
END-OF-LIFE RIGHTS: WHERE LAW MEETS CONSCIENCE

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ABSTRACT

In India, the “right to die with dignity” has emerged as a pivotal ethical and legal issue, intricately woven into the nation's evolving healthcare and human rights landscape. This piece meticulously traces how this right, intrinsically linked to the constitutional right to life under Article 21, ensures a dignified end, especially for those facing terminal illness or irreversible suffering.

The study assesses pivotal moments in Indian law, starting with the 2011 Aruna Shanbaug case, which cautiously introduced passive euthanasia under strict judicial oversight. The 2018 Common Cause judgment further solidified this by not only re-affirming passive euthanasia but also recognizing Advance Medical Directives (living wills). This ruling was a significant stride towards individual autonomy. The abstract highlights how, in 2023, procedural guidelines for these living wills were simplified, making them more accessible by requiring only notarization and witness attestation.

However, the focus then shifts to the persistent challenges. Despite judicial clarity, state-level implementation remains fragmented. This piece argues that while Karnataka has commendably operationalized a system for living wills, and Maharashtra is developing a similar mechanism, most other Indian states lag, creating legal uncertainty.

Key concerns explored include low public awareness, inadequate medical training in end-of-life care, and fears of misuse. This study emphasizes the ethical dilemmas surrounding patient autonomy versus the protection of vulnerable individuals, compounded by cultural resistance to discussing death. This abstract ultimately argues for a unified, rights-based approach. It calls for legislative reform, institutional readiness, medical sensitization, and community engagement to ensure this profound personal liberty is not just legally sanctioned but also practically accessible and ethically safeguarded across India.

Keywords: Rights to Die with Dignity, Passive Euthanasia, Living Will, Article 21 of Indian Constitution, Patient Autonomy

Introduction

The complex intersection of legal frameworks and individual conscience is evident in discussing surrounding end-of-life choices for those experiencing profound suffering. While Indian laws aim to structure these choices, their practical application often reveals a gap between legal sanction and ethical comfort for individuals, healthcare providers, and communities. This tension highlights the challenge of balancing personal autonomy with broader societal values and protecting vulnerable individuals.

The “right to die with dignity” is an emerging ethical and legal concern, directly addressing an individual's right to make end-of-life decisions when facing terminal illness or irreversible suffering. In India, this right is intrinsically linked to the constitutional right to life. Passive euthanasia and Advance Medical Directives (also known as “living wills”) are now recognized by the law, which is a step towards individual autonomy. However, procedural inconsistencies across states create uncertainty.

From a medical perspective, the “right to die with dignity” introduces crucial considerations for end-of-life care, including the need for improved medical training and navigating ethical dilemmas between patient autonomy and safeguarding vulnerable individuals. Cultural reluctance to discuss death further complicates the medical approach. Addressing these challenges requires not only legal reform but also enhanced medical sensitization and institutional readiness to ensure this profound personal liberty is both practically accessible and ethically protected.

Concept of Euthanasia and living Will

The concepts of euthanasia and a living will are both centered on an individual's autonomy and the desire to control end-of-life care, particularly in situations of terminal illness or irreversible conditions. They are distinct yet interconnected components of the broader discussion surrounding the “right to die with dignity.”

Let’s break down each concept, with a specific focus on the legal standing in India.

Euthanasia:-

Euthanasia (from Greek, meaning “good death”) refers to the deliberate act of ending a person’s

life to relieve intractable pain and suffering caused by an incurable or terminal illness.

Euthanasia is typically classified in two main ways:

Based on the method of action:

- **Active Euthanasia:** This involves a direct and intentional intervention to cause death, such as administering a lethal dose of medication. It's a positive act aimed at ending life.
- **Passive Euthanasia:** This includes the withholding or withdrawal of life-sustaining medical treatment, allowing the patient to die naturally of their underlying medical condition. Examples include disconnecting a ventilator, stopping feeding tubes, or failing to initiate CPR.

Based on consent:

- **Voluntary Euthanasia:** Performed when the patient explicitly requests to end their life.
- **Non-Voluntary Euthanasia:** Performed when the patient is unable to give consent (e.g., in a coma, severe dementia), and the decision is made by others (usually family and medical professionals) based on the patient's presumed wishes or best interests.
- **Involuntary Euthanasia:** Performed against the patient's will. This is considered murder and is illegal.

In India:

Active euthanasia is illegal and constitutes a criminal offense¹. Passive euthanasia holds legal recognition within India, contingent upon adherence to rigorous guidelines stipulated by the Supreme Court of India in the landmark *Common Cause (A Regd. Society) vs. Union of India* judgment of 2018², further streamlined in 2023.

Living Will

A Living Will, known in India as an Advance Medical Directive (AMD), is a legal document that allows a person to make decision about their future medical treatment, especially regarding

end-of-life care, in anticipation of a time when they might be unable to communicate those decisions themselves due to incapacitation.

It empowers individuals to express their wishes about medical treatment while they are still of sound mind and capable of making decisions. The Supreme Court's guidelines (2018, revised 2023) mandate a rigorous process for its implementation, involving multiple medical board assessments and JMFC approval, to ensure authenticity and prevent misuse before life support can be withdrawn.

Legal Framework in India

The Supreme Court's interpretation of Article 21 of the Indian Constitution³ has played a significant role in the slow development of the legal acceptance of the right to die with dignity in India. The Supreme Court has expanded the definition of this article throughout time to encompass the right to live with dignity, in addition to protecting the rights to life and personal liberty.

The Supreme Court decided in the 2018 *Common Cause v. Union of India* case that Article 21 also includes the right to die with dignity, especially for those who are suffering from a terminal disease or an incurable coma. This was a landmark decision, where a significant decision acknowledging your fundamental right to live with dignity, even when facing the end of life, was made. A five-judge Constitution Bench ruled that passive euthanasia is now legally permissible in India, provided it follows stringent guidelines. This means you have the power to decide about your medical treatment in advance. The Court recognized the legality of a living will, also known as an advance directive. This allows you to clearly state your wishes beforehand about refusing life-sustaining treatment if you ever reach a point where recovery is impossible. The core of this judgment is about your right to live or die. The Court emphasized that forcing someone to endure prolonged medical treatment against their will is a violation of their fundamental right to dignity, which is protected under Article 21 of the Constitution.

Landmark Judgements

- **Aruna Shanbaug v. Union of India (2011)⁴:**

The poignant case of Aruna Shanbaug, a nurse who tragically endured a persistent vegetative state for over 37 years following a brutal assault, served as the direct impetus

for a significant evolution in Indian jurisprudence concerning end-of-life decisions. A petition seeking “mercy killing” for her brought the issue of end-of-life choices to the Supreme Court. While her specific request for euthanasia was denied, the Court’s 2011 ruling was groundbreaking. It affirmed the legality of passive euthanasia – the withdrawal of life support in truly hopeless medical conditions – for the first time. However, this permission came with strict conditions: mandatory High Court approval, based on expert medical opinion and family consent. This judgment fundamentally expanded the interpretation of the right to live with dignity under Article 21 of the Constitution, laying the foundation for a dignified end-of-life in exceptional circumstances.

- **Cause v. Union of India (2018):**

In a landmark ruling, the Supreme Court of India in *Common Cause v. Union of India* (2018) recognized the right to die with dignity as a fundamental aspect of the right to life under Article 21. This judgment legalized passive euthanasia and upheld the validity of living wills (advance directives), empowering terminally ill patients to refuse life-sustaining treatment in irreversible conditions. A five-judge Constitution Bench established strict guidelines and safeguards, ensuring decisions are made with free will, medical oversight, and judicial supervision, marking a significant advancement for patient autonomy in end-of-life choices.

Ground Reality: How States Are Responding to the Right to Die Judgment

In 2018, the Indian Supreme Court made a landmark decision, further clarified in 2023, by legalizing passive euthanasia and acknowledging the validity of living wills. This ruling empowers individuals to make choices about their end-of-life care, ensuring a dignified passing even in challenging circumstances. However, the practical implementation of this right hinges on individual states, leading to a patchwork of progress across the nation.

Karnataka has emerged as a frontrunner in this regard⁵. In early 2025, its Health Department released comprehensive guidelines, designating officials such as joint commissioners in Bengaluru and executive officers in Taluka Panchayats as custodians responsible for registering and safeguarding advance directives. The state has implemented a robust system featuring dual medical boards—one at the hospital level and another at the district level—all

under the supervision of a Judicial Magistrate, with reports submitted to the High Court. This means residents of Karnataka can now formally create a living will with two witnesses, have it recognized, securely stored, and even integrated with their digital health records. Notably, Karnataka has already witnessed instances where terminally ill patients have exercised this right, signifying a major leap forward in end-of-life care.

Maharashtra is also making significant strides. Following directives from the Bombay High Court, the state has appointed over 400 custodians across its urban and rural areas to manage living wills. The court has urged Maharashtra to establish a standardized procedure for swift access to these crucial documents and to develop an online portal for convenient registration and tracking. While the complete framework is still under development, medical boards and legal structures are actively being established, with formal resolutions anticipated shortly. Maharashtra is clearly on a promising trajectory.

Conversely, most other Indian states are falling behind. The absence of clear procedures, adequately trained medical personnel, and public awareness campaigns means that the right to a living will in these regions largely remains theoretical, making it difficult to exercise when it truly matters. Given that healthcare falls under state jurisdiction in India, each state must independently develop the necessary systems. Karnataka's pioneering initiatives and Maharashtra's consistent progress offer an encouraging glimpse of what can be achieved, but they also highlight the pressing need for uniform, nationwide action to ensure that the constitutional right to die with dignity is accessible, safe, and humane for all citizens across India.

Ensuring Protection and Choice

To prevent potential misuse, the Supreme Court has implemented several crucial safeguards. For passive euthanasia to be considered, the patient must be either terminally ill or in a persistent vegetative state. The decision to withdraw life support then necessitates approval from a medical board, followed by judicial oversight.

Furthermore, a living will must be created by an individual of sound mental health at the time of its execution. It also requires the signature of the individual in the presence of two witnesses and attestation by a Judicial Magistrate (First Class). These measures collectively ensure that an individual's choices are genuinely their own and that they are protected from any form of

coercion.

International Perspective

The global conversation surrounding end-of-life rights reflects a diverse landscape where legal frameworks intersect with deeply held personal and societal beliefs. Across various nations, approaches to managing one's final moments vary significantly, yet common ethical dilemmas and practical challenges persist.

Many countries widely permit passive euthanasia, which involves the withholding or withdrawal of life-sustaining treatment when it aligns with an individual's informed consent or a previously established advance directive. Nations in Europe, North America, and parts of Asia generally uphold the right of individuals to refuse unwanted medical interventions, recognizing a fundamental aspect of personal autonomy. However, a much smaller, though steadily growing, several jurisdictions have moved to legalize active euthanasia or physician-assisted dying under stringent conditions. Countries such as the Netherlands, Belgium, Canada, and several Australian states have enacted laws that allow a direct, deliberate action to end a life to relieve unbearable and irremediable suffering, reflecting a more expansive view of patient autonomy at life's very end.

Key Concerns

The recognition of a "right to die with dignity" through passive euthanasia and living wills marks a significant step towards respecting individual autonomy at life's end. While the legal framework for this right is becoming established, particularly with simplified procedures, translating it into widespread practice faces several hurdles. Ensuring that this deeply personal choice is genuinely accessible and safe for everyone requires addressing practical challenges that go beyond legal pronouncements.

Here are the key concerns related to implementing the "right to die with dignity":

- **Lack of Public Awareness:** Many individuals are simply unaware of their right to make end-of-life choices through documents like advance directives or living wills. This lack of knowledge prevents them from exercising a right that exists on paper.
- **Inadequate Medical Training in End-of-Life Care:** Healthcare professionals often

lack sufficient specific training in the practical aspects of end-of-life care. This includes how to effectively communicate options, interpret living wills, and navigate the procedural requirements for withdrawing life-sustaining treatment, even when legally permissible.

- **Fear of Misuse/Abuse:** There's a significant concern that the provisions allowing a “right to die with dignity” could be exploited. This includes the worry that vulnerable individuals might be coerced or pressured into making end-of-life decisions against their true wishes.
- **Bureaucratic Complexities:** The procedures for creating, registering, and activating living wills or implementing passive euthanasia can be overly complex and cumbersome, hindering practical access to these rights.

Ethical Dilemmas

The concepts of passive euthanasia and living wills, while offering significant advancements in respecting patient autonomy, are rife with ethical dilemmas that challenge individuals, families, medical professionals, and society as a whole.

One central dilemma revolves around the interpretation and application of the living will itself. A living will is created at a point in time when an individual is competent, but it is meant to guide decisions in a future, often unforeseeable, state of incapacity. The ethical question arises: how accurately can a person truly anticipate their future desires, values, or tolerance for suffering? Circumstances might change, new medical advancements might emerge, or the individual's perspective on life and death might evolve. This creates a tension between precedent autonomy (the wishes expressed in the living will) and contemporary autonomy (what the person might want in their current incapacitated state, if that could be discerned). If the living will's language is vague or if the situation differs significantly from what was anticipated, who then bears the ethical burden of interpreting the patient's “true” wishes?

For medical professionals, a significant ethical conflict often arises from the tension between their professional duty to preserve life (beneficence) and their obligation to respect patient autonomy. While they are trained to “do good” and prevent harm, honouring a patient's decision to refuse life-sustaining treatment, even when it leads to death, can be psychologically

and morally distressing. Doctors may grapple with the feeling that they are “giving up” on a patient or, in some cases, contributing to their death, even if passively. This can lead to moral distress, burnout, and a re-evaluation of their professional identity. The ethical line between “allowing to die” and “causing death” can feel blurry and challenging to navigate, particularly when families have differing views from the patient's advance directive.

Another profound dilemma concerns the potential for coercion and undue influence, particularly on vulnerable individuals. While safeguards are put in place, the possibility remains that a patient might feel pressured to sign a living will or refuse treatment due to external factors, such as fear of being a burden to their family, financial concerns, or subtle persuasion. Ensuring that consent is truly voluntary and uncoerced is an immense ethical challenge, as the patient's capacity for fully independent decision-making might be compromised by illness, pain, or emotional distress.

Current Legal Position in India

India's legal position on euthanasia is a careful compromise, acknowledging both the individual's right to choose against the inherent value of human life.. It's a nuanced area, but here's a breakdown of where things currently stand:

- **Passive Euthanasia and Living Wills: A Legal Path for Dignity.** In a significant move towards respecting an individual's right to a dignified end, passive euthanasia and living wills (also known as advance medical directives) are now legally recognized in India. This means that a person can, in advance, make a decision to refuse life-sustaining treatment if they were to enter a permanent vegetative state or suffer from an incurable illness with no hope of recovery. This empowers individuals to have a say in their end-of-life care, even when they can no longer communicate their wishes.
- **Active Euthanasia: Still Prohibited.** While passive euthanasia offers a path to a peaceful end, active euthanasia remains strictly prohibited and is considered illegal in India. Active euthanasia involves a direct act to end a patient's life, such as administering a lethal injection⁶. The legal framework currently does not permit such interventions, upholding the principle that no one has the right to actively end another's life.
- **Strict Guidelines to Prevent Misuse: Safeguarding the Vulnerable.** Recognizing the

profound implications of allowing passive euthanasia and living wills, the legal system has put in place stringent guidelines. These regulations are crucial to prevent any potential misuse, ensuring that these provisions are only exercised in genuine cases, with proper medical oversight, and without any coercion or undue influence. The emphasis is on protecting vulnerable individuals and ensuring that decisions regarding end-of-life care are made with utmost care and ethical consideration.

In essence, India's legal approach to euthanasia is evolving, aiming to provide a compassionate framework for those facing terminal illness while maintaining strict safeguards against any potential abuse of these sensitive provisions.

Conclusion

The journey toward a dignified end-of-life in India is a complex yet crucial one, navigating the intricate pathways where law, ethics, and personal beliefs intersect. While the legal landscape has significantly evolved, particularly with the recognition of passive euthanasia and living wills, the true challenge lies in making these rights a tangible reality for all citizens.

Landmark judgments, from the poignant Aruna Shanbaug case in 2011 to the Common Cause ruling in 2018 and its 2023 simplifications, have laid a robust legal foundation, affirming an individual's right to self-determination in their final moments. This progress, however, remains uneven across states, with trailblazers like Karnataka and Maharashtra demonstrating what is possible when legal intent meets administrative will.

Yet, significant hurdles persist. A widespread lack of public awareness, insufficient training for medical professionals in end-of-life care, and the enduring fear of misuse highlight the gap between legal sanction and practical accessibility. Moreover, the ethical dilemmas are profound: how do we ensure a living will truly reflects a person's evolving desires, and how do we support healthcare providers grappling with the moral complexities of "allowing to die" versus "causing death"?

Ultimately, fulfilling the promise of a "right to die with dignity" requires a concerted, multi-faceted effort. It calls for continued legislative clarity, enhanced institutional readiness, deeper medical sensitization, and a nationwide conversation that destigmatizes death and empowers individuals to make informed choices about their end-of-life journey. Only through such a

unified approach can India ensure that this fundamental personal liberty is not just a legal concept, but a compassionate and accessible reality for everyone.

Endnotes:

1. National Library of Medicine, ('Euthanasia: Right to Die with Dignity' - PMC)
2. Common Cause vs. Union of India (2018)
3. Article 21 of Indian Constitution
4. Aruna Shanbaug v. Union of India
5. Ramping up Clean Mobility: Decoding Karnataka Latest Initiative (Ramping Up Clean Mobility: Decoding Karnataka Latest Initiative - Clean Mobility Shift)
6. Euthanasia: Understanding the Facts (What Is Euthanasia? Types, Legal Status, Facts, and Controversy)