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A CRITICAL STUDY ON RIGHT TO DIE WITH DIGNITY

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Abstract

Every individual has the right to live their life to the fullest without disruption, as guaranteed under Article 21 of the Indian Constitution. However, the question remains whether the right to life includes the right to die. The issue of intentional self-killing or abetting suicide has long been a concern. Recently, the Supreme Court has permitted passive euthanasia for terminally ill patients or those in a permanent vegetative state, allowing them to end their life with dignity, subject to the permission of the High Court under Article 226 of the Constitution. This article critically examines the right to die with dignity, exploring its legal, ethical, and social implications.

Keywords: disruption, self-killing, passive euthanasia, vegetative state, dignity, legal, ethical

Introduction

Globally, terminal illnesses afflict millions, with a substantial number requiring palliative care. The World Health Organization estimates that over 40 million individuals worldwide suffer from terminal illnesses, with 20 million needing palliative care. This alarming figure underscores the urgent need to reexamine end-of-life care and the right to die with dignity.

The individual facing terminal illnesses or in a persistent vegetative state is caught in the balance between living and dying. The situation continues to deteriorate for the family members who provide care for the patients; it is incredibly challenging for them to manage when the patients are in a vegetative state, and financial burdens make it even harder.

At least if the patient manages to recover, it will bring them happiness, although it is uncertain when they are in a vegetative state. The majority of the family deserted the patient, who was cared for by hospital staff and NGOs. Without their support, the patient's circumstances are dire.

In India, a national conversation about the moral, ethical, and legal aspects of the right to die has been sparked by the Supreme Court's historic ruling in *Aruna Shanbaug vs. Union of India* (2011), which allowed passive euthanasia.

Active Euthanasia is not permitted under the law. The law allows only passive Euthanasia and Euthanasia Passive only allowed more conductive procedures. On the other hand, it happens when a decision to end someone's life is made without consent. Strict law focused on Grant Passive Euthanasia. If the procedure is not completed In India, active euthanasia is illegal and there is a crime pursuant to Section 302 or at least Section 304 IPC. Suicide to help a doctor is a crime according to Section 306 IPC (inciting suicide).

The right to die with dignity is examined in depth in this essay, which also examines the ethical, legal, and social implications of this right in the Indian setting.

History and Evolution of the Right to Die

Throughout history, the idea of the right to die has experienced substantial changes. The argument has changed over time, impacted by social, cultural, and philosophical advancements, from ancient civilizations to the present.

Historical Civilizations (500 BCE–500 CE) ancient

Assisted suicide was popular in ancient Greece and Rome, especially among the elderly and severely ill. In his writings, the Greek philosopher Plato addressed the concept of rational suicide.

Middle Ages (500 - 1500 CE)

The influence of the Christian Church caused attitudes toward euthanasia and suicide to change throughout this time. The Church believed that euthanasia and suicide were immoral and wicked.

Modern Era (1500 - 2000 CE)

- Interest in assisted suicide and euthanasia increased during the 19th and 20th centuries.
- An important turning point in the contemporary right-to-die movement was the founding of the British Voluntary Euthanasia Society in 1935.

Contemporary Era (2000 CE - present)

- In recent years, the right-to-die debate has gained momentum, with several countries legalizing or decriminalizing assisted suicide and euthanasia.¹
- The rise of palliative care and hospice movements has also shifted the focus toward improving end-of-life care.²

Indian Context towards right to die

- In India, the right-to-die debate has been influenced by cultural, social, and religious factors.³
- The Indian judiciary has played a significant role in shaping the discourse, with landmark judgments like *Aruna Shanbaug vs. Union of India* (2011) and *Common Cause vs. Union of India* (2018).⁴
- As the Bhagavad Gita states, "The one who has controlled the mind and senses, and has realized the Self, is eligible to attain liberation from the cycle of birth and death." (Bhagavad Gita, 2.56)⁵
- Similarly, the Holy Quran emphasizes the importance of compassion and mercy, stating, "And we have certainly honored the children of Adam." (Quran, 17:70)⁶

when we closely seen history assisted suicide as been allowed in so many situation even the holy Holy Quran emphasizes the importance of compassion and mercy, stating, "And we have certainly honoured the children of Adam." similarly Bhagavad Gita states, "The one who has controlled the mind and senses, and has realized the Self, is eligible to attain liberation from the cycle of birth and death" (Bhagavad Gita, 2.56) similarly • The Indian judiciary has played a significant role in shaping the discourse, with landmark judgments like *Aruna Shanbaug vs.*

Union of India (2011) and *Common Cause vs. Union India* (2018).

Legal Framework towards right to die: Indian Perspective

In India, the legal framework surrounding end-of-life care and the right to die is complex and evolving. Here are some key aspects:

¹ World Health Organization, "Palliative Care" (2018)

² Hospice Palliative Care Association of India, "Palliative Care in India" (2020)

³ Supreme Court of India, "*Aruna Shanbaug vs. Union of India*" (2011)

⁴ Supreme Court of India, "*Common Cause vs. Union of India*" (2018)

⁵ Bhagavad Gita, translated by Eknath Easwaran (1985)

⁶ Quran, translated by Abdullah Yusuf Ali (1934)

Constitutional Provisions relating to right to die

Article 21 of the Indian Constitution guarantees the right to life, which has been interpreted to include the right to die with dignity.⁷

Euthanasia and Assisted Suicide

- The Indian judiciary has permitted passive euthanasia in exceptional cases, such as **Aruna Shanbaug vs. Union of India (2011)**.⁸
- However, active euthanasia and assisted suicide remain illegal in India.

Bharatiya Nyaya Sanhita (BNS)

Section 108: Abetment of suicide - Whoever abets the commission of suicide by a person, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.⁹

Mental Health Care Act (2017)

This Act provides for advance directives and nominated representatives for patients with mental illnesses, which can be relevant in end-of-life care decisions.¹⁰

Supreme Court Judgments relating to right to die

Common Cause vs. Union of India (2018) recognized the right to die with dignity and permitted individuals to execute advance directives.¹¹

Ethical and Moral Implications towards right to die

The right-to-die debate raises complex ethical and moral questions. Here are some key aspects:

Autonomy vs. Paternalism

- **Respect for autonomy:** Individuals have the right to make decisions about their own lives and deaths.
- **Paternalism:** Healthcare providers and family members may feel obligated to protect the patient, even if it means overriding their autonomy.

⁷ Supreme Court of India, "Gian Kaur vs. State of Punjab" (1996)

⁸ Supreme Court of India, "Aruna Shanbaug vs. Union of India" (2011)

⁹ Bharatiya Nyaya Sanhita (BNS), Section 108

¹⁰ Mental Health Care Act (2017), Section 11

¹¹ Supreme Court of India, "Common Cause vs. Union of India" (2018)

Case laws relating to right to die:

The Supreme Court of India's judgment in Aruna Shanbaug vs. Union of India (2011) recognized the importance of patient autonomy in end-of-life care decisions.¹²

Laws relating to right to die:

- The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations (2002) emphasize the importance of respecting patient autonomy.¹³
- The National Health Policy (2017) recognizes the patient's right to autonomy and informed decision-making.¹⁴

Sanctity of Life vs. Quality of Life

- Sanctity of life: Human life is sacred and should be preserved at all costs.
- Quality of life: The focus should be on ensuring that the patient's life has quality, dignity, and meaning.

Legal framework relating to right to die:

The Mental Health Care Act (2017) emphasizes the importance of considering the patient's quality of life when making end-of-life care decisions.

Laws relating right to die:

- The Rights of Persons with Disabilities Act (2016) recognizes the right to equality and dignity for persons with disabilities, including those at the end of life.¹⁵
- The HIV and AIDS (Prevention and Control) Act (2017) protects the rights of persons living with HIV/AIDS, including their right to autonomy and dignity.¹⁶

Moral and Religious Perspectives towards right to die:

- Different religious traditions have varying views on end-of-life care and the right to die.
- Moral principles such as compassion, empathy, and respect for human dignity also play a crucial role.

¹² Supreme Court of India, "Aruna Shanbaug vs. Union of India" (2011)

¹³ Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations (2002), Regulation 7.3

¹⁴ National Health Policy (2017), Paragraph 3.4

¹⁵ Rights of Persons with Disabilities Act (2016), Section 3

¹⁶ HIV and AIDS (Prevention and Control) Act (2017), Section 3

- Case study: The case of Nikhil Kumar vs. Union of India (2016) highlights the importance of considering the patient's religious beliefs when making end-of-life care decisions.¹⁷

Social and Cultural Attitudes towards right to die:

The right-to-die debate is influenced by social and cultural attitudes toward death, dying, and end-of-life care. Here are some key aspects:

Cultural Perspectives on Death and Dying:

- In Indian culture, death is often seen as a natural part of life, and the concept of "moksha" (liberation from the cycle of birth and death) is deeply rooted.
- Different religious traditions in India have varying views on end-of-life care and the right to die.
- The Bhagava Gita (Chapter 2, Verse 22) states, "As a person sheds worn-out garments and wears new ones, likewise, at the time of death, the soul sheds its worn-out body and takes on a new one." This verse highlights the Hindu perspective on the cycle of life and death.

Family and Community Attitudes towards right to die:

- In Indian society, family and community play a significant role in end-of-life care decisions.
- The concept of "joint family" and the importance of family honor can influence attitudes toward end-of-life care.

Healthcare Providers' Attitudes towards right to die:

- Healthcare providers in India often face challenges in balancing their duty to preserve life with the patient's right to autonomy.
- The lack of training and resources in palliative care can also impact healthcare providers' attitudes toward end-of-life care.

¹⁷ Nikhil Kumar vs. Union of India (2016)

Case Laws related towards right to die:

- **Aruna Shanbaug vs. Union of India (2011):** The Supreme Court of India recognized the right to passive euthanasia in exceptional cases, emphasizing the importance of patient autonomy and dignity.¹⁸
- **Common Cause vs. Union of India (2018):** The Supreme Court of India recognized the right to die with dignity and permitted individuals to execute advance directives, highlighting the importance of patient autonomy and self-determination.¹⁹

Key Statistics towards right to die:

- According to a survey by the Indian Journal of Palliative Care, 71% of Indians believe that patients have the right to refuse treatment.²⁰
- A study published in the Journal of Pain and Symptom Management found that 61% of Indian healthcare providers believed that euthanasia should be legalized.²¹

Conclusion

As we conclude globally, terminal illnesses afflict millions, with a substantial number requiring palliative care. The World Health Organization estimates that over 40 million individuals worldwide suffer from terminal illnesses, with 20 million needing palliative care. This alarming figure underscores the urgent need to reexamine end-of-life care and the right to die with dignity.

Every individual has the right to live their life to the fullest without disruption, as guaranteed under Article 21 of the Indian Constitution. However, the question remains whether the right to life includes the right to die. The issue of intentional self-killing or abetting suicide has long been a concern. Recently, the Supreme Court has permitted passive euthanasia for terminally ill patients or those in a permanent vegetative state, allowing them to end their life with dignity, subject to the permission of the High Court under Article 226 of the Constitution.

The individual facing terminal illnesses or in a persistent vegetative state is caught in the

¹⁸ Supreme Court of India, "Aruna Shanbaug vs. Union of India" (2011)

¹⁹ Supreme Court of India, "Common Cause vs. Union of India" (2018)

²⁰ Indian Journal of Palliative Care, "End-of-Life Care in India: A Survey" (2018).

²¹ Journal of Pain and Symptom Management, "Attitudes toward Euthanasia among Indian Healthcare Providers" (2019)

balance between living and dying. The situation continues to deteriorate for the family members who provide care for the patients; it is incredibly challenging for them to manage when the patients are in a vegetative state, and financial burdens make it even harder.

At least if the patient manages to recover, it will bring them happiness, although it is uncertain when they are in a vegetative state.

The majority of the family deserted the patient, who was cared for by hospital staff and NGOs. Without their support, the patient's circumstances are dire. Assisted suicide was popular in ancient Greece and Rome, especially among the elderly and severely ill. In his writings, the Greek philosopher Plato addressed the concept of rational suicide. The influence of the Christian Church caused attitudes toward euthanasia and suicide to change throughout this time. The Church believed that euthanasia and suicide were immoral and wicked.

The right-to-die debate in India is complex and multifaceted, involving legal, ethical, moral, and social considerations. This article has explored the key aspects of the debate, including:

- The legal framework surrounding end-of-life care and the right to die in India
- The ethical and moral implications of the right-to-die debate
- The social and cultural attitudes toward death, dying, and end-of-life care in India

Through this article, we have seen that the right-to-die in India is shaped by a range of factors, including:

- The Indian Constitution's guarantee of the right to life and liberty under Article 21
- The Indian judiciary's recognition of passive euthanasia as a valid option in exceptional cases, as seen in the Aruna Shanbaug vs. Union of India (2011) judgment
- The importance of patient autonomy and self-determination in end-of-life care decisions, as emphasized in the Mental Health Care Act (2017)
- The role of family and community in end-of-life care decisions, as highlighted in Indian cultural and social norms
- The need for greater awareness and education about end-of-life care and the right to die in India, particularly regarding passive euthanasia

As we conclude this article, we hope that it will contribute to a deeper understanding of the right-to-die debate in India, with a focus on the legal and ethical implications of passive euthanasia. We also hope that this project will inform efforts to promote greater awareness, education, and advocacy on this critical issue.

The discussion in India with the right qualification is complex and multifaceted related to legal, ethical, moral and social considerations. This article studied the key aspects of the debate, including:

- Legal framework related to leaving at the end of life and the right to die in India
- Ethical and moral consequences of the debate about the right to surprise
- Social and cultural attitude to death, dying and caring for at the end of life in India

Various factors, including:

- Guarantee of the India Constitution in relation to the right to life and freedom in accordance with Article 21
- Recognition of passive euthanasia of India as a real option in exceptional cases, as can be seen from ARUNA SHANBAUG VS. India Union Solutions (2011)
- As pointed out in the Psychiatric Care Act (2017), the importance of patient autonomy and self-determination in end-of-life decisions.
- As pointed out in Indian cultural and social norms, the role of families and communities in the initial decisions of the end of life
- The need for greater awareness and education for end-of-life management and the right to die in India, particularly with regard to passive euthanasia.

when we closely seen history assisted suicide as been allowed in so many situation even the holy Quran emphasizes the importance of compassion and mercy, stating, "And we have certainly honoured the children of Adam." similarly Bhagavad Gita states, "The one who has controlled the mind and senses, and has realized the Self, is eligible to attain liberation from the cycle of birth and death" (Bhagavad Gita, 2.56)

When we conclude this article, we hope to contribute to a detailed understanding of the appropriately qualified Indian debate by highlighting the legal and ethical consequences of passive euthanasia. We also hope that this article sheds light on efforts to raise awareness, education and propaganda on this important issue

Reference Books:

1. "Euthanasia: A Right to Die?" by Dr. D.C. Misra (2017) - This book explores the ethical, legal, and social implications of euthanasia in India.
2. "The Right to Die: A Critical Analysis of the Indian Perspective" by Dr. Anupama Kapur (2019) - This book provides a comprehensive analysis of the right-to-die debate in India, including its legal, ethical, and social dimensions.
3. "End-of-Life Care in India: A Guide for Healthcare Providers" by Dr. S. K. Panda (2018) - This book provides a practical guide for healthcare providers on end-of-life care in India, including its legal and ethical aspects.

Online Sources:

1. Indian Journal of Palliative Care (IJPC) - This peer-reviewed journal publishes articles on palliative care and end-of-life issues in India.
2. The Hindu - This Indian newspaper frequently publishes articles and editorials on the right-to-die debate and end-of-life care in India.
3. India Today - This Indian news magazine often publishes articles and features on the right-to-die debate and end-of-life care in India.
4. World Health Organization (WHO)- The WHO website provides information on palliative care and end-of-life issues globally, including in India.
5. Indian Medical Association (IMA) - The IMA website provides information on medical ethics and end-of-life care in India.

Government Reports:

1. "Report of the Expert Committee on End-of-Life Care" (2018) - This report was submitted to the Indian Ministry of Health and Family Welfare and provides recommendations on end-of-life care in India.
2. "National Health Policy" (2017) - This policy document outlines the Indian government's vision and strategy for healthcare, including end-of-life care.