PASSIVE EUTHANASIA AND THE RIGHT TO DIE WITH DIGNITY: AN ANALYSIS OF THE INDIAN LEGAL FRAMEWORK

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ABSTRACT

Euthanasia, especially the right to die with dignity, has become a controversial topic in legal, ethical, and medical discussions. The interpretation of the "right to life"- whether it includes the right to die, particularly in situations involving terminal illness and unbearable suffering is at the forefront of this debate. The "right to die with dignity" does not imply a right to a premature or unnatural death; rather, it advocates for a humane end to life. In India, legal discussions have primarily focused on passive euthanasia, which involves the discontinuation or refusal of life-sustaining medical treatment. As a result, courts are increasingly being asked to provide guidance on whether a patient may decline medical procedures that merely extend life without improving its quality. Medical technology has advanced to the point where individuals with incurable illnesses can be artificially kept alive, often enduring prolonged suffering. In such situations, many argue that palliative care is preferable to aggressive treatment. This study critically explores the multifaceted dimensions of passive euthanasia, encompassing its legal, ethical, and medical ramifications- with the objective of evaluating whether the legal framework should recognize an individual's autonomy to forgo lifeprolonging interventions in favour of a dignified death.

Keywords: Passive Euthanasia, right to die, medical procedures, Palliative care.

1. INTRODUCTION

Historically, individuals suffering from terminal illnesses were typically allowed to die naturally, as medical science lacked the capability to artificially sustain life through interventions such as mechanical ventilation or artificial nutrition. Approximately a century ago, this approach was standard medical practice. In line with these earlier traditions, contemporary legal systems in many jurisdictions continue to recognize the common law right of a terminally ill patient to refuse further medical intervention and allow the illness to progress naturally. It is a well-established legal principle that a mentally competent and conscious terminally ill individual may make an informed decision to decline life-sustaining treatment and opt for a natural death. This right empowers patients to refuse medical interventions that serve only to prolong biological existence without offering the prospect of recovery or meaningful improvement in quality of life.

In modern clinical settings, an increasing number of patients reach an advanced stage of illness where, in the professional judgment of qualified healthcare providers, the likelihood of recovery is negligible. Despite this, advancements in medical technology have enabled the artificial extension of life in such cases, often at the cost of considerable physical and psychological suffering, and with limited clinical benefit. During these prolonged periods, patients may experience severe distress and diminished dignity. Consequently, both patients and medical professionals increasingly advocate for palliative care, which prioritizes pain relief and comfort, over aggressive treatment strategies that merely defer the natural process of dying.

2. DEFINITION AND HISTORICAL BACKGROUND OF EUTHANASIA

Euthanasia, derived from the Greek words Eu (meaning "good" or "well") and thanatos (meaning "death"), refers to the intentional termination of a person's life in order to relieve intractable pain or suffering.[1] Historically, it signifies a “good death” or a death free from excessive pain and distress. The International Euthanasia Society defines euthanasia as a deliberate intervention undertaken with the explicit aim of ending a life to alleviate persistent and intolerable suffering.

Euthanasia can be categorized based on the method used and the consent involved. The primary

[1] Kalaivani Annadurai, Raja Danasekaran & Geetha Mani, ‘Euthanasia: Right to Die with Dignity,’ 3 J Family Med Prim Care 477 (2014), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4311376/.

forms include active and passive euthanasia, while the secondary classifications are voluntary, non-voluntary, and involuntary euthanasia.

Active euthanasia involves direct action to cause the death of a patient, such as administering a lethal injection or medication. In this form, the death results directly from the medical intervention, and it is often regarded as more rapid than passive methods. Despite being the subject of intense ethical debate, active euthanasia remains prohibited in most jurisdictions.[2]

In contrast, passive euthanasia refers to the withholding or withdrawal of life-sustaining treatment, thereby allowing the natural progression of a terminal illness to lead to death. This may include discontinuing artificial nutrition, mechanical ventilation, or life-prolonging medications. Often described poetically as "letting nature take its course," passive euthanasia is considered ethically permissible in many legal systems, particularly when carried out with informed consent or under advanced medical directives. Although it typically involves a slower dying process than active euthanasia, it is viewed as a compassionate response to end-of-life suffering.

One commonly accepted example of passive euthanasia is the administration of highdose pain relief, such as opioids, which, while intended to alleviate severe pain, may also hasten death by suppressing respiratory function. Such practices are generally supported by medical ethics when the primary intention is palliative care rather than the direct hastening of death.

Furthermore, passive euthanasia is frequently considered for patients in irreversible medical conditions such as persistent vegetative states, severe brain injury, or terminal illness, where recovery is deemed impossible by medical professionals. In these circumstances, continuing aggressive treatment may only prolong suffering, with no reasonable expectation of restoring meaningful life.

2.1 Typologies of Euthanasia

Euthanasia can also be categorized according to the volition or consent of the individual involved:

2.2.1 Voluntary Euthanasia: This occurs when a mentally competent individual explicitly

[2] Iain Brassington, What Passive Euthanasia Is, 21 BMC Medical Ethics 41 (2020), https://doi.org/10.1186/s12910-020-00481-7.

requests the termination of their life, either verbally or through written consent. Both active and passive forms of euthanasia can be carried out under voluntary consent. It is grounded in the principle of autonomy, allowing individuals to make informed decisions about their own end-of-life care.

2.1.2 Non-Voluntary Euthanasia: This form is applied when the patient is incapable of providing consent, such as individuals in a coma, with severe cognitive impairment, or in a persistent vegetative state. In such cases, decisions are made by medical professionals or family members, often based on previously expressed wishes or best interest assessments.[3]

2.1.3 Involuntary Euthanasia: This involves the ending of a person's life without their consent, and in many legal systems, it is equated with unlawful killing or murder. It is the most ethically and legally contentious form of euthanasia and is universally condemned in contemporary bioethics and law.

The legal status of euthanasia varies significantly across countries and jurisdictions. Some regions have enacted legislation permitting certain forms of euthanasia under stringent safeguards, typically limited to voluntary passive euthanasia. In contrast, active euthanasia remains widely prohibited due to its moral, legal, and ethical implications.

3. EUTHANASIA, MERCY KILLING, AND LEGAL DISTINCTIONS

Euthanasia and Mercy Killing:

Euthanasia, often referred to as mercy killing, involves the deliberate termination of a person's life with the primary intention of alleviating unbearable and incurable suffering. It is most commonly associated with voluntary euthanasia, where a mentally competent individual consciously chooses death over prolonged suffering, often under the principle of the "right to die." However, euthanasia may also occur in non-voluntary and involuntary forms. Voluntary euthanasia can be either active or passive. Passive voluntary euthanasia involves the withdrawal or refusal of life-sustaining medical treatment by a patient, allowing the natural course of death

[3] Federal Office of Justice, The Various Forms of Euthanasia and Their Position in Law, https://www.bj.admin.ch/bj/en/home/gesellschaft/gesetzgebung/archiv/sterbehilfe/formen.html (last visited Aug. 3, 2026).

to proceed.[4]

In public discourse, the terms "euthanasia" and "mercy killing" are often used interchangeably. However, the scope and legal interpretations differ significantly, especially when questions of consent and intent are considered.

Euthanasia and Suicide:

While euthanasia and suicide both result in the ending of life, the key distinction lies in the agency and involvement of others. Suicide is a deliberate act by an individual to end their own life, typically without the direct involvement of another person. In contrast, euthanasia involves the intervention of another party, usually a physician or caregiver, to intentionally end a patient's life for the purpose of relieving suffering.[5]

Assisted suicide, including physician-assisted suicide (PAS), further complicates this distinction. In PAS, a doctor provides the means (often lethal medication), but the patient takes the final action to end their own life. Thus, unlike euthanasia, PAS allows the patient to retain control over the process of death

The judiciary in India has drawn a clear legal boundary between euthanasia and suicide. In Maruti Shripati Dubal v. State of Maharashtra, the Bombay High Court held that mercy killing does not fall under the category of suicide, reinforcing that the legal and ethical implications of euthanasia are distinct.[6] Similarly, in P. Rathinam v. Union of India,[7] the Supreme Court emphasized that the constitutional and legal questions arising in the context of suicide differ substantially from those related to euthanasia. Therefore, policies and laws surrounding euthanasia must not be conflated with those concerning suicide.

Euthanasia and Homicide:

Legally, euthanasia may be categorized under homicide, as it involves the intentional ending of a human life. Homicide is generally defined as the unlawful killing of another person, and

[4] Mercy Killing, LII / Legal Information Institute, https://www.law.cornell.edu/wex/mercy_killing (last visited Aug. 3, 2026).
[5] Yelson Alejandro Picón-Jaimes et al., Euthanasia and Assisted Suicide: An In-Depth Review of Relevant Historical Aspects, 75 Ann Med Surg (Lond) 103380 (2022), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8857436/.
[6] In Maruti Shripati Dubal v. State of Maharashtra, 1987 Cr LJ 743.
[7] P. Rathinam v. Union of India 1994 AIR 1844, 1994 SCC (3) 394.

unless legally justified or permitted, euthanasia may fall within this definition particularly in its active form.

In most legal systems, active euthanasia is classified as unlawful homicide, even when carried out at the request of the patient or with the consent of their family.[8] For instance, a physician who disconnects a ventilator from a patient with no chance of recovery may face criminal liability if such an act is not legally sanctioned.

In contrast, passive euthanasia the withholding or withdrawal of life-sustaining treatment is more widely accepted in legal and medical circles, especially when undertaken in accordance with the patient's wishes or advance directives. Passive euthanasia aligns more closely with the concept of "allowing nature to take its course" and is often seen as a compassionate and ethical approach to end-of-life care.

4. CONSTITUTIONAL ASPECTS OF EUTHANASIA IN INDIA

Right to Die with Dignity and the Indian Constitution:

The constitutional discourse surrounding the right to die with dignity has gained significant relevance in recent years, particularly in the context of terminally ill individuals seeking to avoid prolonged suffering. This right is inherently linked to the broader concept of euthanasia, which has come to be viewed not merely as a legal issue but as a question of human dignity and autonomy.

Renowned bioethicist Dan W. Brock characterizes euthanasia as a form of "psychological insurance," offering reassurance to individuals who fear enduring uncontrollable pain and the loss of dignity at the end of life. In this sense, the right to die with dignity functions as a safeguard against suffering that may otherwise render one's final days inhumane. The concept is further supported by the increasing global acceptance of living wills legal documents in which individuals outline their preferences regarding medical treatment should they become incapacitated. Such directives are seen as extensions of the right to self-determination and dignity in death.

[8] B. R. Sonnen, [Euthanasia as legally liable homicide or sanctioned assisted suicide], 28 Z Gerontol Geriatr 279 (1995).

Article 21 of the Indian Constitution:

Article 21 of the Constitution of India guarantees the fundamental right to life and personal liberty, stating:

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

This provision, which stems from the Government of India Act, 1935, originally encompassed only protection from arbitrary state action. However, through judicial interpretation, the scope of Article 21 has been considerably widened to include various facets of human dignity, quality of life, and bodily autonomy.[9] Judicial Expansion of Article 21:

The landmark case of Maneka Gandhi v. Union of India (1978) significantly redefined the interpretation of personal liberty under Article 21. The Supreme Court held that the right to life is not confined to mere animal existence or survival but includes the right to live with dignity. In this judgment, the Court established that any procedure depriving a person of their liberty must not only conform to Article 21 but must also meet the standards of reasonableness and fairness enshrined in Articles 14 and 19.

This doctrinal integration of Articles 14, 19, and 21 laid the foundation for a range of derivative rights such as the right to clean air, safe drinking water, sound health, livelihood, legal aid, education, and a pollution-free environment. More recently, this expanded interpretation has included discussions on the right to die with dignity.

Right to Life vs. Right to Die:

The debate on whether the right to life under Article 21 includes the right to die has been a contentious one in Indian jurisprudence. The Bombay High Court, in the case of Maruti Shripati Dubal v. State of Maharashtra (1987), dealt with the constitutional validity of Section 309 of the Indian Penal Code (IPC), 1860, which criminalizes attempted suicide. The petitioner had survived a suicide attempt and was charged under this provision. The High Court held that Section 309 IPC was unconstitutional, declaring it arbitrary, inhumane, and counterproductive. The Court emphasized the need for psychological support rather than criminal prosecution in

[9] The Right to Die with Dignity, Aashayein Judiciary, https://www.alec.co.in/show-blog-page/the-right-to-diewith-dignity (last visited Aug 5,2026).

such cases.[10] This reasoning was upheld by the Supreme Court of India in P. Rathinam v. Union of India (1994), where a two-judge bench ruled that the right to life under Article 21 also includes the right to die, and accordingly, Section 309 IPC was deemed violative of constitutional principles.

However, this interpretation was overturned in the landmark case of Gian Kaur v. State of Punjab (1996). A Constitution Bench of five judges held that the right to life does not include the right to die, and reaffirmed the validity of Section 309 IPC. The Court reasoned that the right to die contradicts the sanctity of life protected under Article 21. However, it did acknowledge, in obiter, that the right to die with dignity may be construed as part of the right to life in the context of terminal illness or incurable conditions.[11] Evolving Jurisprudence on the Right to Die with Dignity:

The observation made in Gian Kaur laid the groundwork for future legal developments, particularly the recognition of passive euthanasia. In Common Cause v. Union of India (2018), the Supreme Court formally recognized the right to die with dignity as a fundamental right under Article 21. The Court permitted passive euthanasia and upheld the validity of advance medical directives (living wills), allowing individuals to express their wishes regarding endof-life care in the event of terminal illness or permanent vegetative state.[12] Article 21 and the Constitutional Framework:

Article 21 of the Constitution of India guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law." This foundational provision underpins the right to life and liberty for all individuals, signifying not merely survival, but the right to live with dignity. The legal interpretation of Article 21 has evolved to encompass a range of derivative rights, including the right to privacy, the right to health, and, more recently, the right to die with dignity.

While the literal reading of Article 21 does not explicitly refer to the right to die, constitutional jurisprudence and ethical discourse have gradually shifted to recognize that the right to life inherently includes the right to a dignified death, especially in the context of terminal illness and irreversible medical conditions. This understanding is particularly relevant when

[10] Suresh Bada Math & Santosh K. Chaturvedi, Euthanasia: Right to Life vs Right to Die, 136 Indian J Med Res 899 (2012), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3612319/.
[11] Gian Kaur v. State of Punjab AIR 1996 SC 946, 1996 SCC (2) 648.
[12] Common Cause v. Union of India (2018) 5 SCC 1, AIR 2018 SC 1665

considering passive euthanasia, which involves the withdrawal or withholding of lifesustaining treatment, allowing death to occur naturally.[13]

The constitutional discourse also finds resonance in the Universal Declaration of Human Rights, which affirms the right of every individual to live with dignity and safety. Suicide, in this context, is seen as inconsistent with the concept of dignity, yet the nuanced distinction between suicide and a patient's informed refusal of futile treatment characteristic of passive euthanasia forms the basis of modern legal debates.

Right to Refuse Medical Treatment:

In recent years, the right of patients to refuse treatment especially when such treatment serves only to prolong suffering has received increasing recognition. Though still developing in Indian jurisprudence and regulatory frameworks, the acknowledgment of this right reflects a broader shift towards patient autonomy and informed consent. While some critics argue that allowing passive euthanasia may open the door to abuse, legal safeguards can ensure that such choices are exercised ethically and voluntarily.[14]

The Law Commission of India and the Evolution of Euthanasia Laws:

The question of euthanasia has been the subject of multiple Law Commission reports over the decades. The 35th Report of the Law Commission of India (1967), while primarily addressing capital punishment, briefly touched upon euthanasia as a method of execution, suggesting lethal injection as a more humane alternative. It raised fundamental questions about whether acts of mercy killing conducted to relieve unbearable suffering should be exempted from criminal liability under the Indian Penal Code.

A questionnaire included in the report sought public and expert opinion on whether euthanasia should be considered a punishable offense. While many respondents were sympathetic to the idea of exempting genuine cases of compassionate euthanasia, the Commission ultimately concluded that legalizing euthanasia was inadvisable at that time due to concerns about misuse

[13] admin, Euthanasia: Right to Die with Dignity, Das Legal (Oct. 30, 2024), https://www.daslegal.co.in/euthanasiaright-to-die-with-dignity/.
[14] Right to Refuse Treatment, Vermont Ethics Network | Advancing health care ethics (Feb. 13, 2024), https://vtethicsnetwork.org/medical-ethics/right-to-refuse-treatment.

and the difficulty in distinguishing genuine cases from criminal acts.[15] The report underscored that while the law allows for a flexible approach by reducing the charge from murder to culpable homicide not amounting to murder in select circumstances it was not yet prepared to offer full immunity from criminal liability for acts of euthanasia. The Commission left the door open for future reconsideration should public opinion and medical jurisprudence evolve.

Judicial Recognition and Passive Euthanasia in India:

In the landmark case of Aruna Ramachandra Shanbaug v. Union of India (2011), the Supreme Court of India formally recognized passive euthanasia as constitutionally valid under specific conditions. The Court allowed the withdrawal of life support from patients in a permanent vegetative state (PVS), subject to approval by the High Court, which would act in its role as parens patriae the guardian of persons unable to make decisions for themselves.[16]

As part of the procedural safeguards, the Court mandated the formation of a medical board comprising three independent and qualified physicians to assess the patient's condition. The wishes of the patient's family, along with the recommendation of the medical board, would guide the court in authorizing the withdrawal of treatment. This framework balances the right to die with dignity with the need to prevent potential misuse.

Recommendations of the Law Commission and Legislative Developments:

The 241st Report of the Law Commission of India, published in 2012, supported the Supreme Court's decision in Aruna Shanbaug's case and recommended legal recognition of passive euthanasia. It emphasized that a mentally competent adult should have the right to refuse medical treatment, including life-sustaining therapy, provided such refusal is made with full knowledge of the consequences (i.e., an informed decision).

To formalize this, the Medical Treatment of Terminally ill Patients (Protection of Patients and Medical Practitioners) Bill, 2006 was proposed. However, it faced resistance from the Ministry of Health and Family Welfare, which argued against its enactment. The Ministry cited several concerns, including:

[15] Right to Die: Court in Review, Supreme Court Observer, https://www.scobserver.in/journal/right-to-die-courtin-review/ (last visited Aug. 5, 2026).
[16] Indian Supreme Court Eases Norms for Passive Euthanasia – The World Federation of Right to Die Societies, https://wfrtds.org/indian-supreme-court-eases-norms-for-passive-euthanasia/ (last visited Aug. 5, 2026).

- The Hippocratic Oath, which prohibits physicians from deliberately ending a patient's life.
- A potential negative impact on medical research, palliative care, and rehabilitation efforts.
- The transient nature of a patient's wish to die, especially in cases of temporary despair or mental illness.
- The difficulty in objectively determining incurability or irreversible suffering.
- The risk of coercion or psychological pressure on vulnerable patients or medical professionals.

Furthermore, critics argued that defining terms such as "incurable," "bedridden," or "permanent invalidity" remains problematic within medical practice. Physicians may not always be in a position to assert with certainty that a condition is untreatable or that the patient's suffering is beyond alleviation.

5. CASE LAWS:

GIAN KAUR V. STATE OF PUNJAB

In Gian Kaur vs State of Punjab case[17], Judges stated the constitutional validity of the Article 14 and 21 with Section 306 and 309 of the Indian Penal Code, 1860. It was stated that Attempt to suicide is not covered under Article 21 of the Indian Constitution as it is against the nature to accelerate dying. If any person finds to do so attempt will held liable and punished with imprisonment of 1 year. If a person abets any person to do so will be held liable and punished with the rigorous imprisonment up to 10 years or with fine or with both. Every person should live their life in a dignified manner. Hence, Section 309 of the IPC is constitutionally valid and does not violate Article 21 of the Constitution.

RELEVANT PROVISIONS:

1.Section 306 of the Indian Penal code ;1860 which provides for the offence of abetment of

[17] Gian Kaur vs State of Punjab case AIR 1996 SC 946, 1996 SCC (2) 648

suicide.

2.Section 309 of the Indian Penal Code, 1860 Which, states that everyone who survives an attempt to suicide will be punished.

1. Article 14 of the Indian Constitution which states that every person is equal in the eyes of equal.

2.Article 21 of the Indian Constitution which states that every person has a right to life and liberty.

Analysis of the Gian Kaur v. State of Punjab Case: A Constitutional Perspective on the Right to Life and Suicide Laws in India Factual Background:

In the landmark case of Gian Kaur v. State of Punjab, the appellants, Gian Kaur and her husband Harbans Singh, were charged with the abetment of suicide of their daughter-in-law. The Trial Court convicted both under Section 306 of the Indian Penal Code, 1860, sentencing them to six years of rigorous imprisonment along with a fine of ₹2,000. In the event of default in payment, an additional imprisonment of nine months was imposed.

Subsequently, the appellants appealed the decision in the Punjab and Haryana High Court, which upheld the conviction but reduced the sentence from six years to three years of imprisonment.[18]

Legal Issues Raised:

The case brought to light two critical constitutional and legal questions:

- Whether Section 306 of the Indian Penal Code is constitutionally valid.
- Whether Section 309 of the Indian Penal Code violates Articles 14 and 21 of the Constitution of India.

Judgment and Reasoning:

The Constitution Bench of the Supreme Court in Gian Kaur v. State of Punjab ([1996] 2 SCC

[18] Right to Death (Suicide) Is Not Part of the Right to Life: Supreme Court of India (1996) -, (Nov. 20, 2023), https://unfoldlaw.in/right-to-deathsuicide-is-not-part-of-right-to-life/.

648) undertook a detailed examination of the constitutional validity of Sections 306 and 309 of the IPC, particularly in the light of Articles 14 (Right to Equality) and 21 (Right to Life and Personal Liberty).

On the Right to Life and the Concept of a "Right to Die"

The Court held that the "right to life" guaranteed under Article 21 does not include within its ambit the "right to die" or the right to terminate one's life, as such an interpretation would be inconsistent with the sanctity of life, a fundamental value protected by the Constitution. The Bench emphasized that life is a natural process, and its premature termination, whether by oneself or another, runs counter to the fundamental principle of the preservation of life.

This decision explicitly overruled the earlier judgment in P. Rathinam v. Union of India [(1994) 3 SCC 394], wherein the Court had previously held that Section 309 (attempt to commit suicide) was unconstitutional on the grounds that it violated Article 21. The Gian Kaur judgment clarified that such an interpretation was flawed and not in harmony with constitutional principles.

Validity of Section 309 IPC: The Supreme Court concluded that Section 309 IPC, which criminalizes attempted suicide, is constitutionally valid. It was held that the penal provision does not violate either Article 14 or Article 21 of the Constitution. The Court reasoned that permitting the right to die under Article 21 would create a paradox, undermining the very essence of the right to life.

Validity of Section 306 IPC: As for Section 306 IPC, which deals with abetment of suicide, the Court held it to be legally and constitutionally valid. While an individual attempting suicide may be viewed with sympathy, abetting suicide is a serious criminal offence, and penal provisions punishing such acts are essential for protecting societal interests and preventing misuse. The Court emphasized the necessity of punishing those who induce or encourage others to take their own lives, especially in cases involving coercion, harassment, or abuse. Accordingly, the convictions of both appellants under Section 306 were upheld.

Precedents Cited:

The judgment referenced several important cases, including:

- Naresh Marotrao Sakbre v. Union of India (1895)
- Maruti Shripati Dubal v. State of Maharashtra (1987)
- P. Rathinam v. Union of India (1994)

The Court critically analysed these precedents and notably set aside the ruling in P. Rathinam, which had expanded Article 21 to include the right to die.

Conclusion and Constitutional Significance:

The Supreme Court in Gian Kaur v. State of Punjab reaffirmed the constitutional sanctity of life, underscoring that no individual has an absolute right to end their own life or the life of another, either directly or through abetment. The decision validated Sections 306 and 309 of the IPC, reinforcing the position that both abetment of suicide and attempt to commit suicide are punishable offences under Indian law.

The case carries significant implications for the ongoing legal discourse on euthanasia, mental health, and patient autonomy, particularly in how the right to die with dignity is distinguished from suicide. While the judgment rejected suicide as a constitutional right, it laid the groundwork for future debates on passive euthanasia, which was later recognized in Aruna Ramachandra Shanbaug v. Union of India (2011) and further refined in Common Cause v. Union of India (2018).

ARUNA SHANBAUG VS. UNION OF INDIA

Facts of the Case

Aruna Ramchandra Shanbaug was a staff nurse employed at King Edward Memorial (KEM) Hospital in Mumbai. On November 27, 1973, she was brutally assaulted by a hospital sweeper who attempted to rape her. In the course of the attack, he strangled her with a dog chain, cutting off oxygen supply to her brain, and subsequently sodomized her upon realizing that she was menstruating. The following morning, on November 28, 1973, a cleaner discovered Ms. Shanbaug lying unconscious in a pool of blood.

The strangulation caused severe hypoxic brain injury, damaging her cerebral cortex, and also resulted in brain stem contusion and cervical cord injury. Consequently, Ms. Shanbaug

remained in a Permanent Vegetative State (PVS) for decades. In 2009 thirty-six years after the assault a close friend filed a petition under Article 32 of the Indian Constitution, seeking permission for euthanasia, citing her irreversible medical condition and prolonged suffering.

Respondent's Arguments:

The Dean of KEM Hospital opposed the plea, emphasizing that the hospital staff had provided dedicated and compassionate care to Ms. Shanbaug for over three decades. The staff expressed strong emotional attachment to her and argued that euthanasia would be both unethical and unnecessary, as she was being adequately cared for and could pass away naturally due to age-related decline.

They further contended that legalizing euthanasia could open doors to potential misuse by family members or others with ulterior motives. The hospital staff's unwavering commitment demonstrated by nurses willing to care for her without compensation was presented as evidence of their moral and emotional investment in her well-being. The respondents also highlighted that since Ms. Shanbaug was incapable of expressing consent, determining who could legally authorize termination of life support would be problematic. Ending her life, they argued, would be immoral, inhumane, and a violation of her right to live. Petitioner's Arguments:

The petitioner, a friend of Ms. Shanbaug, filed a plea asserting that Article 21 of the Constitution which guarantees the right to life should also encompass the right to die with dignity. The counsel argued that individuals in a terminal condition or permanent vegetative state should be allowed to end prolonged physical and emotional suffering through passive euthanasia.

Ms. Shanbaug, they contended, was entirely unaware of her surroundings, unable to eat, speak, or move, and had shown no signs of recovery for 36 years. Her continued existence was described as merely biological rather than conscious. The petitioner further argued that discontinuing her feeding and medical support would not amount to killing her but rather allowing nature to take its course.

Judgment:

The Supreme Court distinguished between active and passive euthanasia. Active euthanasia deliberately ending a person's life through lethal injection or similar means is illegal under

Indian law, violating Sections 302 and 304 of the Indian Penal Code (IPC). Physician-assisted suicide is also punishable under Section 309 IPC.

Passive euthanasia, by contrast, involves withdrawal of life-sustaining treatment or medical intervention. The key distinction, as identified by the Court, lies in intent and action: active euthanasia involves an act to cause death, whereas passive euthanasia involves omission, allowing death to occur naturally.

The Court rejected the petitioner's plea but established a legal framework for allowing passive euthanasia in exceptional circumstances. It directed that any such decision must be made by the High Court under Article 226, following a specific procedure. The Chief Justice of the High Court must form a bench to evaluate each application, assisted by a committee of three qualified medical experts. A thorough medical examination is required, and notice must be given to the state and the patient's relatives before a prompt judicial decision is issued. Through this ruling, the Court laid down procedural safeguards to prevent misuse while acknowledging passive euthanasia as permissible under judicial supervision in rare cases.

COMMON CAUSE (A REGD. SOCIETY) VS. UNION OF INDIA AND ANR.

Facts:

This writ petition sought a declaration that the "right to die with dignity" is encompassed within the broader ambit of the "right to live with dignity" under Article 21 of the Constitution of India. The petition aimed to ensure that individuals suffering from terminal illness or in a state of irreversible medical decline be allowed to execute a living will or

Advance Medical Directive (AMD). Initially placed before a three-judge bench of the Supreme Court, the matter was later referred to a Constitution Bench in light of conflicting judicial precedents concerning the legal position on the right to die in India[19].

The jurisprudential trajectory of this issue began with P. Rathinam v. Union of India [(1994) 3 SCC 394], in which a Division Bench of the Supreme Court held that Section 309 of the Indian Penal Code, 1860 which criminalized attempted suicide was unconstitutional as it violated Articles 14 and 21 of the Constitution. The Court opined that the right to die was inherent in

[19] Common Cause v. Union of India, Naya Legal, https://www.nayalegal.com/common-cause-v-union-of-india (last visited Aug. 6, 2026).

the right to live. However, this position was overruled in Gian Kaur v. State of Punjab [1996 AIR 946], wherein a Constitution Bench held that the right to life under Article 21 does not include the right to die.

Subsequently, in Aruna Ramachandra Shanbaug v. Union of India [(2011) 4 SCC 454], the Court recognized the permissibility of passive euthanasia in exceptional circumstances, subject to strict procedural safeguards.

Issue:

Whether the right to die with dignity is a fundamental right under Article 21 of the Constitution of India?

Arguments:

The Petitioner contended that the preservation of individual autonomy is a core component of the right to privacy and liberty. It was argued that artificially prolonging the life of a person in a persistent vegetative state through advanced medical interventions causes unnecessary suffering and infringes upon the individual's autonomy and dignity. The petitioner asserted that the right to die with dignity is intrinsically linked to the right to live with dignity and invoked the principle that no person should be compelled to undergo medical treatment against their will. Refusal of unwanted medical treatment, it was argued, is a well-established common law right.

The Respondent-State, in its counter-affidavit, submitted that the Ministry of Health and Family Welfare had deliberated on the regulation of euthanasia but found it inadvisable. It argued that the right to live with dignity under Article 21 pertains primarily to the assurance of food, shelter, and healthcare and does not extend to include the right to die.[20]

An intervention application was filed by the "Society for the Right to Die with Dignity," which was admitted by the Court. The society supported the recognition of euthanasia and emphasized the importance of allowing individuals to make a peaceful exit from life. It also advocated for the legal validity of a living will and submitted a sample directive for the Court's consideration.

[20] Aparna Chandra, Misadventures of the Supreme Court in Aruna Shanbaug v. Union of India, Law and Other Things (Mar. 13, 2011), https://lawandotherthings.com/misadventures-of-supreme-court-in-aruna/.

Decision:

The Supreme Court reaffirmed that the right to die with dignity is a fundamental right under Article 21, aligning with the principles laid down in Gian Kaur, albeit clarifying that the said judgment did not preclude the possibility of passive euthanasia. The Court distinguished between active euthanasia (which involves a deliberate act leading to death) and passive euthanasia (which involves the withdrawal of medical support to allow natural death). The Court held that the conclusion in Aruna Shanbaug that passive euthanasia could only be legalised through legislation was incorrect.

In relation to Advance Medical Directives (Living Wills), the Court held that there exists a clear conceptual and legal foundation for their acceptance in India. It recognized that the right to execute such directives is essential for the protection of an individual's right to self-determination and bodily integrity. For individuals unable to express an informed decision due to their medical condition, the Court endorsed a "best interest" principle whereby a legally recognized guardian could make decisions on the patient's behalf.[21]

The Court heavily relied on the decision in Justice K.S. Puttaswamy v. Union of India, especially on the exposition of the right to privacy and its connection to personal autonomy and liberty. All six opinions from the Puttaswamy judgment were examined to reinforce the importance of autonomy in matters of life and death.

The Court also drew upon foreign jurisprudence. In In re Quinlan [70 N.J. 10; 355 A.2d 647 (1976)], the New Jersey Supreme Court held that as the patient's prognosis worsened, the state's interest diminished, thereby increasing the significance of the individual's right to privacy and bodily autonomy. Similarly, in Pretty v. The United Kingdom [Application No. 2346/02], the European Court of Human Rights held that the right to avoid an undignified and distressing death is protected under Article 8(1) of the European Convention on Human Rights.

Ultimately, the Supreme Court of India concluded that the right to privacy demands the protection of individual autonomy in personal decisions, particularly those concerning the end of life. The Court held that the right to die with dignity is an extension of the right to life and

[21] Common Cause Vs. Union of India: A Landmark Judgment on Euthanasia and The Right to Die with Dignity » Lawful Legal, (Dec. 29, 2024), https://lawfullegal.in/common-cause-vs-union-of-india-a-landmark-judgment-oneuthanasia-and-the-right-to-die-with-dignity/.

personal liberty under Article 21, and recognized passive euthanasia and living wills as constitutionally valid.

6. CRITICAL ANALYSIS

On March 9, 2018, the Supreme Court of India, in its ruling in the Aruna Shanbaug case, legally recognized passive euthanasia, allowing the withdrawal of life support for patients in a persistent vegetative state. While the judgment did not authorize the removal of lifesustaining treatment specifically for Ms. Shanbaug, the Court thoroughly examined the concept of assisted suicide. It observed that withdrawing nutrition and medical care from an unconscious individual may be interpreted as a form of passive euthanasia rather than active killing.

In the landmark judgment of Common Cause v. Union of India (2018), the Supreme Court further elaborated on this legal and ethical framework. The petition in this case called for the formal recognition of passive euthanasia and the legal validity of a "living will", a document in which individuals could specify their preferences regarding end-of-life medical care in the event that they become incapacitated. Justice D.Y. Chandrachud, writing for the Court, reflected on the nature of life and death, noting that they are intrinsically connected: "Life and death are inseparable... our bodies are in constant transformation... death is a natural part of life."

The Court held that when all curative options are exhausted, and there is no hope for recovery, euthanasia becomes the only humane alternative for terminally ill patients or those in an irreversible vegetative state. Crucially, the Court recognized several fundamental rights in this context: the Right to Die with Dignity, the Right to Autonomy, and the Right to Self Determination all as extensions of Article 21 of the Indian Constitution, which guarantees the Right to Life.

However, the legalization of euthanasia in India also presents serious risks of misuse. There are valid concerns about the potential for exploitation, particularly in light of widespread corruption in certain healthcare institutions. Instances have been reported where unethical hospital administrators allegedly accept bribes from family members to authorize euthanasia for patients who do not meet the necessary criteria. Moreover, the possibility of organ trafficking adds another layer of complexity and raises serious ethical and legal concerns. In certain tragic situations such as dowry-related violence there are fears that euthanasia could be

used to mask criminal acts.

Given these potential risks, it is imperative that euthanasia in India be governed by strict oversight mechanisms. The establishment of a central regulatory authority, under the direction of the Government of India, is essential to prevent abuse and ensure that decisions related to euthanasia are made ethically, transparently, and within a robust legal framework. The Supreme Court's recognition of the right to die with dignity as part of Article 21 underscores the need for a comprehensive legislative framework, which Parliament must enact to regulate and safeguard this sensitive aspect of human rights and medical ethics.

7. ETHICAL AND LEGAL IMPLICATIONS OF PASSIVE EUTHANASIA IN INDIA

The concept of the "right to life" under Article 21 of the Indian Constitution extends beyond mere existence; it encompasses the right to live with dignity and respect, including the ability to die with dignity. However, this notion must not be conflated with a general "right to die", which implies an unnatural or premature end to life. The core ethical and legal debate surrounding euthanasia thus centres on whether it can be reconciled with the right to life, especially when it involves the deliberate termination of life.

Patients suffering from terminal illnesses often experience severe, unrelenting pain. For some, the psychological and physical burden becomes so unbearable that they may prefer to end their suffering rather than prolong their agony. This raises a difficult ethical question: should terminally ill individuals be allowed assistance in ending their lives, or must they endure their condition until natural death occurs?

The Supreme Court's judgment in Aruna Ramchandra Shanbaug v. Union of India provides important clarity in this context. The Court allowed for passive euthanasia, but only under strict conditions specifically in cases where the patient is either in a permanent vegetative state or suffering from an incurable terminal illness. The judgment laid down procedural safeguards to ensure that decisions to withdraw life support are made with due care, legal oversight, and medical expertise. It allowed patients, under appropriate circumstances, to refuse or be withdrawn from life-sustaining treatment, marking a crucial step in acknowledging patient autonomy.

The Court also addressed the issue of attempted suicide, observing in the Aruna Shanbaug

judgment that individuals who attempt suicide often require psychological assistance and empathy, rather than criminal punishment. This observation encouraged the decriminalization of Section 309 of the Indian Penal Code, which penalized attempted suicide a move later reflected in legislative reform through the Mental Healthcare Act, 2017, which decriminalized such acts under specific conditions.

While the Aruna Shanbaug case laid the groundwork for recognizing passive euthanasia, the Supreme Court's decision in Common Cause v. Union of India (2018) expanded upon this principle. It declared that the right to die with dignity is an essential component of the right to life, thereby granting it the status of a fundamental right under Article 21. The judgment also validated the living will or advance directive, enabling individuals to express their wishes regarding end-of-life care in the event of future incapacitation.

Additionally, ongoing legal discourse such as the Nikhil Soni v. Union of India case related to the Jain practice of Santhara (voluntary fasting unto death) continues to shape public and legal attitudes toward end-of-life decisions. These debates have also triggered important discussions about hospice care, palliative treatment, organ donation, and the state's responsibility to ensure access to dignified healthcare at all stages of life, including its end.

8. SUGGESTIONS

1. Enact Comprehensive Legislation: While the judiciary has provided a framework for passive euthanasia, there is a pressing need for comprehensive legislation that clearly defines the procedures, safeguards, and responsibilities of all stakeholders involved. Such legislation should codify the rights of patients, the obligations of medical professionals, and the role of judicial oversight to ensure clarity and consistency in the application of the law.

2. Promote Awareness and Understanding of Advance Directives: The concept of advance directives, though legally recognized, remains relatively unfamiliar to many in India. Public awareness campaigns and education for medical professionals should be undertaken to inform people about their rights to make advance directives. This will empower individuals to make informed decisions about their end-of-life care and ensure that their wishes are respected.

3. Establish Clear and Accessible Procedures: The implementation of passive euthanasia and advance directives should be governed by clear, accessible, and efficient

procedures. This includes creating standardized forms for advance directives, setting up easily accessible medical boards for evaluating euthanasia requests, and ensuring that the judicial process for reviewing such cases is streamlined to prevent undue delays.

4. Strengthen Safeguards Against Abuse: Given the sensitive nature of euthanasia, it is essential to have stringent safeguards to prevent abuse and coercion. Regular audits, strict penalties for violations, and an independent oversight body could be established to monitor compliance with the legal framework. Additionally, psychological evaluations should be mandated to ensure that the decision to withdraw life support is made without undue influence or external pressure.

5. Cultural and Ethical Sensitivity: Any legislative or policy framework on euthanasia must be sensitive to the cultural and religious diversity of India. This includes engaging with religious leaders, ethicists, and community representatives to create a legal approach that respects different beliefs and values while upholding constitutional rights.

6. Training for Healthcare Professionals: Medical practitioners need to be adequately trained in the ethical, legal, and procedural aspects of passive euthanasia. This training should include guidance on how to handle sensitive discussions with patients and families, how to respect advance directives, and how to navigate the legal requirements involved in end-of-life care.

7. Judicial Oversight and Flexibility: While judicial oversight is crucial to prevent misuse, the legal framework should also allow for flexibility in cases where rapid decisions are required, such as in emergencies. Establishing special tribunals or fast-track procedures could help address the need for timely decisions in such cases, ensuring that patient dignity is not compromised by bureaucratic delays.

8. Continuous Review and Adaptation: The legal and ethical landscape of euthanasia is likely to evolve over time. Therefore, it is important to establish mechanisms for the continuous review and adaptation of laws and policies related to euthanasia. This could involve periodic consultations with legal experts, medical professionals, ethicists, and the public to ensure that the legal framework remains relevant and effective in addressing new challenges and developments.

In conclusion, while India has made significant progress in recognizing the right to die with dignity, there is still much work to be done to refine and implement a comprehensive legal framework for passive euthanasia. By enacting clear legislation, promoting public awareness, and ensuring robust safeguards, India can create a compassionate, ethical, and legally sound approach to end-of-life care that respects individual autonomy while protecting the vulnerable.

9. CONCLUSION

The issue of passive euthanasia in India presents a profound intersection of legal, ethical, and constitutional dimensions. Over the years, the Indian judiciary has played a pivotal role in shaping the legal framework surrounding euthanasia, particularly through landmark rulings like Aruna Ramchandra Shanbaug v. Union of India (2011) and Common Cause v. Union of India (2018).

These decisions have progressively recognized the right to die with dignity as an intrinsic part of the fundamental right to life under Article 21 of the Indian Constitution. The recognition of passive euthanasia and the legal validity of advance directives mark significant strides in respecting individual autonomy and the right to self-determination at the end of life. However, these advancements also underscore the need for robust safeguards to prevent potential misuse, ensure informed consent, and protect vulnerable individuals.

The constitutional balancing act between preserving life and respecting personal dignity and autonomy reflects the complex moral landscape of euthanasia in India. Despite these legal developments, the issue of passive euthanasia continues to evoke diverse opinions, influenced by cultural, religious, and moral considerations. The evolving legal framework seeks to honour the autonomy and dignity of individuals while ensuring that decisions around euthanasia are made ethically, transparently, and with due consideration for the broader implications on society.

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