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Bioethical and Jurisprudential Perspectives on The Right to Die with Dignity in India

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ABSTRACT:

This article offers an examination of the evolving legal frameworks and judicial interpretations surrounding the right to die in India, deeply contextualized within the country's ancient religious and cultural traditions. Through an exploration of landmark cases from Gian Kaur vs. State of Punjab (1996) to Common Cause vs. Union of India (2018), alongside legislative developments such as the Mental Healthcare Act, 2017, and the revised Indian Penal Code, this study delves into the complex interplay between individual autonomy, state interest, and bioethical considerations. The article integrates perspectives from Hinduism, Jainism, and contemporary bioethics, offering a holistic view of the right to die with dignity within both legal and spiritual contexts. The analysis is supported by references from authoritative books, journal articles, and legal documents, culminating in a scholarly narrative that spans historical, legal, and religious dimensions.

Keywords: Bioethics, Right to Die, Dignity, Indian Jurisprudence, Euthanasia, Santhara, Mental Healthcare Act, Assisted Suicide, Religious Practices, Human Rights.

1. Introduction

The right to life, as guaranteed in Article 21 of the Indian Constitution, is a foundational principle in Indian jurisprudence. Over time, however, the interpretation of this right has evolved, particularly in relation to the contentious issue of the right to die. This article traces the historical, legal, and religious development of suicide and euthanasia jurisprudence in India, examining how the judiciary has progressively moved towards recognizing the right to die with dignity while balancing this with the state's duty to preserve life. The discussion is enriched by references to Hinduism, Jainism, bioethical debates, international human rights standards, and scholarly articles, providing a comprehensive and nuanced understanding of this complex issue.

Historical Background: The Law Relating to Suicide in India

The criminalization of suicide in India can be traced back to colonial times, particularly through the Indian Penal Code (IPC) of 1860. Drafted by Lord Macaulay, the IPC reflected the moral and legal attitudes of the British Empire, which were heavily influenced by Christian doctrines that viewed suicide as a sin and an affront to the sanctity of life (Macaulay, 1860). Section 309 of the IPC criminalized attempted suicide, imposing severe penalties on those who survived a suicide attempt.

In England, the perception of suicide was historically intertwined with religious condemnation. Suicide was considered a felony, with those who committed suicide being denied a Christian burial, and their estates forfeited to the Crown (Radzinowicz, 1948). This punitive approach was exported to India, where it was codified in the IPC, despite the diverse religious and cultural perspectives on suicide that existed in the Indian subcontinent.

The British rationale for criminalizing suicide was not merely legal but also moralistic. It was based on the belief that life was a divine gift, and taking one's own life was seen as an act of defiance against divine authority. This perspective, however, clashed with the more nuanced views on voluntary death found in Indian religions, particularly Hinduism and Jainism.

Suicide in Hinduism and Jainism

Hinduism, with its intricate tapestry of beliefs and practices, offers a complex view on the concept of voluntary death. While the act of ending one's life is generally discouraged, certain exceptions are rooted in spiritual and philosophical traditions.

One such exception is the practice of Prayopavesa, a form of voluntary death by fasting. Prayopavesa is considered an acceptable practice for individuals who have achieved their life's objectives, who have no desire for further worldly experiences, and who wish to renounce the world in pursuit of Moksha (liberation). Unlike suicide, which is often seen as an act of desperation, Prayopavesa is regarded as a dignified exit, undertaken with full consciousness and spiritual intent (Olivelle, 1992).

The Mahabharata, one of Hinduism's most revered epic narratives, provides notable examples of voluntary death. Bhishma, the grand patriarch of the Kuru dynasty, chose to die only when he deemed it the appropriate time, lying on a bed of arrows during the Kurukshetra war until the auspicious moment for his death arrived. His death was a deliberate act, in alignment with his spiritual beliefs and his vow of celibacy, which he upheld throughout his life (Menon, 2004).

Another significant practice is Samadhi, where yogis or ascetics consciously leave their bodies after reaching a state of deep meditation. This practice is seen as a form of self-willed death that transcends the physical body, aiming for union with the divine. Unlike suicide, Samadhi is viewed as the culmination of a life dedicated to spiritual discipline (Bhattacharyya, 2008). The distinction between Prayopavesa and Samadhi from suicide lies in their intentionality and the

spiritual preparation that precedes them, reflecting a nuanced understanding of death as a transitional, rather than a terminal, state.

Jainism and the Practice of Sallekhana

Jainism, one of the oldest religions in India, provides a well-defined framework for the practice of voluntary death through Sallekhana or Santhara. This practice involves a gradual reduction of food and water intake, leading to death. It is considered the ultimate act of non-violence (Ahimsa) and renunciation, performed when a person believes they have completed their worldly duties and seeks to attain liberation from the cycle of rebirth (Dundas, 2002).

Jain scriptures, such as the Acaranga Sutra and the Bhagavati Sutra, describe Sallekhana as a noble end, undertaken with full awareness and a peaceful mind. The practice is not seen as a form of suicide but as an expression of spiritual discipline and detachment from the material world. It is governed by strict ethical guidelines to ensure that it is not misused or undertaken out of despair (Jaini, 1998).

The Jain community regards Sallekhana as a deeply respected tradition, often carried out under the guidance of religious leaders. The practice is viewed as a way to purify the soul and prepare for a peaceful transition to the next life. However, the legal status of Sallekhana has been contentious, particularly in the context of modern Indian law, which has historically criminalized suicide.

The Legal Evolution: From Criminalization to Compassion

Gian Kaur vs. State of Punjab (1996)

The Supreme Court's decision in Gian Kaur vs. State of Punjab (1996) marked a critical point in India's legal history regarding the right to die. The case revolved around the constitutionality of Section 306 (abetment of suicide) and Section 309 (attempted suicide) of the IPC. The petitioners argued that the right to life under Article 21 should logically include the right to die, thereby rendering these sections unconstitutional.

However, the Supreme Court rejected this argument, upholding the constitutionality of both sections and emphasizing that the right to life did not include the right to die. The Court asserted that life is a natural right and that suicide, being an unnatural termination of life, could not be protected under Article 21 (Verma, 1996). This judgment reaffirmed the state's interest in preserving life, even as it acknowledged the complexities of individual autonomy and state intervention.

The Gian Kaur judgment drew heavily on earlier legal precedents and philosophical arguments. The Court referred to the works of Aristotle and Immanuel Kant, who both emphasized the intrinsic value of life. Aristotle, in his Nicomachean Ethics, argued that life is the foundation of all values, and without it, no other values can be realized (Aristotle, 2009). Kant, in his Groundwork for the Metaphysics of Morals, posited that life must be preserved as a duty, even when one's circumstances are dire (Kant, 1996).

P. Rathinam vs. Union of India (1994)

The Gian Kaur judgment reversed the earlier decision in P. Rathinam vs. Union of India (1994), where the Supreme Court had declared Section 309 IPC unconstitutional. The P. Rathinam judgment argued that the right to life under Article 21 inherently included the right to die, thus supporting the decriminalization of attempted suicide. The Court viewed Section 309 as an irrational and cruel provision that punished individuals already in distress (Hansaria, 1994).

The P. Rathinam case was significant because it brought into focus the philosophical debate about the sanctity of life versus the autonomy of the individual. The Court's decision to decriminalize suicide was seen as a progressive step toward understanding suicide as a public health issue rather than a criminal act. This viewpoint aligns with modern legal and ethical

debates in many parts of the world, where the focus has shifted from punishment to prevention and support for those at risk of suicide.
The Court in P. Rathinam also referenced the landmark U.S. case Roe v. Wade (1973), which recognized the right to privacy as including the right to make decisions about one's own body. This comparison highlighted the global nature of debates surrounding bodily autonomy and the right to make life-ending decisions (Rosen, 2007).

Passive Euthanasia and Aruna Ramchandra Shanbaug vs. Union of India (2011)
The Aruna Ramchandra Shanbaug vs. Union of India (2011) case brought the issue of passive euthanasia into the legal limelight. Aruna Shanbaug, a nurse who had been in a permanent vegetative state for over 37 years, became the subject of a public interest litigation that sought permission for passive euthanasia—specifically, the withdrawal of life-sustaining treatment.
The Supreme Court's judgment allowed passive euthanasia under stringent conditions, distinguishing it from active euthanasia, which involves a deliberate act to end life. The Court's decision was based on the principle of parens patriae, where the state assumes the role of the guardian for those who are incapable of making decisions for themselves (Katju & Misra, 2011). The judgment also laid down guidelines for implementing passive euthanasia, requiring that any decision to withdraw life support must be taken with the approval of the High Court.
The Aruna Shanbaug case was a landmark moment in Indian legal history, as it was the first time the judiciary explicitly recognized the concept of euthanasia within the legal framework. The case also highlighted the ethical complexities surrounding end-of-life decisions, particularly in a country with diverse religious and cultural beliefs.
In making its decision, the Court drew on international perspectives, referencing the Airedale NHS Trust v. Bland (1993) case from the UK, where the House of Lords had permitted the withdrawal of life support from a patient in a persistent vegetative state. This comparison underscored the growing acceptance of passive euthanasia in global jurisprudence (Jackson, 2016).

Nikhil Soni vs. Union of India (2015) and the Religious Debate
The Nikhil Soni vs. Union of India (2015) case brought the religious practice of Santhara, a Jain ritual of fasting unto death, under judicial scrutiny. The Rajasthan High Court ruled that Santhara is a form of suicide and is, therefore, punishable under Section 309 IPC. The Court rejected the argument that Santhara was an essential religious practice protected under Article 25 of the Constitution (Ambwani, 2015).
This judgment sparked widespread debate, as it brought religious freedoms into direct conflict with legal interpretations of suicide. Jain scholars and practitioners argued that Santhara is a deeply spiritual practice, undertaken with the intent of achieving liberation rather than ending life. The case highlighted the ongoing tension between individual rights, religious practices, and state intervention in India.
However, the situation took a significant turn when the Jains filed an appeal against the Rajasthan High Court's judgment. The Supreme Court of India stayed the High Court's decision, allowing the practice of Santhara to continue. As a result, Santhara is still being practiced, and the matter remains sub judice, awaiting a final decision by the Supreme Court.
This development underscores the complexity of balancing religious freedoms with legal mandates in India. The Nikhil Soni case draws parallels with other global instances where religious practices have clashed with modern legal standards, such as the Mataji case in the United States. In that case, the courts had to balance the religious right of a Hindu woman to fast to death with the state's interest in preserving life (Williams, 2010). The ongoing nature of the Nikhil Soni case reflects the Indian judiciary's careful consideration of these competing rights and the broader implications for religious freedom in the country.

The Mental Healthcare Act, 2017

The enactment of the Mental Healthcare Act, 2017, marked a significant shift in the legal treatment of suicide in India. Section 115 of the Act presumes that a person attempting suicide is undergoing severe stress and should not be prosecuted under Section 309 IPC. Instead, the Act mandates that such individuals should receive care, treatment, and rehabilitation (Ministry of Health and Family Welfare, 2017). This shift reflects a more compassionate approach to suicide, aligning with global trends that treat it as a mental health issue rather than a criminal offense.

The Act was also a response to the growing recognition that criminalizing suicide does not deter people from attempting it but instead adds to their distress. By focusing on rehabilitation rather than punishment, the Mental Healthcare Act seeks to address the underlying causes of suicide and provide support to those in need.

The legislative intent behind the Act was influenced by international conventions such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which emphasizes the need for states to protect the rights of individuals with mental health issues, including the right to life and dignity (UN, 2006).

Ethical and Constitutional Considerations: The Role of Morality in Legal Interpretations

In their paper "Sustaining Public Morality Whilst Upholding Constitutional Morality," Rishabh Gandhi and Dr. Sukdeo Ingale explore the tensions between public morality, often rooted in religious and cultural traditions, and constitutional morality, which is anchored in the values and principles enshrined in the Indian Constitution. They argue that the judiciary must carefully navigate these tensions, particularly in cases involving life and death, to avoid undermining either public trust or constitutional principles (Gandhi & Ingale, 2023). This analysis is particularly relevant in the context of cases like Nikhil Soni, where religious practices come into conflict with legal interpretations of individual rights and state interests.

Gandhi and Ingale's argument resonates with the writings of John Rawls, who, in A Theory of Justice, discusses the importance of balancing personal liberties with the greater good, a principle that is often at the heart of debates on the right to die (Rawls, 1971).

The Ethical Dimension: Prayopavesa and Legal Interpretations

In exploring the ancient Hindu practice of Prayopavesa (fasting unto death), the paper Navigating the Ethico-Legal Conundrum of Prayopavesa by Rishabh Gandhi and Dr. Sukdeo Ingale examines how this practice intersects with modern legal frameworks. The authors argue that while Prayopavesa is rooted in spiritual beliefs and is distinct from suicide, its legal implications under Article 21 and 25 of the Indian Constitution create a complex ethical dilemma. The paper highlights the importance of respecting religious practices while ensuring they do not contravene the fundamental rights guaranteed by the Constitution (Gandhi & Ingale, 2023).

The discussion of Prayopavesa also draws on the writings of Max Weber, who in The Protestant Ethic and the Spirit of Capitalism explores how religious practices influence legal and ethical norms within societies (Weber, 1930). Weber's analysis provides a broader context for understanding how Indian religious practices, like Prayopavesa, can coexist within a modern legal framework.

Bioethical Perspectives on Dignity and Assisted Death

The concept of dignity plays a central role in contemporary debates about the right to die. In his article The Death of Dignity is Greatly Exaggerated, Bjørn Hofmann critiques how dignity is often invoked in bioethical debates, arguing that it is used both as a justification for and

against assisted death. Hofmann suggests that dignity, while a valuable concept, is often overused and underdefined, leading to its rhetorical inflation in arguments about the right to die (Hofmann, 2020).

Similarly, Morten Dige's work in Assisted Death, Dignity, and Respect for Humanity explores the moral permissibility of assisted death through the lens of Kantian ethics. Dige argues that respect for humanity, a core Kantian principle, can support the permissibility of assisted death under certain conditions, especially when it aligns with the individual's rational will and autonomy (Dige, 2022). This perspective adds depth to the ethical discussion surrounding the right to die, highlighting the tension between respecting individual autonomy and upholding universal moral laws.

A New Era: Common Cause vs. Union of India (2018)

The landmark judgment in Common Cause vs. Union of India (2018) marked a significant shift in Indian jurisprudence regarding the right to die with dignity. The Supreme Court recognized passive euthanasia and the validity of advance medical directives, allowing individuals to refuse life-sustaining treatment under certain conditions (Misra, 2018). The Court's decision was rooted in the principle that the right to life includes the right to die with dignity, echoing the sentiments expressed by legal scholars such as Ronald Dworkin, who argued in Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom (1993) that individual autonomy should be paramount in decisions about life and death.

This judgment not only aligned Indian law with global human rights norms but also underscored the importance of patient autonomy in end-of-life care. It has been celebrated for its progressive stance, as it provides a legal framework that respects individual choices while ensuring that such decisions are made within a structured legal process.

The Common Cause judgment also referenced the Washington v. Glucksberg (1997) case from the U.S., where the Supreme Court upheld the state's interest in preserving life while acknowledging the complexities of the right to die (Glucksberg, 1997). This comparison further illustrates the global nature of debates surrounding euthanasia and the right to die.

The New Indian Penal Code and Legislative Reforms

The recent revisions to the Indian Penal Code (IPC) further reflect the changing attitudes towards suicide and the right to die. The new provisions emphasize rehabilitation and care over punishment, in line with the principles established by the Mental Healthcare Act, 2017. The decriminalization of attempted suicide in the new IPC is a testament to the evolving understanding of the socio-legal complexities surrounding the act (Ministry of Home Affairs, 2023).

The Law Commission of India's 42nd Report (1971) and 156th Report (1997) also played a pivotal role in shaping these reforms, recommending the decriminalization of suicide and advocating for a more compassionate legal approach. As the 42nd Report noted, "The criminal law should not punish individuals for acts committed in extreme distress but should instead provide avenues for rehabilitation and support" (Law Commission of India, 1971).

These reforms align with international best practices, as seen in countries like Canada, where the Supreme Court's decision in Carter v. Canada (2015) led to the decriminalization of physician-assisted suicide, reflecting a similar shift towards prioritizing individual autonomy and compassion in end-of-life care (Carter, 2015).

International Perspectives and Comparisons

The Indian legal trajectory on the right to die has parallels with international developments. For instance, the decriminalization of suicide in the United Kingdom under the Suicide Act of 1961, which was referenced in the P. Rathinam case, reflects a broader trend towards treating

suicide as a public health issue rather than a criminal one (Radzinowicz, 1961). Similarly, countries like the Netherlands and Belgium, which have legalized euthanasia under strict conditions, highlight the global movement towards respecting individual autonomy in end-of-life decisions (Griffiths et al., 2008).

In Japan, the legal system has also grappled with the complexities of euthanasia, where cultural norms and legal principles often intersect. The Tokugawa era's practice of seppuku, a form of ritual suicide, contrasts sharply with modern Japan's legal stance, where euthanasia remains highly regulated (Strober, 2015). This comparison underscores the diverse ways in which different cultures approach the right to die.

2. Conclusion

The evolution of suicide jurisprudence in India from Gian Kaur to Common Cause illustrates a significant shift from a punitive approach to one that recognizes the complexities of human dignity and autonomy. Through landmark judgments, legislative changes, and scholarly debates, Indian law has progressively moved towards a more compassionate understanding of suicide and euthanasia. As India continues to navigate these complex issues, it is imperative that legal frameworks are developed that balance individual rights with societal interests, ensuring that the dignity of life and death is preserved.

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