally prescribed procedure. It guarantees that the state has a duty to give each individual a life of dignity and good quality. The judiciary has interpreted this right in a highly detailed manner, bringing new rights under its jurisdiction. The right to die was not regarded as a fundamental right prior to the Common Cause ruling. However, the Court stated in its ruling that the right to a dignified death is an essential one.

Analysis of Judgment in Common Cause v. UOI³

In the instant writ petition *Common Cause (A Regd. Society) v. Union of India*, the Supreme Court of India on March 9, 2018 acknowledged death with dignity as a Fundamental Right under Article 21 of the Constitution. To enable the exercise of this right, the Court gave effect to the Advanced Medical Directives and the Medical Attorney Authorization. The most anticipated demand to legalize passive euthanasia in the Indian legal system was met with this action by the Apex Judiciary.

This decision is a tribute to individual autonomy because it made it possible for people to create living wills and power of attorney documents that would allow a patient to stop receiving treatment in the event that they are terminally ill or in a permanent vegetative state.

Gian Kaur Case

The Dictum established in *P. Rathinam* did not last very long as a precedent. The Constitution Bench examined whether the ruling in *Gian Kaur v. State of Punjab* by P. Rathinam was correct. In this instance, the trial court found the appellants guilty in accordance with Section 306 of the IPC. The IPC's Section 306 addresses aiding and abetting suicide and makes it a crime. It says what follows:

306 - Aiding another person in committing suicide: If someone helps another person commit suicide, they may be fined and imprisoned for a maximum of ten years, depending on the type of imprisonment.

The conviction was challenged on the grounds that Section 306 IPC was unconstitutional. To support their position, they cited the ruling in *P. Rathinam*, which upheld the unconstitutionality of Section 309 IPC. In this case, it was argued that, since Section 309 IPC had been declared unconstitutional, anyone encouraging suicide was only helping to uphold Article 21's Fundamental Rights.

The court held that since each fundamental right is unique, they should not all be treated under the same criteria.

Consequently, while Article 19's guarantees included a negative element, Article 21's guarantees cannot be interpreted in a comparable way. Therefore, the right to life could not include the treatment of an unnatural death.⁴

In this case, the Constitution Bench ruled that the existence of such a right would extend until the end of natural life, and that this included the right to live with human dignity. It went on to say that this conception may also include a dying man's right to a dignified death as his life is coming to an end, or it may include the right to a dignified life up to the point of death, including a dignified death procedure. The court made it clear that the right to an unnatural death that shortens one's natural life expectancy was not the same as the right to die with dignity at the end of one's life.

Thus, the Constitution Bench ruled that Section 309 IPC was constitutional after considering a number of factors. It looked into the constitutionality of Section 306 and found it to be so. The Court in *Gian Kaur* eventually overturned *P. Rathinam*.

Aruna Shanbaug's Case⁵

The Supreme Court addressed the question of allowing or legalizing euthanasia for the first time ever in the *Aruna Ramachandra Shanbaug v. Union of India*. While employed as a staff nurse at King Edward Memorial Hospital in Mumbai, Aruna Ramachandra Shanbaug was violently attacked and suffered severe injuries that rendered her permanently vegetative. Over the course of thirty - six years, she received care from the hospital staff and nurses, but her condition did not improve. The petitioner's next friend filed a writ suit, requesting permission to cease feeding the petitioner and let her pass away in peace.⁶

Constitutional Value of Euthanasia

The Supreme Court has ruled in numerous cases that the term "life" refers to more than just animal existence or a life of constant toil. Its meaning is far more expansive. The right to life is one of the fundamental human rights, and no one, not even the state, has the power to violate it, the court ruled in *the State of Andhra Pradesh v. Challa Ramkrishna Reddy*.

The Court determined that active euthanasia was illegal in the *Aruna Shanbaug* case. It allowed passive euthanasia as long as it was carried out in accordance with due process and under the High Court's supervision until a law was passed by the legislature. The right to life is guaranteed by Article 21, and this cannot be interpreted to include the preservation of life within the framework of life protection. The court has determined that suicide cannot be covered by Article 21. Suicide is an unnatural way to end one's life, making it incompatible and inconsistent with the idea of the right to life, which is a natural right that is embodied in Article 21.

²<https://blog.ipleaders.in/right-to-die-with-dignity/>

³<https://www.hindustantimes.com/cities/delhi-news/apex-court-strives-to-untangle-legal-process-around-passive-euthanasia-101673977151241.html>

⁴<https://blog.ipleaders.in/right-to-die-with-dignity/>

⁵<https://www.livelaw.in/columns/euthanasia-right-to-die-constitutional-law-aruna-shanbaug-article-21-section-309-indian-penal-code-207134>

⁶<https://clpr.org.in/blog/euthanasia-and-the-right-to-die-in-india/>

When matter is investigated within the framework of medical science, it becomes more complex. It is required of all doctors to take the Hippocratic Oath, which commits them to doing everything in their power to protect the lives of the patients they treat and are treating. He is therefore obligated by this oath to use all reasonable efforts to preserve the patient's life, both morally and professionally.⁷

Furthermore, there is a significant risk of misuse, making it difficult to prevent passive euthanasia from being used as a convenient way to end the life of someone who is deemed undesirable and a tool for corruption. The individual's right to personal autonomy is crucial to maintaining human dignity in the euthanasia debate. The court in *National Legal Services Authority v. Union of India and Others* noted that, as previously mentioned, Article 21 protects an individual's right to personal autonomy.⁸

The court concluded in *Gian Kaur's* case that both the right to life and the right to die are fundamentally at odds with one another. However, the court also made clear that the right to life includes the right to live with dignity, which implies that this right exists until the end of natural life. The court noted that this included the right to a dignified death process and the right to live a dignified life until the point of death. In light of this, the Bench was cautious in its observation that the right to a dignified life may encompass the right of an individual to pass away with dignity when discussing euthanasia.

In the *Common Cause v. Union of India* ruling, *Dr. D. Y. Chandrachud*, J. distinguished between active and passive euthanasia and affirmed the legality of the latter. Based on criminal laws, he distinguishes between the two. According to him, active euthanasia entails intending for the patient to die. *Mens rea* is defined as having a guilty mind, or, in other words, intending to do harm or injury. The act of passive euthanasia does not represent a desire to kill.⁹

In order to prevent artificially prolonging the life of a patient who is in a permanent vegetative state or is in the terminal stage of an illness, a doctor may choose to withhold life support. By refusing to activate the life support system, he is merely allowing the patient's life to end when it naturally does. He is not actually causing death.

The Supreme Court found support for the constitutional principles of liberty, dignity, autonomy, and privacy in the *Common Cause* case, even as it upheld the legitimacy of passive euthanasia and acknowledged the significance of advance directives. Therefore, the Court upheld the Constitution Bench's decision in *Gian Kaur*, which had previously proclaimed the right to a dignified death as a fundamental right, through this ruling. The Court brought up

a few Advanced Directives for the implementation of passive euthanasia.¹⁰

2. Conclusion

The Supreme Court demonstrated how to apply the doctrine of proportionality in the *Common Cause* case by balancing the two aspects of the same right—that is, the right to life guaranteed by Article 21 of the Constitution. The right to life guarantees an individual's autonomy to make decisions regarding their own body while also creating a strong state interest in protecting human life. In this decision, the Supreme Court carefully considered the social, moral, legal, and philosophical ramifications of the right to die debate. Therefore, it had very neatly defined an exception to the sanctity of life principle in situations where an individual's life had become meaningless and prolonging his life would not be in his best interest. The Comparative Jurisprudence of many nations, which the court had referred, was very helpful in providing support for this ruling during the exercise. The Bench members conducted a thorough analysis of international jurisprudence.

The right to a dignified death as a fundamental right and the ability to uphold that right through passive euthanasia were made possible by the Constitution Bench. For patients who are in a permanent vegetative state or who are terminally ill, the court issued specific Advance Directives. In addition, it provided some instructions that patients without Advance Directives needed to follow.

There is a possibility that this right to die with dignity will be exploited, despite the fact that it benefits a great deal of people. The low level of legal knowledge and education among the Indian populace could lead to the avaricious heirs abusing these directives.

Acknowledging the terminally ill patient's right to a dignified death is merely one aspect of the situation. It is still unclear how this right will be applied to those who are requesting to accept death for a variety of urgent causes, including old age, poverty, and a lack of opportunities to pass away in India with dignity.

⁷<https://www.livelaw.in/columns/euthanasia-right-to-die-constitutional-law-aruna-shanbaug-article-21-section-309-indian-penal-code-207134>

⁸<https://www.legalserviceindia.com/legal/article-5024-right-to-die-with-dignity-as-a-fundamental-right-under-article-21.html>

⁹<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3612319/>

¹⁰<https://www.indiatoday.in/law/story/supreme-court-right-to-life-euthanasia-2322832-2023-01-17>