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+91 70421 48991
editor@ijlar.com
www.ijlar.com

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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

PASSIVE EUTHANASIA IN INDIA: A STEP TOWARDS RECOGNIZING THE RIGHT TO DEATH

AUTHORED BY - SHRUTI UPADHYAY

Passive euthanasia in India represents one of the most significant developments in constitutional law, where the judiciary has attempted to reconcile the sanctity of life with the dignity of death. The issue revolves around a deeply complex question: whether the right to life under Article 21 of the Constitution includes the right to die. While Indian law has traditionally emphasized the preservation of life, modern judicial thinking acknowledges that forcing an individual to live in a state of irreversible suffering, terminal illness, or permanent vegetative condition may amount to a violation of human dignity. Passive euthanasia, which involves the withdrawal or withholding of life-sustaining treatment, has emerged as a legally permissible method to allow death to occur naturally, without direct human intervention.

The constitutional foundation of passive euthanasia lies in the expansive interpretation of Article 21, which guarantees the right to life and personal liberty. Over the years, the Supreme Court has interpreted this provision to include not merely physical survival but a life lived with dignity, autonomy, and privacy. This transformation of Article 21 from a narrow guarantee to a broad repository of human rights has enabled the judiciary to engage with end-of-life issues. However, the recognition of a “right to death” has not been straightforward and has evolved through conflicting judicial pronouncements.

The debate first gained prominence in *P. Rathinam v. Union of India* (1994), where the Supreme Court took a radical view by holding that the right to life includes the right not to live, thereby striking down Section 309 of the Indian Penal Code, which criminalized attempt to suicide. The Court reasoned that if a person has the freedom to live with dignity, they should also have the freedom to end their life in cases of extreme suffering. However, this interpretation was short-lived. In *Gian Kaur v. State of Punjab* (1996), a Constitution Bench overruled *P. Rathinam* and

held that the right to life does not include the right to die. The Court emphasized that life is a natural right, whereas death is an unnatural termination of life. Nevertheless, the judgment made a crucial observation that the right to life includes the right to die with dignity in cases of terminal illness or a vegetative state. This distinction laid the groundwork for future recognition of passive euthanasia.

A major breakthrough in the evolution of euthanasia jurisprudence in India came with the landmark judgment in *Aruna Ramchandra Shanbaug v. Union of India* (2011), which is widely regarded as the foundational case on passive euthanasia. This case not only brought the issue of end-of-life decisions into the public and legal spotlight but also compelled the judiciary to address the complex intersection of law, ethics, and medical science. Aruna Shanbaug, a nurse working at King Edward Memorial Hospital in Mumbai, had been in a persistent vegetative state for more than four decades after she was brutally assaulted and strangled in 1973. The attack caused severe brain damage, leaving her unable to move, communicate, or respond meaningfully to external stimuli. For years, she was kept alive through basic medical care and feeding, with no realistic hope of recovery.

The petition for euthanasia was filed by journalist Pinki Virani, who argued that continuing life support in such a condition violated Aruna's dignity and amounted to cruel and inhuman treatment. The case raised fundamental questions about whether the right to life under Article 21 includes the right to die with dignity, and whether the State or the courts could permit the withdrawal of life-sustaining treatment. The Supreme Court, while deeply sympathetic to Aruna's condition, ultimately rejected the plea for euthanasia in her specific case. The Court relied significantly on the views of the hospital staff and medical experts, who expressed their willingness to continue caring for her and did not consider withdrawal of treatment to be in her best interest.

Despite denying relief in the individual case, the Court took a progressive and historic step by formally recognizing passive euthanasia as legally permissible in India under certain strict conditions. It distinguished between active euthanasia, which involves a deliberate act to end life and remains illegal, and passive euthanasia, which involves the withdrawal or withholding of life-sustaining treatment, allowing the patient to die naturally. The Court held that passive euthanasia

could be allowed in exceptional cases where continuing treatment would serve no meaningful purpose and would only prolong suffering.

To prevent misuse, the Court laid down detailed procedural safeguards. It ruled that any decision to withdraw life support must be approved by the concerned High Court, which would act as a guardian of the patient's rights. The High Court, in turn, was required to constitute a bench and seek the opinion of a panel of medical experts before arriving at a decision. Additionally, notice had to be given to the patient's relatives or next of kin to ensure transparency and fairness. One of the most significant contributions of this judgment was the introduction of the "best interest of the patient" principle, which shifted the focus from mere biological survival to the quality of life and dignity of the individual.

Thus, the Aruna Shanbaug case marked a turning point in Indian legal history. It was the first time that passive euthanasia received judicial recognition, albeit within a limited and highly regulated framework. The judgment laid the foundation for future developments, particularly the recognition of living wills and the right to die with dignity in later cases, and remains a cornerstone in the ongoing discourse on the right to death in India.

The jurisprudence reached its most advanced stage in *Common Cause v. Union of India* (2018), where the Supreme Court unequivocally held that the right to die with dignity is a fundamental right under Article 21. The Court recognized passive euthanasia not merely as a judicial exception but as a constitutional entitlement. One of the most significant contributions of this judgment was the legalization of "living wills" or advance directives. A living will allows an individual to specify in advance that they do not wish to be kept alive through artificial life-support systems in the event of terminal illness or incapacity. The Court laid down detailed guidelines regarding the execution and implementation of such directives, including the requirement of witnesses, authentication, and approval by medical boards. This judgment significantly strengthened individual autonomy and ensured that personal choices regarding death are respected.

Recent developments indicate that passive euthanasia is no longer confined to theoretical recognition but is being implemented in practice. In a notable case involving Harish Rana, who

remained in a vegetative state for over a decade, the Supreme Court permitted the withdrawal of life support, thereby allowing him to die with dignity. This case demonstrates the practical application of the principles laid down in Common Cause and highlights a gradual shift in societal and legal attitudes towards end-of-life decisions. It signifies that passive euthanasia in India has moved from judicial acknowledgment to real-world enforcement.

Despite these developments, the legal position in India remains cautious and restrictive. Active euthanasia, which involves a deliberate act to end life, continues to be illegal and is treated as culpable homicide under criminal law. Passive euthanasia, on the other hand, is permitted but subject to stringent procedural safeguards to prevent misuse. These safeguards include medical evaluations, consent requirements, and institutional oversight, reflecting the state's concern to balance individual autonomy with the protection of vulnerable persons.

The recognition of passive euthanasia raises several ethical and legal challenges. One of the primary concerns is the potential for misuse, particularly in a socio-economic context where family members may have conflicting interests. There is also the moral dilemma faced by medical professionals, who must balance their duty to preserve life with respect for patient autonomy. Additionally, the procedural complexity involved in executing living wills and obtaining approvals often creates practical barriers, limiting the accessibility of this right.

From a critical perspective, passive euthanasia can be seen as a partial acknowledgment of the right to death. While it affirms the principle that individuals should not be forced to endure undignified suffering, it stops short of granting a comprehensive right to end one's life. The continued prohibition of active euthanasia reflects the state's cautious approach, influenced by ethical, cultural, and religious considerations. Thus, India adopts a middle-path approach, permitting passive euthanasia in exceptional circumstances while maintaining strict control over the process.

In conclusion, the recognition of passive euthanasia in India marks a profound transformation in constitutional philosophy, where the judiciary has gradually shifted its focus from the mere preservation of life to the protection of human dignity. The journey from *P. Rathinam v. Union of*

India to *Gian Kaur v. State of Punjab*, and ultimately to *Common Cause v. Union of India*, reflects a nuanced and evolving understanding of Article 21. While the Supreme Court has consistently rejected the notion of an absolute “right to die,” it has simultaneously carved out a space for the “right to die with dignity,” particularly in cases of terminal illness and irreversible vegetative conditions. This careful balancing demonstrates the Court’s attempt to harmonize individual autonomy with the State’s obligation to safeguard life.

Passive euthanasia, as it stands today, is not merely a legal exception but a constitutionally recognized practice grounded in dignity, autonomy, and humane considerations. The legalization of living wills and advance directives has further strengthened this framework by empowering individuals to make informed choices about their end-of-life care. It ensures that a person is not reduced to a passive subject of medical technology but remains an active decision-maker even in incapacity. At the same time, the strict procedural safeguards—such as medical board approvals and judicial oversight—serve as necessary checks against potential misuse, especially in a society where socio-economic vulnerabilities and familial pressures may influence such decisions.

However, despite these progressive developments, the Indian legal system continues to adopt a cautious and conservative approach. The complete prohibition of active euthanasia indicates that the State is not yet prepared to fully embrace the idea of a comprehensive right to death. Ethical concerns, religious sentiments, and the risk of abuse remain significant barriers. Moreover, the procedural complexities involved in implementing passive euthanasia often limit its practical accessibility, raising questions about whether this right is truly available to all or only to those who can navigate the legal and medical system effectively.

From a broader perspective, passive euthanasia in India represents a “middle path” approach—one that neither fully endorses nor entirely rejects the concept of the right to death. It acknowledges that life, when stripped of dignity, autonomy, and hope of recovery, may lose its constitutional value. Yet, it simultaneously reinforces the principle that life cannot be terminated lightly or arbitrarily. This delicate balance reflects the Indian judiciary’s sensitivity to both individual rights and societal values.

Ultimately, passive euthanasia is a significant step towards recognizing the right to death, but it is not its final destination. The future of this doctrine will depend on clearer legislative backing, simplification of procedures, increased awareness about living wills, and a more open societal dialogue on death and dignity. As legal, medical, and ethical perspectives continue to evolve, India may gradually move towards a more comprehensive and coherent framework that fully respects both life and the dignity inherent in death.

