



PASSIVE EUTHANSIA AND RIGHT TO DIE WITH DIGNITY : AN ANALYSIS OF COMMON CAUSE VS. UNION OF INDIA

(SWEKSHA)

Abstract

Passive euthanasia has remained one of the most debated issues in medical jurisprudence, involving a delicate balance between the right to life, personal autonomy, and medical ethics. This case commentary critically examines the landmark judgment of Common Cause (A Regd. Society) v. Union of India (2018), in which the Supreme Court of India recognized the legality of passive euthanasia and upheld the validity of advance medical directives (living wills) under specific safeguards. The commentary analyses the constitutional interpretation of Article 21, emphasizing the Court's recognition of the right to die with dignity as an integral part of the right to life. It further explores the legal principles, procedural safeguards, and ethical concerns surrounding the withdrawal of life-sustaining treatment. By evaluating the significance of the judgment and its impact on end-of-life care in India, the commentary highlights the evolving approach of Indian constitutional jurisprudence towards individual dignity, autonomy, and compassionate healthcare.

Introduction

This case of Common Cause v. Union of India¹ is a landmark judgment delivered by the Supreme Court of India in 2018 is a monumental progressive leap in Indian constitutional jurisprudence, medical ethics, and human rights . It was delivered by five-judge Constitutional Bench, recognizing the “**Right to Die with Dignity**” as an indispensable, fundamental facet of

¹ AIR 2018 SC 1665

the “**Right to Life and Personal Liberty**” guaranteed under the Article 21² of the Constitution of India.

By legalizing Passive Euthanasia and establishing legal framework for “Living wills” the Apex Court shifted the focus of end-of-life care from mere biological survival to qualitative human dignity and bodily autonomy.

Case Element Details

Case Citation:-AIR 2018 SC 1665; (2018) 5 SCC 1

Court:-Supreme Court of India (Constitution Bench)

Bench Strength:-5 Judges

Composition of Bench:- Dipak Misra, CJI; A.K. Sikri, J.; A.M. Khanwilkar, J.; Dr. D.Y. Chandrachud, J.; Ashok Bhushan, J.

Petitioner:-Common Cause (A Registered Society)

Respondent:-Union of India & Anr.

Date of Judgment:-March 9, 2018

Historical and Legal Context

The journey marked the deep ideological shifts and conflicting judicial interpretations. To appreciate the Common Cause ruling, one of the most acknowledging evolution of judicial stances across the preceding three decades:

- P. Rathinam v. Union of India (1994)³:-A division bench of the Supreme Court held that Section 309 of the Indian Penal Code (IPC), which criminalized attempts to commit suicide, was unconstitutional. The Court drew an analogy with Article 19 (where freedom of speech includes the right to remain silent) and concluded that the Right to Life includes the right not to live.

² INDIAN CONSTI. ART.21

³ AIR 1994 SC 1844

- Gian Kaur v. State of Punjab (1996)⁴: A five-judge Constitution Bench overruled P. Rathinam. The Court held that Article 21 is a guarantee of protection of life and personal liberty, and by no stretch of imagination can "extinction of life" be read into it. However, the bench made a crucial, subtle distinction: it noted that while the premature termination of a healthy life is prohibited, a dying man has the right to die with dignity when his life is ebbing out due to a terminal illness.
- Aruna Ramachandra Shanbaug v. Union of India (2011)⁵: The issue returned to center stage when social activist Pinki Virani filed a petition on behalf of Aruna Shanbaug, a nurse who had lived in a persistent vegetative state (PVS) for nearly 37 years following a brutal sexual assault. The Supreme Court rejected active euthanasia but allowed passive euthanasia (the withdrawal of life support) under a highly rigid mechanism requiring prior approval from the respective High Court.

Despite Aruna Shanbaug, the legal status of "Living Wills" remained completely unrecognized, leaving doctors vulnerable to criminal prosecution and families trapped in prolonged, distressing litigation. Recognizing these gaps, the public interest society Common Cause filed a writ petition under Article 32 of the Constitution in 2005, which culminated in the landmark 2018 verdict.

Core Constitutional and Legal issue

The Constitution Bench had to resolve four fundamental questions:

1. Whether the constitutional guarantee of the Right to Life under Article 21 encompasses the Right to Die with Dignity.
2. Whether there is a clear distinction between active euthanasia and passive euthanasia.
3. Whether an individual possesses the right to execute an Advance Medical Directive (Living Will) to refuse treatment in the future.
4. Whether the absence of legislation governing end-of-life decisions permits the judiciary to step in and frame operational guidelines.

Meaning of Euthanasia

⁴ AIR1996 SC 946

⁵ AIR 2011 SCC 454

Euthanasia means intentionally ending a person's life to relieve pain and suffering. It is generally divided into two categories:

1. Active Euthanasia

It involves directly causing the death of a person through medical intervention such as administering a lethal injection. Active euthanasia remains illegal in India.

2. Passive Euthanasia

It involves withdrawal of medical treatment or life support systems that artificially prolong life. The Court in this case legalized passive euthanasia under strict safeguards.

The judgment treated dignity as more important than the mechanical continuation of biological existence. A life sustained only by machines, without hope of recovery, was compared to a lamp flickering in a storm while the law silently guards the flame.

Arguments Presented

Petitioners' Contentions:-

The petitioner, Common Cause, a registered NGO, filed a writ petition under Article 32⁶ of the Constitution before the Supreme Court. The organization sought recognition of the right to die with dignity as a fundamental right under Article 21.

Their advocate Mr. Prashant Bhushan, argued that individual autonomy and bodily integrity are foundational elements of personal liberty. They contended that forcing a terminally ill patient to remain on artificial life-support systems against their explicit will—or when there is absolutely no hope of recovery—constitutes cruel, inhuman, and degrading treatment.

They emphasized that a "dignified life" cannot be detached from a "dignified death." Furthermore, they asserted that a competent adult possesses a common-law right to self-determination, which naturally includes the right to refuse unwanted medical interventions

⁶ THE CONSTITUTION OF INDIA , ART. 32

Respondents' Contentions:-

The Union of India strongly opposed the concept of a "Living Will," expressing grave concerns over its potential misuse. The state argued that allowing individuals to declare in advance that they wish to be taken off life support could open the floodgates to elder abuse, financial exploitation by relatives seeking inheritances, and medical negligence.

The government maintained that the right to life under Article 21 refers exclusively to the availability of food, shelter, and healthcare, and that any shift toward legalizing end-of-life choices must be introduced solely through comprehensive legislation passed by Parliament, rather than via judicial decrees.

The Court examined earlier judgments including *Aruna Shanbaug v. Union of India (2011)* and considered international legal developments relating to euthanasia.

Issues Before the Court

1. Whether the right to die with dignity is a part of Article 21 of the Constitution.
2. Whether passive euthanasia should be permitted in India.
3. Whether an individual has the right to execute a living will or advance medical directive.
4. Whether withdrawal of artificial life support amounts to an unlawful act.

Judgment of the Court

The Supreme Court unanimously held that the right to die with dignity is a part of Article 21 of the Constitution. The Court legalized passive euthanasia and recognized the validity of living wills.

The Court stated that dignity does not end when a person approaches death. A terminally ill person has the right to refuse artificial life support if there is no possibility of recovery.

The Court also laid down detailed guidelines regarding execution and implementation of living wills until Parliament enacts legislation on the subject.

Constitutional Principles Involved

- Article 21: Right to Life and Personal Liberty

The Court interpreted Article 21 broadly and held that the right to life includes the right to live with dignity and also the right to die with dignity in cases of terminal illness.

- Right to Privacy

The judgment relied upon Justice K.S. Puttaswamy v. Union of India, where privacy was declared a fundamental right. Personal autonomy in medical decisions was considered an essential aspect of privacy.

- Human Dignity

The Court emphasized that dignity is the foundation of fundamental rights. Compelling a person to suffer unnecessarily violates constitutional morality.

Critical Analysis

The judgment is widely appreciated because it balances the sanctity of life with individual autonomy. It reflects a compassionate and modern constitutional approach.

Positive Aspects

- It protects terminally ill patients from unnecessary suffering.
- It recognizes personal autonomy and informed consent.
- It aligns Indian law with international human rights principles.
- It provides legal clarity to doctors and hospitals regarding passive euthanasia.

Criticism

- The original guidelines were highly complex and procedural.
- Excessive medical and judicial formalities could delay urgent decisions.

- There remains a possibility of misuse in cases involving property disputes or family pressure.
- India still lacks comprehensive parliamentary legislation on euthanasia.

Despite criticism, the judgment is considered progressive because it acknowledges that dignity must accompany life until its final breath.

Conclusion

The judgment in *Common Cause v. Union of India* transformed Indian constitutional law by recognizing passive euthanasia and living wills. The Supreme Court expanded the meaning of Article 21 and affirmed that dignity is not limited to life alone but also extends to the process of dying.

The decision represents a humane balance between medical ethics, constitutional values, and individual liberty. It strengthened patient autonomy and established important safeguards against misuse. The case remains a milestone in Indian legal history and continues to influence debates on healthcare rights and end-of-life decisions.

In essence, the judgment teaches that the Constitution protects not only the heartbeat of life but also the dignity of its final silence.

References

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INDIA CONST. art. 21.

INDIA CONST. art. 32.