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Introduction

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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.

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RIGHT TO DIE WITH DIGNITY UNDER ARTICLE 21: A CRITICAL APPRAISAL OF INDIA'S EUTHANASIA JURISPRUDENCE

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ABSTRACT:

The question of whether an individual possesses a right to die with dignity has emerged as a complex constitutional issue in India. While Article 21 of the Constitution guarantees the right to life and personal liberty, judicial interpretation has expanded its scope to include dignity as an essential component.¹ This paper critically examines whether such dignity extends to the end of life. Through an analysis of leading judicial pronouncements, including Gian Kaur v. State of Punjab, Aruna Shanbaug v. Union of India, and Common Cause v. Union of India, the study evaluates the evolution of euthanasia jurisprudence in India. It further explores the legal status of passive euthanasia and living wills, while identifying procedural and ethical challenges. The paper argues that although judicial recognition of the right to die with dignity marks progressive development, the absence of a comprehensive legislative framework continues to create uncertainty. It concludes by advocating for structured legal reform that balances autonomy with safeguards against misuse.

Keywords : Right to Die with Dignity; Article 21; Euthanasia; Passive Euthanasia; Living Wills; Constitutional Law; Human Dignity; End-of-Life Decisions; Judicial Activism

1.1 INTRODUCTION :

The sanctity of life has traditionally been a foundational principle of Indian law. However, developments in medical science have significantly altered the manner in which life is prolonged, particularly in cases involving terminal illness or irreversible medical conditions. This transformation has led to a fundamental legal and ethical dilemma: whether the right to live with dignity under Article 21 also encompasses the right to die with dignity.

The Indian judiciary has, over time, interpreted Article 21 expansively to include rights such as privacy, health, and a dignified existence.¹ The debate surrounding euthanasia arises at the intersection of personal autonomy, medical ethics, and constitutional values. While active euthanasia remains prohibited, passive euthanasia has been judicially recognized under specific conditions. This paper examines the evolution of this legal position and evaluates its practical implications.

1.1.1 IMPORTANCE OF THE RESEARCH:

The concept of euthanasia² and the right to die with dignity is becoming increasingly important in today's time, especially because medical technology can now keep a person alive even in situations where there is no chance of recovery. This creates serious questions about whether a person should be forced to continue living in pain or be allowed to die with dignity.

In India, the Supreme Court in *Common Cause v. Union of India* recognized that the right to die with dignity is a part of the right to life³ under Article 21. While this is a major step forward, there is still no clear and complete law on euthanasia. Because of this, many practical problems arise, such as confusion among doctors, lack of awareness among people, and difficulty in following procedures like living wills. This research is important because it helps in understanding these issues in a simple and practical way. It studies how the law has developed through important judgments and also highlights the gap between what the law says and what actually happens in real life. It also focuses on the challenges faced by patients and their families during end-of-life decisions,⁴ which are often emotional and complex. It aims to show that while protecting life is

¹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (expanding the scope of Article 21 to include fairness, reasonableness, and due process).

² Ibid.

³ Upendra Baxi, "Human Rights and the Right to Life" 25 Journal of Indian Law Institute 211 (1983).

⁴ V.N. Shukla, Constitution of India 135 (Eastern Book Company, Lucknow, Latest ed.).

important, respecting the dignity and wishes of a person is equally necessary. It also highlights the need for a clear and proper legal framework in India that can guide doctors, protect patients, and prevent misuse. Overall, this research is significant because it not only explains the current legal position but also tries to suggest improvements so that the law can be more practical, humane, and effective.⁵

1.1.2 OBJECTIVE OF THE RESEARCH :

1. To examine whether the right to die with dignity forms part of Article 21.
2. To analyse judicial developments relating to euthanasia in India.
3. To evaluate the legal position of passive euthanasia and living wills.
4. To identify challenges in implementation and suggest reforms.

1.2 RESEARCH METHODOLOGY:

This study adopts a doctrinal method of research. It relies on constitutional provisions, judicial decisions, and secondary sources such as legal commentaries and academic writings. The analysis is qualitative in nature and focuses on interpretation rather than empirical data.

1.3 MEANING AND TYPES OF EUTHANASIA:

Euthanasia means **ending a person's life to relieve them from severe pain or suffering**, especially when they are suffering from a serious or incurable illness. It is often called a “**mercy killing**” because the intention is to provide a peaceful and painless death.⁶ In India, only **passive euthanasia** (stopping or withdrawing treatment) is allowed under certain conditions, as recognized in *Common Cause v. Union of India*⁷, while active euthanasia is still illegal.

Euthanasia can be classified into the following types:

- **Active Euthanasia:** Direct action is taken to end a patient's life (illegal in India).

⁵ Ibid.

⁶ Ratanlal and Dhirajlal, *The Indian Penal Code 215* (LexisNexis, New Delhi, Latest ed.).

⁷ *Common Cause v. Union of India*, (2018) 5 SCC 1.

- **Passive Euthanasia:** Withdrawal or withholding of medical treatment⁸(legally permitted under conditions).
- **Voluntary Euthanasia:** With the consent of the patient.
- **Non-voluntary Euthanasia:** Without the patient's consent (e.g., coma cases).

Indian law currently recognizes only passive euthanasia, subject to judicial safeguards.

1.4 RESEARCH QUESTIONS

1. Whether the right to die with dignity is a part of the right to life under Article 21 of the Constitution of India?
2. How has the law on euthanasia developed in India through judicial decisions and legal safeguards of the euthanasia?
3. What are the practical, legal, and ethical challenges in implementing the right to die with dignity in India?
4. What is the present legal position of euthanasia in India, especially with respect to passive euthanasia and living wills?

1.5 CONSTITUTIONAL FRAMEWORK :

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Judicial interpretation has expanded this provision to include the right to live with dignity. The question, however, is whether this dignity extends to the process of dying. In *Gian Kaur v. State of Punjab (1996)*, the Supreme Court held that the right to life does not include a general right to die.⁹ However, the Court acknowledged that dignity in the process of death may fall within Article 21 in specific circumstances. This includes:

- Right to privacy¹⁰
- Right to health
- Right to a clean environment

⁸ Law Commission of India, "196th Report on Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners)" (2006).

⁹ *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648.

¹⁰ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

The extension of this principle to include the right to die with dignity is not straightforward. The Court has drawn a distinction between the right to die and the right to die with dignity, especially in cases of terminal illness.

The right to die with dignity in India is rooted in **Article 21 of the Constitution**, which guarantees the right to life and personal liberty. The Supreme Court has interpreted this provision broadly to include not just survival, but a life lived with dignity, autonomy, and respect. Over time, the judiciary has clarified that dignity is not limited to life alone but also extends to the process of dying. In *Gian Kaur v. State of Punjab*, the Court held that the right to life does not include a general right to die, but it acknowledged that a dignified death in cases of terminal illness could fall within Article 21.¹¹

This idea was further developed in *Aruna Shanbaug v. Union of India*, where the Supreme Court allowed passive euthanasia under strict conditions. The most important development came in *Common Cause v. Union of India*, where the Court clearly recognized that the right to die with dignity is a fundamental right under Article 21. It also emphasized the importance of personal autonomy and the right of an individual to refuse medical treatment.

1.6 WHETHER THE RIGHT TO DIE WITH DIGNITY IS A PART OF THE RIGHT TO LIFE AND PERSONAL LIBERTY UNDER ARTICLE 21 OF THE INDIAN CONSTITUTION?

Yes, the right to life under Article 21 of the Constitution of India includes the **right to die with dignity**, but only in a limited and carefully controlled manner. Traditionally, Indian law did not recognize any form of right to die. The Supreme Court in *Gian Kaur v. State of Punjab* clearly held that the right to life does not include the right to die, and therefore suicide or its attempt cannot be treated as a fundamental right. However, the Court made an important observation that the concept of dignity is not limited to life alone but also extends to the process of dying, especially in cases of terminal illness.

This idea was later developed further by the judiciary. In *Aruna Shanbaug v. Union of India*, the Supreme Court allowed **passive euthanasia** under strict conditions, recognizing that continuing

¹¹ Ibid – the Court observed that the right to life includes the right to live with dignity, which may extend to a dignified process of death in cases of terminal illness.

life support in certain cases may only prolong suffering rather than preserve dignity.¹² The most significant development came in *Common Cause v. Union of India*, where the Supreme Court explicitly held that the **right to die with dignity is a part of the right to life under Article 21**. The Court emphasized that forcing a person to undergo prolonged medical treatment in a state of irreversible suffering violates their dignity and autonomy. It also recognized the validity of **living wills and advance directives**, allowing individuals to decide in advance whether they wish to continue life-sustaining treatment in such situations.

However, this right is not absolute. The Court has clearly restricted it to specific circumstances, mainly involving terminal illness or permanent vegetative states. It does not permit **active euthanasia**¹³, which involves directly causing death, and such acts remain illegal in India. The right can only be exercised through legally recognized procedures and safeguards to prevent misuse. While Article 21 does not provide a general right to die, it does include the right to die with dignity in limited situations. This reflects a balanced approach by the judiciary, where the sanctity of life is respected, but individual dignity and autonomy are also protected at the end of life.

1.7 HOW HAS THE LAW ON EUTHANASIA DEVELOPED IN INDIA THROUGH JUDICIAL DECISIONS AND LEGAL SAFEGUARDS?

JUDICIAL EVOLUTION OF THE RIGHT TO DIE WITH DIGNITY:

1. Gian Kaur v. State of Punjab (1996)

The Court rejected the argument that the right to die is a fundamental right. However, it clarified that the concept of dignity may extend to end-of-life situations involving terminal illness.

2. Aruna Shanbaug v. Union of India (2011)

This case marked a turning point. The Supreme Court permitted passive euthanasia under strict judicial supervision. It required High Court approval and medical evaluation before withdrawal of life support.

3. Common Cause v. Union of India (2018)

¹² Ibid – the Court recognised that withdrawal of life support may be justified where continuation serves no meaningful purpose and merely prolongs suffering.

¹³ Indian Council of Medical Research, “Guidelines on End-of-Life Care” (2018).

This landmark judgment firmly established that the right to die with dignity is a part of Article 21. The Court also recognized the validity of living wills and advance directives, thereby strengthening individual autonomy.¹⁴

1.7.1 LEGAL SAFEGUARDS:

Since euthanasia is a sensitive issue, the Supreme Court has provided strict safeguards:

- **Living Will / Advance Directive:** A person can record their wishes in advance regarding medical treatment.
- **Free Consent:** The decision must be voluntary and free from pressure or coercion.
- **Medical Board Review:** A panel of doctors must confirm that the patient is terminally ill or in an irreversible condition.¹⁵
- **Procedure for Withdrawal of Treatment:** Proper steps must be followed before stopping life support.
- **Protection for Doctors:** Doctors acting in good faith are protected from legal liability.¹⁶
- **Multiple Checks:** Safeguards ensure that decisions are genuine and not misused.

1.8 WHAT ARE THE PRACTICAL, LEGAL, AND ETHICAL CHALLENGES IN IMPLEMENTING THE RIGHT TO DIE WITH DIGNITY IN INDIA?

The recognition of the right to die with dignity in India marks an important step in protecting human dignity and personal choice. The Supreme Court in *Common Cause v. Union of India* accepted that a person should not be forced to live in a condition of extreme suffering when there is no hope of recovery. This shows a shift in the law from only protecting life to also respecting the quality and dignity of life. However, even with this recognition, the real challenge lies in how this right is applied in practice.¹⁷

¹⁴ Id.

¹⁵ Ibid.

¹⁶ Indian Penal Code, s. 88.

¹⁷ Ibid – the Court legally recognised advance directives (living wills) and laid down procedural safeguards for withdrawal of life support.

1.8.1 Practical Challenges

- **Lack of awareness:** Most people are not aware of concepts like living wills or their rights regarding end-of-life decisions.
- **Complex procedures:** The process for executing and implementing living wills and withdrawing treatment is complicated and time-consuming.
- **Medical hesitation:** Doctors are often reluctant to act due to fear of legal consequences or lack of clear guidelines.
- **Infrastructure issues:** Not all hospitals have proper systems or ethics committees to handle such cases effectively.

1.8.2 Legal Challenges

- **No comprehensive law:** India does not have a specific statute on euthanasia; the law is mainly based on court judgments.
- **Uncertainty and ambiguity:** Reliance on judicial guidelines creates confusion for doctors and families.
- **Conflict with IPC provisions:** Sections like **abetment of suicide (Section 306 IPC)**¹⁸ create hesitation in decision-making.
- **Implementation gaps:** Even though living wills are legal, there is no uniform system to enforce them properly.

1.8.3 Ethical Challenges

- **Risk of misuse:** There is a possibility that vulnerable patients may be pressured by family members for financial or personal reasons.
- **Socio-economic factors:** Poverty and lack of access to healthcare may influence decisions, making them not truly voluntary.
- **Moral and cultural beliefs:** Many people believe that life is sacred and should not be ended under any circumstances.
- **Doctor's dilemma:** Medical professionals face ethical conflicts between saving life and respecting patient autonomy.

¹⁸ The Indian Penal Code, 1860 (Act 45 of 1860), s. 306.

1.9 WHAT IS THE PRESENT LEGAL POSITION OF EUTHANASIA IN INDIA, ESPECIALLY WITH RESPECT TO PASSIVE EUTHANASIA AND LIVING WILLS?

The present legal position of euthanasia in India is that, a person is allowed to **die naturally with dignity by refusing treatment**, but cannot actively end their life. The law tries to balance **respect for life** with **respect for human dignity**, but still lacks a clear and complete legislation.¹⁹ **There is only passive euthanasia is permitted**, and even that is allowed under strict legal safeguards. The Supreme Court in *Common Cause v. Union of India* recognized that the **right to die with dignity is a part of Article 21 of the Constitution of India**, which guarantees the right to life and personal liberty. This means that a person cannot be forced to continue life in a state of extreme suffering with no hope of recovery.

1.9.1 PASSIVE EUTHANASIA (Legal Position)

Passive euthanasia refers to **withdrawing or withholding life-sustaining treatment**²⁰, such as ventilators or artificial support, when it only prolongs suffering.²¹ This was first allowed in *Aruna Shanbaug v. Union of India* and later firmly recognized in *Common Cause*.

However, it is allowed only:

- a) After proper medical examination
- b) With approval of medical boards
- c) Following prescribed legal procedures

1.9.2 LIVING WILLS (Advance Directives)

A **living will** is a document in which a person clearly states in advance that they do not want life-sustaining treatment if they become incapable of making decisions. The Supreme Court in *Common Cause* gave legal recognition to living wills in India.²²

¹⁹ Law Commission of India, *Passive Euthanasia: A Relook*, Report No. 241, 2012.

²⁰ Ratanlal and Dhirajlal, *The Indian Penal Code 215* (LexisNexis, New Delhi, Latest ed.).

²¹ *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454.

²² *Common Cause v. Union of India*, (2018) 5 SCC 1.

1.9.3 RELEVANT LEGAL PROVISIONS

- a) *Constitution of India: Article 21* – Right to life and personal liberty (includes right to die with dignity)
- b) *Indian Penal Code (IPC), 1860:*
 - **Section 306** – Abetment of suicide (punishable)²³
 - **Section 309** – Attempt to commit suicide²⁴ (though decriminalized to some extent, still relevant in legal context)

These provisions show that while the law generally discourages taking one's life, an exception is made in limited situations of passive euthanasia.

1.9.4 IMPORTANT CASE LAWS

- a) *Gian Kaur v. State of Punjab* – No general right to die, but dignity in dying recognized
- b) *Aruna Shanbaug v. Union of India* – Passive euthanasia allowed with safeguards
- c) *Common Cause v. Union of India* – Right to die with dignity recognized; living wills legalized

2.0 FINDINGS:

The study reveals that the recognition of the right to die with dignity in India is a significant development in constitutional law, but its practical application is still evolving.²⁵ Firstly, the Supreme Court in *Common Cause v. Union of India* has clearly established that the right to die with dignity is a part of Article 21. This shows a shift towards respecting individual autonomy and human dignity, especially in cases of terminal illness. Secondly, the law on euthanasia in India has developed mainly through judicial decisions such as *Gian Kaur v. State of Punjab* and *Aruna Shanbaug v. Union of India*, rather than through legislation. As a result, the current legal framework is not fully comprehensive and depends largely on guidelines laid down by the courts. Thirdly, only **passive euthanasia** is legally permitted in India, along with the recognition of **living wills and advance directives**. However, the procedures involved are still complex, and awareness

²³ The Indian Penal Code, 1860 (Act 45 of 1860), s. 306

²⁴ The Indian Penal Code, 1860 (Act 45 of 1860), s. 309.

²⁵ V.N. Shukla, *Constitution of India* 135 (Eastern Book Company, Lucknow, Latest ed.).

among the general public remains limited.²⁶ Finally, the study finds that there are several challenges in implementation, including legal uncertainty, medical hesitation, lack of awareness, and ethical concerns. These issues make it difficult to fully realize the right in practice.²⁷ **Overall**, the findings show that while India has taken an important step in recognizing the right to die with dignity, there is a clear need for a **comprehensive and well-defined legal framework** to ensure its effective and safe implementation.²⁸

2.1 REFORM:

The recognition of the right to die with dignity is a positive step but with clear laws, simple procedures, proper awareness, and strong safeguards, the right to die with dignity can truly become a compassionate and respectful choice—one that protects both human life and human dignity. To make the right to die with dignity truly meaningful in India, the law needs to move from theory to practice in a smooth and practical way. First, India needs a **clear and proper law on euthanasia**. At present, most of the rules come from court decisions like *Common Cause v. Union of India*, which can sometimes create confusion. A well-defined law will make things clearer for everyone—patients, families, and doctors. Second, the **process for living wills and withdrawal of treatment should be simple and practical**. When a person is already in a difficult medical situation, complicated procedures only add to the stress.

Third, there should be **greater awareness among people**. Many individuals are still unaware that they have the right to make decisions about their own medical treatment in advance.²⁹ Fourth, **doctors should feel confident and protected** while taking such decisions. Clear guidelines and legal protection will help them act without fear when they are working in the best interest of the patient. Fifth, it is equally important to have **strong safeguards** so that this right is not misused. Every decision should be voluntary, genuine, and carefully checked. Finally, India can **learn from global practices**, but any reform must suit Indian values and realities.

²⁶ *Common Cause v. Union of India*, (2018) 5 SCC 1.

²⁷ Law Commission of India, “241st Report on Passive Euthanasia” (2012).

²⁸ Law Commission of India, “196th Report on Medical Treatment to Terminally Ill Patients (Protection of Patients and Medical Practitioners)” (2006).

²⁹ V.N. Shukla, *Constitution of India* 140 (Eastern Book Company, Lucknow, Latest ed.).

2.2 CONCLUSION:

The recognition of the right to die with dignity is an important and positive step in Indian law. By interpreting Article 21 in a broader way, the Supreme Court in *Common Cause v. Union of India* has made it clear that dignity is not only important while living, but also at the end of life. This shows that the law is slowly becoming more sensitive to human suffering and the need for personal choice. At the same time, the present system is mainly based on court decisions and not on a clear law made by Parliament. Because of this, there are practical problems like confusion among doctors, lack of awareness among people, and complicated procedures. So, even though the right exists, it is not always easy to use in real life.³⁰ However, these problems can be improved. If India introduces a proper law, simplifies the process, and spreads awareness, this right can be used in a better and safer way. It is important to maintain a balance—while protecting life, the law should also respect a person's dignity and wishes. In simple words, the right to die with dignity is not about encouraging death, but about allowing a person to have a peaceful and respectful end when life becomes extremely painful. With the right safeguards and a clear legal system, this right can be applied in a fair and humane manner.

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