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ETHICS, AUTONOMY AND END-OF-LIFE DECISIONS: A COMPARATIVE STUDY OF LIVING WILLS

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ABSTRACT

The growing recognition of patient autonomy and the right to die with dignity has brought the concept of living wills to the forefront of legal and ethical debates worldwide. In India, the Supreme Court's landmark decision in Common Cause v. Union of India (2018) legalized living wills, recognizing the right to refuse life-prolonging medical treatment as part of the right to life under Article 21 of the Constitution. This study seeks to critically analyse the existing legal framework for living wills in India, identifying gaps and challenges in its implementation. Additionally, it offers a comparative analysis of legal frameworks in countries such as the United States, the United Kingdom and Australia, to provide insights into international best practices.

The primary objectives of the study are to evaluate the effectiveness of India's current legal stance on living wills, assess the ethical considerations surrounding end-of-life care, and suggest reforms that align with global standards. The study will adopt a doctrinal research methodology, relying on a detailed analysis of statutes, case law, and legal literature, complemented by a comparative law approach to draw parallels and distinctions between jurisdictions. This research will provide recommendations for improving the legal recognition and practical enforcement of living wills in India, ensuring patient autonomy and dignity in death.

Keywords: Living wills, right to die with dignity, comparative legal analysis, end-of-life care.

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INTRODUCTION

In recent years, the concept of the "right to die with dignity" has captured the imagination and debates of people worldwide. This paper explores the idea of living wills and the legal outlook surrounding them, focusing on India while drawing comparisons with international perspectives.

This topic focus on the issue of autonomy that is the right for individuals to make personal decisions about their own medical care, including the choice to refuse life-prolonging treatment. This principle has become increasingly significant in the realms of medical ethics and human rights.

This research work aims to take a closer look at India's evolving stance on living wills, especially following the groundbreaking Common Cause v. Union of India (2018) case. Here researcher compare India's approach with those of the United States, the United Kingdom, and Australia. Additionally, we will delve into the ethical considerations of patient autonomy, the complexities of end-of-life care, and the crucial role of judicial intervention in upholding living wills.

THE ETHICAL AND LEGAL DIMENSIONS OF LIVING WILLS

The ethical and legal differences of opinion related to living will are embedded in the principle of the faith that individuals should have the right to make decisions about their own lives specifically regarding healthcare. This considers the bioethical foundation of respecting the decision-making capacity of individuals in death and life-related matters.[1] Living wills are legally binding documents that allow individuals to specify their preferences for medical treatment if they become incapacitated, thus embodying autonomy in the healthcare context.

AUTONOMY AND THE RIGHT TO DIE WITH DIGNITY

The principle of autonomy asserts that individuals should be free to make decisions about their bodies and lives without undue external influence. The autonomy to make these decisions, particularly in the context of end-of-life care, is often framed as a fundamental human right and reflects an individual's dignity and self-determination. This right is exercised through informed consent, where individuals are provided with all necessary information to make balanced decisions about their medical treatment. By creating living wills, individuals can ensure that their medical preferences are respected, even if they lose the capacity to communicate their

[1]Beauchamp, T.L., & Childress, J.F., *Principles of Biomedical Ethics*, 7th edn (Oxford University Press, 2013).

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wishes. The living will thus provide a legal framework for individuals to express their desire not to undergo life-sustaining treatments if such measures are not in alignment with their wishes or their understanding of a dignified life.[2]

BENEFICENCE AND NON-MALEFICENCE:

Doctors/Physicians are bound by the ethical principles of beneficence (do good) and non-maleficence (avoid harm), which can sometimes create tension in the implementation of living wills. On one hand, the medical profession aims to sustain life, often through aggressive treatment. On the other hand, these efforts may not always align with the wishes of the patient, particularly in cases where continued treatment could lead to suffering or a depleted quality of life. The ethical dilemma arises when the desires expressed in the living will conflict with clinical judgments about what is suitable for the patient's health.

Medical professionals must carefully maintain this balance, confirming that they respect the patient's autonomy while avoiding harm. In cases where the living will clearly outline the patient's preferences for end-of-life care, the medical professional's duty to respect those wishes overrides their obligation to preserve life at all costs.[3] However, errors in living wills, especially in situations where they are vague or the individual's preferences are not well mentioned, may lead to ethical challenges in figuring out whether a specific medical intervention is in line with the individual's wishes.

THE LEGAL STATUS AND RECOGNITION OF LIVING WILLS

The legal status of living wills varies widely across jurisdictions and presents a complex outlook for both individuals and healthcare providers. In some regions, living wills are legally binding documents that must be followed by healthcare providers. In others, living wills serve merely as guidance, and healthcare providers may not be legally required to follow them. This inconsistency emphasizes the importance of understanding local laws when creating or enforcing living wills.[4]

Legal challenges frequently emerge due to ambiguities in the wording of living wills, which may lead to disputes among family members, healthcare providers, or legal representatives regarding the interpretation of the individual's desires. In cases where a living will be vague or

[2]Emanuel, E.J., & Emanuel, L.L., 'Four Models of the Physician-Patient Relationship' (1998) 267(16) *JAMA* 2221.
[3]Boudreau, D., 'The Dilemma of Living Wills: The Ethical Tension Between Autonomy and Beneficence' (2008) 35(4) *Journal of Medical Ethics* 21
[4]Choudhary, H., 'Living Wills: A Practical Reality' (2019) *ILI Law Review* Winter Issue 2019.

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silent on specific medical interventions, courts are approached to interpret the individual's intent based on available evidence. Such legal proceedings can be controversial and complex, particularly in jurisdictions where the status of living will be not strongly established.

ADVANCE DIRECTIVES AND LEGAL SAFEGUARDS

Living will often form part of a broader category of legal documents known as advance directives, which may also include powers of attorney for healthcare. These documents allow individuals to appoint a trusted person to make healthcare decisions on their behalf if they become incapacitated.

Regular reviews and updates of living wills are important for assuring that the document remains a valid reflection of the individual's current desires. As people's views on end-of-life care may change over time, living wills must be reviewed periodically to ensure that they continue to align with the person's values and desires.[5] Moreover, legal frameworks may require that such documents be notarized or witnessed for the purpose of their validity and enforceability.

CULTURAL AND SOCIETAL PERSPECTIVES

Cultural and societal approaches toward death and dying significantly shape the ethical and legal considerations related to living wills. In some societies, cultural faiths regarding the sanctity of life and the role of medical intervention in prolonging life can lead to opposition to the concept of living wills. In these scenarios, living wills may be perceived with suspicion, as they are contradictory with deeply held views on the inherent value of life.[6]

For healthcare providers and legal professionals, it is essential to consider these cultural beliefs when advising individuals on the creation of living wills. A culturally sensitive approach ensures that living wills are not only legally valid but also reflective of the values and beliefs of the individuals they aim to protect.

THE INDIAN LEGAL FRAMEWORK ON LIVING WILLS

India's legal approach to living wills has evolved significantly, particularly with the landmark judgment of the Supreme Court in *Common Cause v. Union of India* (2018). This decision

[5] Vadeyar, B., & Singh, L., 'Living Wills in India: A Safeguard to a Patient's Right to Death with Dignity' (2013) SSRN https://ssrn.com

[6] Batra, S., & Kaushik, A., 'Living-Will: The Ultimate Right over One's Life' (2021) 22(2) National Journal of Professional Social Work 280

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established a legal framework for individuals to create advance directives for end-of-life care, such as refusing life-prolonging treatments under certain conditions. The ruling was built on the fundamental right to life under Article 21 of the Indian Constitution, which, according to the Court, includes the right to die with dignity.[7] The introduction of living wills in India is a major step towards recognizing personal autonomy at the end of life. Ethically, they uphold personal choice and dignity. Legally, they provide clear directives for end-of-life care. However, practical challenges exist in ensuring these wills are respected and executed properly. The *Common Cause* judgment was critical in recognizing passive euthanasia or refusing life-prolonging treatment, allowed under specific circumstances. The Court's ruling effectively validated the practice of living wills, which allow individuals to specify in advance whether they would want to receive life-prolonging treatment under certain medical circumstances. However, the decision also highlights that such wills must be respected by medical practitioners and healthcare institutions, provided they comply with strict guidelines provided to prevent abuse and ensure that the individual's desires are genuinely sustained.

The Supreme Court's decision in *Common Cause* provided important guidelines to balance the right to die with dignity and the potential misuse of living wills. One of the most significant guidelines was the requirement for medical overviewing before any life-prolonging treatment could be withdrawn. The decision mandates that, before disconnecting the life support system, a medical board, comprising a panel of doctors, must verify that the individual is in a terminal or vegetative state, with no expectation of recovery. The intention behind this is to ensure that the decision to withdraw treatment is based on clear medical evidence, not on quick or erroneous decisions.

Additionally, the Court prescribed that the process of withdrawing life support must be overseen by a High Court, which would examine whether the individual's living will be valid and if it reflected the person's true desires or not. This judicial supervision, while providing an additional layer of protection, also causes delays and complications. These delays can diminish the very essence of a living will which is basically for the smooth execution of an individual's desire.

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

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CHALLENGES IN THE PRACTICAL IMPLEMENTATION OF LIVING WILLS

While the legal framework established by the *Common Cause* case is a progressive step, the practical implementation of living wills in India faces any challenges. One of the most significant obstacles is the lack of a national database for living wills. Without such a system, healthcare providers often face difficulties in accessing a patient's living will in an emergency. In cases of critical illness or accidents, the absence of a national database makes it difficult for healthcare providers to confirm whether an individual has created a living will and, if so, where it is located.

In emergency cases where living wills exist but are not easily accessible, medical practitioners may make decisions without considering the patient's wishes. This issue can lead to a failure in the respect for individual autonomy, as decisions may be made based on medical assumptions or family preferences, rather than on the expressed desires of the patient. The practical difficulties like not able to access living wills in emergency situations emphasizes the need for a more streamlined system for their registration and retrieval.

The involvement of the courts can lead to long delays, which could prevent the effective execution of a living will. Although the right to die with dignity is connected to the preservation of individual autonomy, delays in enforcing living wills could result in a violation of the individual's right to die with dignity (included under Article 21 of the Indian Constitution).

Later in 2023, acknowledging that the process is complex, Supreme Court simplified the process by mandating that living wills are to be signed in the presence of two witnesses and attested by a notary or gazetted officer instead of Judicial Magistrate and made it compulsory for the government to appoint a competent authority as custodian of living will. However, the government has not taken significant steps toward appointing custodians for living wills.

ETHICAL AND LEGAL IMPLICATIONS OF LIVING WILLS

Acknowledging living wills in India raises very important ethical and legal issues. On one hand, living will provide a framework whereby individuals can exert control over their healthcare preferences. Living will allow people to express their desires regarding life-sustaining treatments in advance, therefore assuring that their decisions are respected even when they are not capable make decisions autonomously.

However, such practice does raise ethical considerations, especially the medical provider's obligation to preserve life. Medical practitioners are generally taught to prolong life, and the

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cultural imperative to do good for a patient may be diverted when the patient desires to refuse treatment.

COMPARATIVE ANALYSIS OF INTERNATIONAL LEGAL FRAMEWORKS

LEGAL FRAMEWORKS ON LIVING WILLS: THE UNITED STATES[8]

The legal framework surrounding living wills in the United States is complicated, guided by both federal and state laws, as well as judicial precedents that have shaped the implementation of advance directives in healthcare. The United States' legal system places significant emphasis on patient autonomy but also acknowledges state interests in protecting life.[9] This equalizing act between individual rights and state authority has been critical in the development of legal doctrines and principles regarding living wills.

THE PATIENT SELF-DETERMINATION ACT (1990)

The legal aspects of living wills in the U.S is primarily governed by the federal Patient Self-Determination Act (PSDA) of 1990.[10] The PSDA mandates that healthcare providers, including hospitals, nursing homes, and hospices, communicate with the patients about their rights to create advance directives, which include living wills and durable powers of attorney for healthcare. This federal law is formulated to encourage individuals to make decisions regarding their medical treatment in advance, thereby assuring that their wishes are respected in situations when they become incapable.[11] However, the PSDA does not mandate the use of living wills; it simply requires that individuals are informed about their rights, leaving the decision to the patient to create such documents.[12]

Importantly, the PSDA also requires that healthcare institutions provide written policies and procedures for the implementation of advance directives and that they must adhere to state laws regarding the validity of these documents.[13] The PSDA therefore acts as a framework for confirming that individuals' wishes regarding life-prolonging treatment are honoured, but they should also comply with state-specific requirements.

[8] T.L. Beauchamp and J.F. Childress, *Principles of Biomedical Ethics* (7th edn, Oxford University Press 2013).
[9] E.J. Emanuel and L.L. Emanuel, 'Four Models of the Physician-Patient Relationship' (1998) 267(16) JAMA 2221.
[10] Patient Self-Determination Act of 1990, Pub L No 101-508, 104 Stat 1388-115 (1990).
[11] Ibid.
[12] Ibid.
[13] Ibid.

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THE CASE OF *CRUZAN V. DIRECTOR, MISSOURI DEPARTMENT OF HEALTH* (1990)

The Supreme Court's decision in *Cruzan v. Director, Missouri Department of Health* (1990), remains one of the most influential cases in the legal outlook of advance directives and end-of-life decisions. The Supreme Court considered the case of Nancy Cruzan, a woman who had been in a persistent vegetative state for several years after a car accident. Her family sought to have her life support removed, based on her previous verbal statements regarding not wanting to live under such kind of circumstances. However, the state of Missouri required "clear and convincing evidence" that Nancy had made her wishes known before her incapacitation, which created a legal dispute about the enforceability of her implied consent through family testimony.

The Supreme Court's decision in *this case* was significant because it recognized the right of competent individuals to refuse medical treatment, including life-sustaining treatment, under the constitutional right to privacy.[14] However, the Court also upheld the state's interest in preserving life and ruled that states could establish requirements to ensure that an individual's wishes were documented before life support could be withdrawn.

This decision created a legal framework in which states could impose additional requirements for living wills to ensure that a patient's refusal of life support was based on clear and convincing evidence of their prior wishes.[15]

LEGAL FRAMEWORKS ON LIVING WILLS: THE UNITED KINGDOM

In the United Kingdom, the legal framework related to living wills, or advance decisions, is primarily governed by the Mental Capacity Act 2005 (MCA 2005),[16] which provides a comprehensive framework for individuals who wish to make decisions about their medical treatment in advance, particularly in circumstances where they might lose the mental capacity to make decisions for themselves. The MCA 2005 is an important legislation that offers clarity on how advance decisions should be made, recognized, and implemented by healthcare professionals. It also seeks to equalize the individual's right to autonomy with the healthcare provider's duty to act in the best interests of the patient.

[14] *Cruzan v Director, Missouri Department of Health* 497 US 261 (1990).
[15] Ibid.
[16] Mental Capacity Act 2005 (c. 9) https://www.legislation.gov.uk/ukpga/2005/9/contents/enacted

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THE MENTAL CAPACITY ACT 2005: LEGAL FRAMEWORK FOR ADVANCE DECISIONS

The Mental Capacity Act 2005 was formulated for the purpose of empowering individuals to make decisions for themselves while ensuring that their autonomy is respected even when they become unable to make or communicate decisions due to mental incapacity. Under the MCA 2005, individuals are given the right to make an advance decision about their healthcare,[17] These decisions can include instructions to refuse life-sustaining treatment if the individual is unable to communicate their wishes at the time the decision needs to be made.

An advance decision under the MCA 2005 is a legally binding document if it meets certain requirements. For example, it must be made while the individual is still capable of making decisions, and it must be in writing, signed, and witnessed if it involves the refusal of life-sustaining treatment.[18] The individual must also be specific about the treatments they wish to refuse. If these criteria are fulfilled, healthcare providers are legally obligated to respect the advance decision, provided the decision is clear not vague and relevant to the specific circumstances of the patient's condition when it arises.

If a healthcare provider is not sure whether the advance decision applies or is valid, they are encouraged to seek legal advice or a court order, specifically in cases where life-sustaining treatment is involved.[19] This creates a system of accountability.

THE RIGHT TO REFUSE TREATMENT

"A core aspect of the MCA 2005 is the recognition of an individual's right to refuse medical treatment, even if such refusal may lead to death."[20] "This principle is rooted in the fundamental ethical notion of personal autonomy, the belief that individuals have the right to make decisions about their bodies and lives, particularly in matters of life and death. The MCA 2005 clarifies that an individual's refusal of treatment is just as valid as their decision to accept treatment, and it provides a legal mechanism for enforcing these decisions when the individual is incapacitated."[21]

[17] ibid.
[18] ibid.
[19] ibid.
[20] ibid.
[21] J. Brierley, 'Autonomy and the Law: The Case of Living Wills' (2016) 34 Medical Law Review 407.

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THE BEST INTERESTS TEST AND CONFLICTS WITH AUTONOMY

While the MCA 2005 strengthens individual autonomy in healthcare decision-making, it also invites a potential conflict between the principle of respecting personal autonomy and the healthcare provider's duty to act in the best interests of the patient.[22] The Act allows healthcare providers to supersede an advance decision if they believe that following the instructions would be detrimental to the patient's best interests. This introduces an ethical dilemma: how should healthcare providers equalize the respect for an individual's autonomous decision with the obligation to preserve life or prevent harm?

The best interests test in the MCA 2005 gives healthcare providers some discretion in cases where they believe that following an advance decision would cause harm or unnecessarily prolong suffering. For instance, in a scenario where an individual's prior directive clearly declines life-sustaining intervention, yet the healthcare practitioner is convinced that the omission of such treatment would result in excessive suffering, they may contravene the directive based on the patient's intention. This Provision has created much controversy as it vests subjective interpretation on what may constitute the "best interests" of a patient, which would compromise their autonomy, especially if they have made clear and expressed desires.

JUDICIAL OVERSIGHT AND LEGAL CERTAINTY

One of the safeguards under the MCA 2005 is the possibility of judicial intervention, which allows individuals or healthcare providers to seek court assistance if there is uncertainty about the application of an advance decision.[23] This ensures that disputes or clashes over the validity or applicability of an advance decision can be resolved through the judicial system. In practice, however, this process can be time-consuming and may delay the enforcement of an individual's desires, especially in emergencies.[24]

LEGAL FRAMEWORKS ON LIVING WILLS: AUSTRALIA

In Australia, the legal framework governing living wills, commonly known as Advance Care Directives or Advance Health Directives is determined by individual states and territories rather than a single national law. Each jurisdiction has its own statute and terminology, but all

[22] L.O. Gostin, *Public Health Law: Power, Duty, Restraint* (University of California Press 2000).
[23] Mental Capacity Act 2005
[24] ibid.

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share the common aim of protecting patient autonomy by allowing individuals to record their healthcare preferences and refuse specific treatments in advance.[25]

For instance, Victoria regulates this through the *Medical Treatment Planning and Decisions Act 2016*, Queensland under the *Powers of Attorney Act 1998* and *Guardianship and Administration Act 2000*, and South Australia through the *Advance Care Directives Act 2013*. Similarly, Western Australia, Tasmania, the ACT, and the Northern Territory have their own legal provisions, while New South Wales recognizes advance directives under common law. Across Australia, these instruments are generally binding when valid, made voluntarily, and applicable to the circumstances, ensuring that healthcare professionals respect an individual's right to make decisions about their own medical treatment, even when they lose capacity.

THE MEDICAL TREATMENT PLANNING AND DECISIONS ACT 2016

In Victoria, the Medical Treatment Planning and Decisions Act 2016 provides a clear and legally binding framework for individuals to create advance care directives. The Act allows individuals to make decisions about their medical treatment, including the refusal of life-prolonging treatments, if they lose the capacity to make decisions for themselves.[26] Under this legislation, an individual can specify their preferences for medical treatment, including the refusal of certain interventions such as life-sustaining treatments in advance because if at all they become incapacitated and unable to communicate their wishes.[27]

The Medical Treatment Planning and Decisions Act 2016 ensures that an advance care directive created under its provisions is legally binding.[28] This means that healthcare providers are under obligation to follow the instructions specified in the directive, provided the individual was competent at the time of creating the directive and that the directive is clear, valid, and applicable to the individual's current medical situation. The Act provides clear guidelines for the creation of these documents, including the requirement for the individual to sign and date the directive, ensuring that it mirrors their genuine preferences.[29]

[25]Medical Treatment Planning and Decisions Act 2016 (Victoria) https://www.legislation.vic.gov.au/in-force/acts/medical-treatment-planning-and-decisions-act-2016/001.
[26] ibid.
[27]ibid.
[28] ibid.
[29] ibid.

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The Act also introduces the concept of Medical Treatment decision-makers, who can be appointed by the individual to make decisions on their behalf if they lose the capacity to make decisions themselves.[30]

Furthermore, the Medical Treatment Planning and Decisions Act 2016 allows for the inclusion of preferences regarding palliative care, ensuring that individuals are not subjected to unwanted treatments at the end of life and that their dignity is maintained by their expressed desires.[31]

VARIABILITY ACROSS JURISDICTIONS: THE LACK OF UNIFORMITY

While Victoria has established a comprehensive legal framework through the Medical Treatment Planning and Decisions Act 2016, other Australian states and territories lack such a unified approach to advance care directives. This creates significant variability in how living wills are recognized, implemented, and enforced across the country.[32] In some states, advance care directives are legally binding, but in others, they may serve only as guidance for healthcare providers, rather than mandatory instructions.[33]

For example, in New South Wales**,** advance care directives are recognized but do not have the same legal standing as in Victoria.[34] The Guardianship Act 1987 and the Health Care Complaints Act 1993 govern medical treatment decisions, but there is no legislative framework that assures the binding nature of living wills. Instead, healthcare providers in NSW are required to interpret these directives based on the principles of the individual's known wishes, which can create room for ambiguity and inconsistent application.[35]

In Queensland, the Advance Health Directive Act 2013 allows individuals to make legally binding decisions regarding their medical treatment preferences, but the requirements for creating a valid directive and the procedures for enforcing these decisions vary.[36] Other jurisdictions, such as South Australia and Western Australia, have similar laws governing the creation of living wills, but the implementation processes differ, often requiring additional steps or involving varying levels of judicial oversight.[37]

[30]ibid.
[31] ibid.
[32]Queensland Government, 'Advance Health Directive' (Queensland Health, 2013)
[33]Australian Law Reform Commission, Euthanasia and Advance Care Directives (Report 70, 1997) https://www.alrc.gov.au.
[34]Guardianship Act 1987 (NSW) https://www.legislation.nsw.gov.au/.
[35]ibid.
[36] ibid.
[37] ibid.

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This lack of uniformity across states and territories complicates the enforcement of living wills, particularly for individuals who move from one state to another or for healthcare providers who may encounter patients from different regions with differing legal standards.[38]

CONCLUSION

The Supreme Court's 2018 decision in Common Cause v. Union of India[39], has made decisive steps in recognizing the rights of individuals to refuse life-prolonging treatment and to make advance directives. However, this legal progression faces several implementation issues.

Earlier, one of the main issues with the Supreme Court's requirement for judicial approval before withdrawing life-sustaining treatment was the potential for delays, especially in emergencies, which could jeopardize the timely enforcement of the patient's wishes. However, after the 2023 revision of the guidelines, the process was simplified, and the need for judicial intervention was removed.

Additionally, India lacks a centralized registry for living wills. Unlike other jurisdictions that store living wills in a national or regional database accessible by healthcare professionals, India does not have such a system. Consequently, healthcare providers often struggle to access an individual's advance directive when it is needed most, particularly in emergency or critical care situations.

Moreover, there is a significant lack of awareness about living wills and advance directives among the public, healthcare providers, and even legal professionals. Many people are unaware that living wills are legally recognized, and healthcare providers often lack the necessary training to interpret and implement them properly. This gap in awareness and training exacerbates the challenges in effectively enforcing the provisions of living wills.

To strengthen the framework of living, India can adopt the best of practices from various countries like the UK, USA, and Australia.

From the UK, India can incorporate clear statutory recognition of advance directives under a single law, like the Mental Capacity Act 2005, which emphasizes on patient autonomy and best-interest decision-making.

From the USA, India can adopt the establishment of standardized forms and state-level registries for advance directives to ensure accessibility and authenticity in emergencies.

From Australia, India can adopt the introduction of a decentralized yet uniform model allowing

[38] ibid.
[39] *Common Cause v. Union of India* (2018) 5 SCC 1.

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individuals to record treatment preferences and appoint substitute decision-makers, supported by public awareness programs and healthcare provider training. Put together in a working manner, these steps and measures would make India's living will system clearer, more accessible, and easier to implement in practice.

Lastly, the emotional and ethical complexities associated with end-of-life decisions often make it difficult for healthcare professionals to reconcile their ethical duties with the legal mandate of respecting a living will.

RECOMMENDATIONS FOR REFORM

1. CREATION OF A NATIONAL REGISTRY FOR LIVING WILLS:

   To make living wills more accessible, India could take inspiration from the Mental Healthcare Act 2017[40]. This Act already includes provisions for advance directives, which are stored in an online registry. By adopting a similar approach for living wills, healthcare professionals could access a person's wishes without unnecessary delays.
2. SIMPLIFICATION OF LEGAL PROCESSES:

   The procedural complications connected to judicial overview could be simplified to make the enforcement of living wills more efficient. One potential solution could be to allow for a less stringent requirement of judicial approval, particularly in cases where the living will be clear and unambiguous.
3. PUBLIC AWARENESS CAMPAIGNS:

   To address the issue of public awareness, the government, alongside medical and legal institutions, could initiate public awareness campaigns about the rights and benefits of living wills and advance directives. Such campaigns could help individuals understand their right to make decisions about their end-of-life care, encouraging them to document their wishes formally.
4. TRAINING FOR HEALTHCARE PROVIDERS:

   Another significant reform would be to establish training programs for healthcare providers to ensure that they are well-versed in the legal and ethical aspects of living wills. This training could focus on how to interpret advance directives, how to equalize ethical dilemmas, and how to communicate effectively with family members regarding end-of-life decisions. Regular workshops, seminars, and certification programs could

[40] Government of India, Ministry of Law and Justice, *The Mental Healthcare Act 2017*, (2017) <https://egazette.nic.in/WriteReadData/2017/175248.pdf> accessed 11Dec 2024.

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help build a more informed healthcare workforce capable of handling such sensitive cases with greater confidence and efficiency.

5. STANDARDIZATION AND CLARITY IN LEGAL LANGUAGE:

   To minimize ambiguity in living wills, there should be standardized guidelines for drafting advance directives. These guidelines would help individuals express their wishes in an unambiguous manner, reducing the potential for disputes among family members or healthcare providers. Legal experts and ethicists could collaborate to create templates that cover a wide range of medical scenarios, providing both patients and healthcare professionals with clearer guidance on how to deal with end-of-life decisions.

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