BLOGS

Right to Die and the Legality of Euthanasia in India

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Does the right to life include the right to die with dignity under Article 21 of the Constitution? Read this post to understand the status of Legality of Euthanasia in India.

Introduction

The right to die broadly refers to the idea that a person may choose to end their own life under certain circumstances, especially to escape unbearable pain or terminal illness. Legally related is euthanasia, meaning a deliberate act to end life to relieve suffering.

Euthanasia can be active (administering a lethal injection) or passive (withholding or withdrawing life-prolonging treatment). Globally, this raises a conflict between individual autonomy and the state's duty to protect life.

In India, the debate has been especially fraught: there is no specific law on euthanasia, and the issue has been resolved case by case. Indian courts have wrestled with whether the constitutional Right to Life (Article 21) covers a "right to die with dignity."

The contours of this right have emerged mainly through Supreme Court decisions, which have balanced respect for human dignity against the sanctity of life.

Does Right to Life Include the Right to Die?

Article 21 of the Indian Constitution guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law."

Over decades, the Supreme Court has interpreted this guarantee expansively to include rights essential to human dignity and autonomy. The key question in the euthanasia debate is whether the right to life also includes a right to refuse life-sustaining treatment or to end one's life under dire conditions.

The Constitution itself makes no mention of dying, so the courts have had to interpret Article 21. In *Gian Kaur v. State of Punjab*, a five-judge bench addressed this question directly. It emphatically held that Article 21 protects life, not death.

The Court ruled that the right to life cannot be stretched to include the right to commit suicide or undergo euthanasia. This meant that neither assisted suicide nor voluntary euthanasia is a free-standing fundamental right under the Constitution.

In other words, a person cannot claim a constitutional "right to die" in the same way one claims a right to live. This set an important limit: any easing of these prohibitions would need to come from legislation or a change in judicial interpretation.

At the same time, Indian law has recognized that life includes living with dignity and autonomy. Later judgments emphasized personal liberty and bodily integrity as part of Article 21. These principles formed the backdrop for a more nuanced approach to end-of-life decisions.

In particular, the Supreme Court left room for the possibility that an individual's personal choice to refuse treatment or to have life support withdrawn could be respected under Article 21, even if actively ending life remains prohibited.

Historical Development

Colonial-era law criminalized suicide-related acts. Section 309 of the Indian Penal Code (IPC) made attempted suicide a punishable offense, and Section 306 punished abetment of suicide. These provisions reflected a traditional stance that life must be preserved.

In the 1990s, there was legal turbulence over these laws. In *P. Rathinam v. Union of India*, the Supreme Court had initially held that Article 21 included a right to die, striking down Section 309.

However, in *Gian Kaur*, the Court explicitly overruled the *Rathinam* judgement and upheld the constitutionality of Sections 309 and 306. The Court stated that preserving life is a fundamental duty of the state, and that allowing euthanasia (even with consent) would contradict this duty.

In practical terms, *Gian Kaur* made voluntary euthanasia illegal and reinforced the criminality of assisted suicide in the absence of any contrary law.

After *Gian Kaur*, the law remained static for over a decade. Recognizing the issues raised by *Aruna Shanbaug*, the Law Commission of India studied euthanasia. In its 196th Report (2006), the

Commission recommended that Parliament consider legalizing passive euthanasia under strict guidelines.

It defined terminal illness and suggested protecting doctors who withdraw life support with proper patient consent. Nevertheless, Parliament did not act on these recommendations. The result was that euthanasia issues remained unanswered by statute and surfaced again only through the judiciary.

Landmark Supreme Court Judgments on the Right to Die

Gian Kaur v. State of Punjab: This case involved a petitioner convicted for abetting her mother's suicide. The petitioner argued that the right to life (Article 21) included a right to die, which would make her conviction unconstitutional. A five-judge bench flatly rejected this argument.

The Court held that Article 21 does not cover the right to end life; life and death are two different facets, and the Constitution secures life, not death. The Court reaffirmed that suicide and assisted suicide remain unlawful. It stated that if Parliament ever wants to legalize euthanasia, it must do so by legislation – the courts would not read a "right to die" into Article 21. In effect, *Gian Kaur* ruled that active euthanasia is illegal in India.

Aruna Ramchandra Shanbaug v. Union of India: Aruna Shanbaug was a nurse at Mumbai's KEM Hospital who, in 1973, suffered severe brain damage from a violent assault and remained in a persistent vegetative state for decades.

In 2009, journalist Pinki Virani petitioned the Supreme Court, on Aruna's behalf, to withdraw her life support (feeding tube), arguing that living in such a condition violated her dignity. In 2011, a five-judge bench delivered a split decision.

The Court declined to grant Aruna's immediate plea – it noted that the hospital staff caring for her (who were like family) opposed withdrawal of treatment. However, the Court took the opportunity to lay down a landmark legal principle: passive euthanasia is constitutionally permissible under strict conditions.

The Court held that a terminally ill or permanently unconscious patient has a right to die with dignity, which means a patient (or their guardian) can request the withdrawal of medical treatment.

To prevent abuse, the Court established safeguards: any decision to stop life support must be approved by the High Court of the state (acting *parens patriae* as the guardian of the patient). Medical evaluation must confirm that the patient is indeed in a vegetative state or incurably suffering.

By invoking the parens patriae doctrine, the Court took on a guardian role for those who cannot speak for themselves. The Aruna Shanbaug case did not legalize mercy killing in general, but it did legalize passive euthanasia (withholding or withdrawing treatment) as long as procedural safeguards are followed.

Common Cause v. Union of India: Common Cause (an NGO) had sought recognition of the right to die with dignity and asked the Court to allow *living wills* (advance directives). On March 9, 2018, the Supreme Court held that the right to life with dignity under Article 21 "includes the right to die with dignity." In practical terms, the Court reaffirmed passive euthanasia and gave legal effect to living wills.

The Court explicitly declared that terminally ill patients have a fundamental right to refuse or withdraw life support. This right is part of personal liberty and bodily integrity.

For the first time, the Court allowed individuals to make binding advance directives about end-of-life care. A person of sound mind can specify conditions under which life support should be withdrawn in the future. These living wills must be signed before a Judicial Magistrate and witnessed, ensuring authenticity.

The Court outlined a detailed process. Once a valid directive is in place (or a family member petitions in the absence of a directive), the attending doctors and a medical board of specialists must confirm the patient's condition (terminal illness or permanent unconsciousness) and the voluntariness of the decision.

The Court was careful to note that active euthanasia remains illegal. Only passive measures (withdrawing treatment at the patient's request) are allowed.

Current Status on Legality of Euthanasia

Today, the law in India draws a clear distinction: active euthanasia is illegal, but passive euthanasia is legal under strict conditions. This framework is grounded in the Supreme Court's judgments and subsequent guidelines.

Only patients who are terminally ill (suffering from an incurable condition that will inevitably lead to death) or in a permanent vegetative state qualify. In these cases, continuing life support often only prolongs suffering without any hope of recovery.

Individuals of sound mind may execute a *living will* (also called an advance medical directive). This is a written document, signed by the person before two independent witnesses and often attested by a magistrate, stating that if they become terminally ill or permanently unconscious, life-support treatment should be withdrawn. Once valid, the living will controls the person's treatment decisions even if they later lack capacity.

Implementation of a living will or withdrawal request requires medical verification. Treating physicians must first verify the patient's condition. Then an expert medical board (comprising specialists in relevant fields) reviews the case and confirms that the patient meets the criteria.

If no advance directive exists, close family members or legal guardians may petition for withdrawal of treatment on the patient's behalf. The courts have allowed family consent, again subject to medical evaluation. The idea is that the family's decision reflects the patient's wishes and best interests, but it must still undergo independent scrutiny.

Conclusion

Starting from a strict prohibition, the law has gradually come to recognize an individual's limited autonomy at the end of life. Important Supreme Court cases like Aruna Shanbaug and Common Cause have made euthanasia legal, in limited situations, for terminally ill patients to refuse or stop medical treatment (passive euthanasia) and to give advance instructions about their care. However, actively ending a life (active euthanasia) is still not allowed, and strict rules are in place to protect patients. The main goal remains to protect life, while also respecting patient choices in certain cases.

Read More: Article 21 of the Indian Constitution