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A Critical Legal Study on Bioethical Challenges and the Right to Life in India

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ABSTRACT :

The interplay between bioethics and constitutional law has received enormous interest in modern-day India, especially in light of improvements in remedy and biotechnology. This study seriously examines the bioethical dilemmas surrounding end-of-life selections, reproductive technology, organ transplantation, and genetic engineering, through the lens of the Indian Constitution—specifically Article 21, which ensures the proper to existence and personal liberty.

The paper explores key judicial pronouncements together with *Common Cause v. Union of India* and *Aruna Shanbaug v. Union of India*, that have expanded the interpretation of the proper to lifestyles to consist of the proper to die with dignity and knowledgeable consent. It also assesses the impact of latest law just like the ART Act, Surrogacy Act, and Gene Therapy Guidelines, emphasizing the need for a extra inclusive and ethically grounded felony framework.

Through comparative evaluation and normative assessment, the study advocates for codification of bioethical standards into Indian regulation, safety of patient autonomy, and the status quo of institutional oversight to safeguard each innovation and human dignity in healthcare.

Keywords: Bioethics, Right to Life, Article 21, Euthanasia, Reproductive Rights, Surrogacy Law, Genetic Engineering, Organ Transplantation

I. Introduction

In the evolving landscape of science and technology, the legal and ethical frameworks that govern human life are constantly being challenged. One of the most complex areas in this domain is bioethics, which addresses the moral implications of medical advancements and human biology. In India, where the Constitution guarantees the Right to Life under Article 21, bioethical concerns have increasingly come under legal scrutiny. From debates around euthanasia, abortion, and organ transplantation to controversies involving stem cell research and end-of-life decisions, these issues touch the very core of human dignity and personal autonomy. The Indian judiciary has, over the years, interpreted Article 21 to encompass a wide array of rights, including the right to die with dignity, reproductive rights, and informed medical consent.¹ This interpretation underscores the critical intersection between bioethics and constitutional law. However, despite progressive judgments like *Aruna Shanbaug*² and *Common Cause v. Union of India*,³ the absence of a unified legislative framework in India for bioethical regulation leaves patients, families, and medical professionals navigating a gray zone. The need for a nuanced legal approach that harmonizes scientific advancement with ethical values and constitutional guarantees has never been more urgent. This paper aims to explore these challenges through a legal lens, examining how Indian law currently addresses — and sometimes fails to address — the growing complexities of bioethical issues vis-à-vis the Right to Life.

II. Constitutional Framework: Article 21 and the Right to Life

The Indian Constitution, through Article 21, guarantees that “no person shall be deprived of his life or personal liberty except according to procedure established by law.”⁴ Over time, this seemingly simple provision has been judicially interpreted to encompass a spectrum of rights including the right to health, privacy, livelihood, and more critically, the right to live with dignity. In the context of bioethics, this expansion becomes particularly relevant. The judiciary has continuously reinforced the idea that dignity is not only a facet of life but also death. This expansive reading of Article 21 was rooted in landmark decisions like *Francis Coralie Mullin v. Union Territory of Delhi*⁵ and later solidified through judgments addressing medical and end-of-life choices.

¹ *The Constitution of India*, Article 21.

² *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454.

³ *Common Cause v. Union of India*, (2018) 5 SCC 1.

⁴ *The Constitution of India*, art. 21.

⁵ *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

What makes Article 21 unique is its flexibility; it evolves with time and societal needs. The courts have utilized it as a constitutional tool to respond to scientific and ethical challenges, especially those in the medical domain.⁶ However, this same elasticity has occasionally left gaps in concrete legislative action. While courts have acknowledged the existence of bioethical concerns, they have often done so reactively rather than through proactive policy intervention. Thus, Article 21 continues to be both a shield and a sword in the realm of bioethical jurisprudence, shaping the legal narrative of life and death in India.

III. Euthanasia and the Right to Die

The legal recognition of euthanasia in India presents one of the most compelling examples of the tension between bioethics and constitutional rights. Initially, in *Gian Kaur v. State of Punjab*,⁷ the Supreme Court held that the right to life under Article 21 does not include the right to die. However, this position evolved dramatically in the next decades. The pivotal shift got here with the Aruna Ramachandra Shanbaug case, wherein the courtroom allowed passive euthanasia underneath strict prison safeguards, marking the first time Indian jurisprudence approved a form of “proper to die with dignity.”

This jurisprudential transformation culminated in *Common Cause v. Union of India* (2018), where the Supreme Court unequivocally held that the proper to die with dignity is a fundamental component of the proper to existence. The judgment legalized passive euthanasia and diagnosed dwelling wills and advance clinical directives, permitting people to refuse existence-prolonging remedy. This landmark ruling set up that terminally unwell patients can't be subjected to pointless clinical techniques in opposition to their will, making autonomy a key detail of bioethical regulation.

Yet, challenges persist. While passive euthanasia is legally sanctioned, energetic euthanasia—the planned act of ending someone's existence—stays unlawful. The absence of an in depth statutory framework leaves docs and families operating in legal ambiguity. Scholars argue that while the judiciary has laid the foundation, legislative backing is urgently required to fill interpretive gaps and provide procedural clarity. As Indian society grapples with changing moral, cultural, and religious perspectives on dying and loss of life, the prison architecture around euthanasia stays in a sensitive and evolving phase.⁸

IV. Reproductive Rights and Bioethical Autonomy

Reproductive rights in India have evolved significantly, especially with judicial interpretations aligning personal liberty with bodily autonomy. The landmark case of *Suchita Srivastava v. Chandigarh Administration*⁹ firmly recognized a woman's right to make reproductive choices as a dimension of Article 21 of the Constitution. These choices include the right to carry a pregnancy to term or terminate it, which forms the cornerstone of bioethical autonomy. Legislative support for these rights is found in the Medical Termination of Pregnancy (MTP) Act, 1971, amended in 2021 to allow greater reproductive freedom.¹⁰ However, gaps remain in ensuring informed consent and access, particularly for marginalized groups such as rural women and sex workers.

Additionally, the upward push of Assisted Reproductive Technologies (ARTs)—together with IVF, surrogacy, and egg donation—has introduced new moral dilemmas. The ART Act (2021) and the Surrogacy (Regulation) Act (2021) attempt to regulate those practices however have additionally been critiqued for except LGBTQ+ individuals and unmarried men.¹¹ The bioethical battle for this reason emerges between reproductive autonomy and the kingdom's role in defining who is “in shape” to discern. As Malhotra argues, Indian courts have emphasised the want for dignity and choice in reproductive fitness, but society and regulation are nevertheless catching up.¹²

V. Genetic Engineering and Emerging Bioethical Questions

Genetic engineering—mainly germline editing, prenatal screening, and CRISPR technology—poses some of the most profound bioethical demanding situations of our time. While these advances offer promise in eliminating hereditary diseases, in addition they boost questions about eugenics, consent, and social inequality. In India, there is no standalone regulation to regulate genetic enhancing; rather, vast oversight is furnished by way of the Indian Council of Medical Research (ICMR) via non-binding moral hints.¹³

Concerns about selective abortion, intercourse willpower, and “fashion designer babies” echo longstanding gender and caste biases embedded in Indian society. A foremost difficulty is the shortage of consent or know-how from potential mother and father undergoing gene therapy, in particular in rural regions. As Saxena notes, unchecked application of gene enhancing with out a felony framework risks violating both moral standards and human rights. The Bioethics Committee of India has called for the establishment of a national regulatory body to deal with these complexities, ensuring research and scientific packages uphold transparency, equality, and dignity.¹⁴

⁶ Uniyal, V. et al. (2024). *The Perceptible Future of Euthanasia in India through the Landscape of Kantian Theory*. Studies in Science of Science. <https://sciencejournal.re/index.php/studies-in-science-of-science/article/view/724>

⁷ *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648.

⁸ Ibid.

⁹ *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1.

¹⁰ Medical Termination of Pregnancy (Amendment) Act, 2021.

¹¹ Malhotra, C. (2023). *Assisted Reproductive Technologies and Rights – Indian Response*. Vidhyayana E-Journal. [Link](#)

¹² Ibid.

¹³ Munshi, A., & Sharma, V. (2018). *Ethics in Biotechnology*. Elsevier.

¹⁴ ICMR Guidelines for Gene Therapy, 2020.

VI. Organ Transplantation and Consent

Organ transplantation, while life-saving, is riddled with ethical and legal complications in India. The Transplantation of Human Organs and Tissues Act (THOTA), 1994, regulates donation, retrieval, and transplantation of human organs, and criminalizes commercial trading. However, the country continues to face scandals involving coercion, trafficking, and black markets.¹⁵ The lack of robust informed consent procedures, especially in government hospitals, leaves room for exploitation of economically vulnerable individuals.

The concept of presumed consent, followed in countries like Spain, is still absent in India, where explicit consent from living or deceased donors or their families is mandatory. While this model protects individual rights, it contributes to a severe shortage of organs.¹⁶ Scholars argue that a more nuanced “opt-in with informed counseling” system could balance ethical concerns with clinical need.¹⁷ Moreover, religious and cultural apprehensions about posthumous organ retrieval further complicate the scenario.¹⁸ As Roy outlines in his analysis of biomedico-legal challenges, systemic reforms—particularly in awareness, ethical training, and enforcement—are essential to ensure that consent in organ donation is both genuine and free of duress.¹⁹

VII. Ethical Dilemmas in End-of-Life Care and Palliative Medicine

End-of-life care raises a number of the maximum sensitive and unresolved bioethical dilemmas in the Indian prison device. Despite growing legal acknowledgment of the right to die with dignity, realistic implementation stays inconsistent, particularly in public healthcare settings. Palliative care, meant to offer comfort and dignity to terminal sufferers, is often unavailable or poorly delivered because of a loss of skilled employees, sources, and focus. The moral demanding situations here are multifold: from withholding or retreating treatment, to administering high-dose painkillers with potential existence-shortening results, and figuring out the authenticity of a patient’s living will or advance directive.

The Supreme Court in *Common Cause v. Union of India* clarified the legality of passive euthanasia and laid down procedural safeguards for making end-of-existence decisions, which include popularity of patient autonomy and improve clinical directives. However, the load of imposing this choice has in large part fallen on overburdened hospitals with out ok prison or moral infrastructure. Additionally, issues consisting of decision-making potential, family coercion, and scientific paternalism maintain to pose moral threats. As Rajagopal and co-workers observe, there is an urgent want to comprise bioethical training in scientific schooling and adopt a human-rights-based approach to palliative care.²⁰

VIII. Comparative Legal Perspectives

Examining comparative legal frameworks reveals how different nations balance bioethics and the right to life within their constitutional traditions. In the Netherlands and Belgium, both active and passive euthanasia are legally permitted under strict guidelines, reflecting a liberal approach to autonomy and end-of-life choice.²¹ Conversely, the United States adopts a state-wise model—some states like Oregon and Washington have Death with Dignity Acts, while others maintain a total ban.²² The U.S. Supreme Court, in *Washington v. Glucksberg*, upheld a state’s authority to prohibit assisted suicide but acknowledged that refusal of treatment is a protected liberty interest.²³

In contrast, India’s approach is more conservative but evolving. The country has moved from criminalizing suicide to partially legalizing passive euthanasia, indicating a cautious balancing of autonomy and public morality. Countries like Canada, under the *Medical Assistance in Dying (MAiD)* Act, offer another useful contrast: their law includes stringent criteria, yet reflects broad legislative consensus on autonomy.²⁴ Comparative perspectives not only highlight the global diversity in bioethics jurisprudence but also expose India’s need to adopt a more coherent, codified legal framework.²⁵ Drawing lessons from these jurisdictions could help India transition from judicial activism to legislative clarity, ultimately ensuring dignity at the end of life.

IX. Recommendations

1. Codify the Right to Die with Dignity in Indian statutory law, based on *Common Cause*.
2. Establish a bioethics commission to monitor medical practices and legal compliance.
3. Expand reproductive rights to include single individuals, LGBTQ+ persons, and surrogate autonomy.
4. Create AI and genetics oversight frameworks based on fundamental rights.
5. Improve access to palliative care and advance directive registries.

¹⁵ Roy, P. (2023). *Organs and Their Travels: An Analysis of Organ Donation in India*. [Link](#)

¹⁶ Thomasma, D.C. (1997). *Bioethics and International Human Rights*. JLM&E.

¹⁷ Ibid.

¹⁸ Isasi, R. et al. (2004). *Legal and Ethical Approaches to Stem Cell and Organ Research*. Cambridge Journal of Law and Ethics.

¹⁹ Roy, P., supra note 9.

²⁰ Rajagopal & Sureka, supra note 25.

²¹ De Oliveira, C.T. (2022). *Bioethics and Human Rights in International Law: Genetic Engineering, Euthanasia and Organ Transplantation*. University of Cape Town. [PDF](#)

²² Thomasma, D.C. (1997). *Bioethics and International Human Rights*. Journal of Law, Medicine & Ethics.

²³ *Washington v. Glucksberg*, 521 U.S. 702 (1997).

²⁴ Government of Canada. (2016). *Medical Assistance in Dying Act*. Retrieved from <https://www.justice.gc.ca>

²⁵ Saxena, A. (2019). *Ethics in Science: An Inquiry into Bioethical Issues*. Springer.

6. Encourage ethics education in medical and legal institutions.

X. Conclusion

Bioethics, once confined to philosophical discourse, is now an urgent constitutional concern in India. From end-of-life decisions to reproductive autonomy and genetic intervention, the law must grapple with questions that lie at the core of human dignity and agency. Article 21 of the Indian Constitution must not only protect existence—it must guarantee the right to meaningful, autonomous, and dignified life. A robust and sensitive legal framework, rooted in human rights, is essential to navigate these evolving bioethical frontiers.

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