

## **RIGHT TO DIE**

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### **Abstract**

Die with dignity means to die at one's own will which means offering options to ill patient to die other than waiting for illness to kill them. Die with dignity includes various interpretation like suicide, active euthanasia, passive euthanasia. Supreme court of India has held right to die with dignity as a fundamental right. In Art. 21 it was only included about right to life and liberty but with the passage of time it expanded its spectrum to right to live with dignity. It was held by the court that right to live with dignity also includes the smoothening of the process of dying in case of a terminally ill patient. Legalising of right to die has various advantages like it is a way to end the extreme painful life of patients as well as it can also provide some extent of emotional and physical relief to the family members of the patient and it will also help to free up the funds of the state which will help to provide support to other poor people. But legalizing it also have some disadvantages like in Indian society it is very difficult to accept the concept of euthanasia as religious scripture defy it and legalizing it will also lead to death of poor people because of peculiar economic reasons and it will also lead to shoving off responsibilities of people.

### **Introduction**

Right to life is a basic natural and fundamental right of a human being which is protected under Part III of the constitution. Under Article 21 it states that, " No person shall be deprived of his life or personal liberty except according to law , it is a personary right which means that it is available to every individual whether citizen or non-citizen. The word 'life' in article 21 means a life of dignity not just an animal existence. In modern parlance, the 'freedom to die' seems to have emerged from the rights of privacy, autonomy and self-determination. In Art. 21 it was only included about right to life and liberty but with the passage of time it expanded its spectrum to right to live with dignity.

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Death means the end of person's life which means the end of all legal rights available to a person. It is of two types natural and unnatural. The right to life including the right to live with human dignity would mean the existence of such a right upto the end of such a life. Every person must have the right to decide one's own time of death but it has certain advantages and disadvantages like it can be helpful to the patients who are in the extreme miserable condition but some people can also take it in a way to get rid of their responsibilities.

Passive euthanasia is a practice of ending life in a painless manner. It means that a person who is terminally ill and they are emotional or financial burden on family and they don't want medical treatment or to live by life support system can request for passive euthanasia to their suffering.

Suicide means the will of a person to end his or her life when the person doesn't want to continue due to a particular situation or suffering caused due to depression relating to financial or emotional. But assisted suicide is punishable under sections 305 and 306 of IPC. Assisted suicide means assisting a person to commit suicide who is willing to commit suicide physician can also assist a person to commit suicide.

### **Historical Background :**

Oregon was the first state to introduce death with dignity act. This law was passed in Oregon in 1994 and came into effect on 1997. The delay between passing and enacting law was faced by many legal challenges among which the famous was the United States Supreme Court case of Gonzales vs. Oregon. During the first decade from 1993 to 2004 the main goal was to define and defend the Oregon death with dignity act against many legal challenges. During the second decade from 2004 to 2014 expanded on expanding it to the nation wide.

### **Religious Beliefs :**

According to Buddha, People who wish to get enlightened or people who have attained enlightenment should only have this idea to die on their own. According to some Hindu's doctor should not accept a patient's request for death since this will cause the soul and body to be separated at an unnatural time. The result will damage the karma of both patient and doctor. They believe that it breaches the teaching of ahimsa. However some Hindus say that by helping to end

a painful life a person is performing a good deed and fulfilling their moral obligations. In Jainism fasting to death is a key religious observance.

### **Court cases and ruling**

The issue of right to die started in *P. Rathinam v. Union of India*. In a landmark judgement passed by five-Judge Constitution Bench of the Supreme Court, the Court has recognized right to die with dignity as a fundamental right. The Bench has hence recognized passive euthanasia and living will in India. The Supreme Court's verdict came in a case instituted by NGO Common Cause wherein the Petitioner sought a robust system of certification for passive euthanasia and recognition for "living will" in India. The Constitution Bench of the Supreme Court in the case has also issued guidelines for enforcement of living wills and the procedure to be followed for euthanasia.

*Gian Kaur v. State of Punjab*- In this case, Five-Judge Bench of the Supreme Court overruled the Supreme Court's holding in the case of *Maruti Shri Pati Dubal v. State of Maharashtra and P. Rathinam v. Union of India & Anr.* In *Maruti Shi Pati Dubal* case, the Supreme Court held Section 309 of Indian Penal Code (this makes attempt to commit suicide a punishable offence in India) as violative of Articles 14 and 21 of the Constitution of India.

In *P. Rathinam* case, the Supreme Court held that the "right to die" is a right enshrined under Article 21 of the Constitution and hence Section 309 of Indian Penal Code was unconstitutional. In *Gian Kaur* case, the Supreme Court held that both euthanasia and assisted suicide were not lawfully valid in India

In the case of *Aruna Shanbaug* Supreme Court legalized passive euthanasia and approved living will provide terminally ill patients or those in persistent incurable vegetative state a dignified exist by refusing medical treatment or life support. CJI Misra led hi colleagues on the bench to harmonize the inevitable yet opposite facets life and death and say in unison that "right to die with dignity is an intrinsic facet of right to life guaranteed under article 21".

### **Position in different countries:**

Colombia is the only country in Latin America where euthanasia is permitted. Although it was decriminalized in 1997 by the Constitutional Court, the changes took place due to Human Rights

claims. Assisted suicide is legal in five of the fifty US states: Oregon, Washington, Montana, Vermont and California. In Netherlands in April 2002 after the thirty years of debate euthanasia and assisted suicide no longer remained a punishable offence. UK does not allow assisted suicide however many discussions take place on this matter in recent years. Belgium and Luxembourg also permitted euthanasia. Switzerland permits assisted suicide only if the intention of the person who is assisting is selfless.

### **Conclusion**

As rightly said in the case of Gian Kaur the right to die with dignity at the end of life is not to be confused or equated with 'right to die' an unnatural death curtailing the natural span of life. In author's point of view it should be legalized only for those people who are facing some serious illness and whose death is better than facing pain by living and not for those who just want to die to run away from their responsibilities or who are facing some economic problem. Right to life is a basic natural and fundamental right of a human being.