

**RIGHT TO REFUSE TREATMENT VIS-À-VIS PASSIVE EUTHANASIA:
JUDICIAL APPROACH**

Sayan Das¹

INTRODUCTION

The landmark judgment in *Aruna Ramchandra Shanbaug*² modified indefinitely India's controversial approach to euthanasia by authorizing perpetual life support, a method of passive euthanasia, life support system withdrawal only for patients in a permanent vegetative state (PVS). Passive euthanasia will or can "only be allowed in cases where the person is in a persistent vegetative state or terminally ill"³, according to the verdict. Under certain circumstances and conditions, the act of withdrawing or removing life-support medical treatment from a terminally ill or permanent vegetative patient state may be allowed. Another noteworthy court ruling followed after seven years of the Aruna Shanbaug case on 9th March, 2018 through *Common Cause (a reg. society) v. Union of India*⁴ where the Supreme Court of India constituted with five judges has ruled that having the right to die with dignity is a fundamental and basic right. In seeking the solution or a way out, the issues which grappled the Hon'ble Court in *Common Cause* were: Is it unconstitutional for a person to refuse medical care, or is it illegal for them to refuse a certain sort of medical treatment? If this happens, can the individuals concerned make their own decisions about what steps can be taken in the future if they lose control of their faculties? To the question of whether an individual has a right and so imposes a duty on a medical professional who treats the individual, the answer is that this does lay an obligation on the doctor. To what extent, if any, does this obligation need qualifications is the next issue; Additionally, whether it is permissible for a medical practitioner to withhold or refuse medical treatment towards the end of an individual's life who has lost control of his or her faculties and this desire was expressed when he or she was able to make an informed decision and was able to think clearly. That individual's capacity to make an informed decision in a clear mind would likely allow them to make decision and decline medical treatment if there is no reasonable hope for recovery. The Bench went even further and found that the practice of passive euthanasia and

¹ Research Scholar & Assistant Professor, School of Law, Galgotias University.

² *Aruna Ramchandra Shanbaug v Union of India and others*, 2011 AIR SC 1290.

³ Id.

⁴ *Common Cause v Union of India*, (2018) SCC Online SC 208.

advance medical directives are likewise legally acceptable. Also, there should be less unpleasantness in the process of dying for patients who are terminally sick or for patients who are in a vegetative state, because those individuals should be able to have an undisturbed, peaceful passing.

Consequently, passive euthanasia is now legal in India, despite the fact that granting sanction for passive euthanasia has triggered some substantial concerns in various legislation and conceptions of human dignity. According to the Supreme Court's ruling, the Indian Constitution in its Article 21 not only provides the right to life with dignity but on the other, a negative right such as the right to die with dignity (passive euthanasia by removal of life support) that is now allowed for those with a terminal illness and/or those in a persistent vegetative condition. The aim of the study is to analyze and critically examine the idea of the right to reject or refuse treatment and the admissibility to that right while considering legal and ethical concerns in congruence to passive euthanasia. As can be seen, legalization of passive euthanasia has important and dangerous implications, especially for the right to health. The approval of passive euthanasia in common law has at times been compared to active euthanasia; consequently, expanding the concept of passive euthanasia has severe implications in regard to the right to refuse treatment concept already prevailing, whereas passive euthanasia is seen by some exponents & rigorous supporters of active euthanasia as no form of euthanasia at all.

Patients hold the most crucial right of right to self-determination, which means they can decide for themselves whether their bodies will be treated medically or not. It is important to recognize that the aforementioned fundamental human rights inherent in informed consent also have a significant corollary: the ability to refuse treatment. To accept therapy, one has the freedom to object. However, when one "believes" they should be treated, then their self-determination has diminished to the point where it can be described as an "obligation" to follow one's doctor's orders. On the other hand, there are still reports of cases in which individuals are still being treated despite making intelligent objections or withdrawing consent, even though courts universally acknowledge patients' rights to refuse treatment, and although the methods for implementing this right are similar in all countries, there have been disparities in how these standards have been stated and implemented.⁵

⁵ *The Right to Refuse Treatment: A Model Act*, (May 18, 2018, 06:25 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1651109/pdf/amjph00643-0086.pdf>.

Patients have the legal capacity to consent to medical treatment, or reject permission, if they are able to grasp and remember information and make a rational choice that considers the consequences of their treatment choices. In the medical field, all patients who are considered adults are presumed to be competent. This presumption can however be challenged. A competent individual refusing treatment can give rise to a lawsuit for battery; the doctor who takes the patient to the therapy regardless of their will is at fault (unlawful physical contact). Since it is possible to sue the doctor in civil courts, or even to prosecute him in criminal courts, he is vulnerable to claims in both courts. Patients who can make decisions regarding their treatment and well-being have absolute right to reject or to continue with treatment, where non-treatment leads to certain death. For example, Ms B is a patient being kept alive by artificial life support system, a ventilator which allows her to move and speak despite her paralysis. They refused to withdraw the ventilator, so she begged the physicians to do it. The court found that Ms B was competent, and that thus she had the right to refuse even life-saving therapy, since she had the right to refuse treatment, her doctors acted unlawfully in prolonging her ventilation. Although the right to refuse treatment established by these instances appears to be absolute, as well as extending to requests for rejection that are manifestly suicidal, there appear to be no limitations. While it appears that people have the freedom to refuse medical interventions and at the same time, they do not possess the right to decide or consent to.⁶

RIGHT TO REFUSE-REJECT TREATMENT

Even if right of patients to refuse or reject treatment has already been widely recognised or what has been prevailing with or without any rule book, the acceptance of this even being represented in such official documents as the Patient's Charter is still in its early stages. While the ability to perform euthanasia on patients may be much anticipated, it must be acknowledged that allowing such euthanasia does not, in any way, give people permission to kill patients. One could justifiably consider it pointless to argue for such a seemingly

⁶ John Keown, *Medical murder by omission? The law and ethics of withholding and withdrawing treatment and tube feeding*, (Jun. 05, 2018, 08:30 PM), <https://pdfs.semanticscholar.org/2870/a75cb6a6c85bf46feb2f15d2669b2ddd35ac.pdf>.

apparent argument, but because many modern experts in medical law and medical ethics are appearing to presume the opposite.⁷

Article 21 of the Constitution of India guarantees that a person's right to life and personal liberty is guaranteed. Each citizen or individual has the right to live out one's life and to retain personal freedom unless those rights are taken away as part of a legal procedure defined or established by law. The phrase in grammatical form may appear negative but judicial interpretations have found that it is really a powerful expression of many of the positives in society. Many fundamental rights can be found under Article 21 of the Constitution, where they grow, flourish, and gain nutrition. One must see these fundamental human rights through the Indian constitutional provisions that advocates about preserving human dignity while choosing whether or not to accept treatment. Although there is a considerable body of law supporting this proposition, the understanding that any legislation that comes into conflict with or that does anything to limit the Constitutional Rights of India citizens is null and void has long been settled.⁸

A fundamental natural right is described in Article 21: to be given the opportunity to lead a peaceful and dignified life. For those who choose to end their lives, suicide is not a choice; it is a process, a cessation of life, an extinction of existence. While the "right to life" includes not allowing suicide, suicide is incompatible and contradictory with this idea in regard to the notion of dignity, and right to die concept along with dignity are pertinent principle. As healthcare advances, it is the responsibility of the state to safeguard the health of its citizens while also enhancing health care facilities. Physicians, on the other hand, have a duty to give good medical care, but not to harm or neglect patients. This is relevant in the context, and one of the pertinent rights of a patient is the right to discontinue or reject or refuse medical treatment. A right to reject or refuse medical treatment has been prevailing from a long time and is also well-established in law, especially in instances where life-sustaining or life-prolonging treatments are in question. An example of someone who refuses treatment is someone who has blood cancer, and who refuses to undergo chemotherapy or receive feeds via a nasogastric tube. By granting or allowing patients the right to refuse or reject medical

⁷ Susan L Lowe, *The right to refuse treatment is not a right to be killed*, Journal of Medical Ethics, 1997 23: 154-158, (Mar. 28, 2018, 05:45 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1377341/pdf/jmedeth00308-0028.pdf>.

⁸ S Balakrishnan_ & RK Mani, *The constitutional and legal provisions in Indian law for limiting life support*, IJCCM 2005 Volume 9 (2) 108-114, (Apr. 01, 2018, 09:10 PM), <http://www.ijccm.org/article.asp?issn=0972-5229;year=2005;volume=9;issue=2;spage=108;epage=114;aulast=Balakrishnan>.

treatment, a way to perform passive euthanasia has been ultimately given. Some people argue that the provision that allows for medical termination of pregnancy before 16 weeks into a pregnancy is also considered to be a form of active involuntary euthanasia.⁹

With the patients having the right to refuse-reject treatment, particularly when they are in a life-threatening scenario, they have the potential to refuse. It is essential to secure the patient's refusal in the event of a witness. The paper confirming the refusal must be signed by the witness. Due to the fact that a patient's refusal to consent to a life-saving procedure will invalidate the surgery or treatment, it is often in the patient's or authorized representative's best interest to inform the hospital administrator about the non-performance of the procedure and allow the administrator to take appropriate action. To prevent an adult patient from leaving a hospital against his will is against the law. If a patient demands that he be discharged from the hospital even if medical advice indicates otherwise, then this should be recorded, and his signature obtained.¹⁰

This is one of the crucial matters that shapes the delivery of medical treatments today, especially when it comes to permission. There is no further need except that the patient is able to make decisions, because his desires are all that is needed to give permission for medical treatment. He is able to give consent to medical treatment even if the therapy would save his life, as long as his preferences and his ability to make decisions are there. As the job description of today's medical lawyer plainly outlines, this includes a considerable deal of ethical consideration, and is central to modern medical legislation. The Nuremberg Code of 1947 was a widely adopted declaration in which it was said that dignity is inherent to all human beings, and this is to be preserved. The Nuremberg Code was put in place following World War II to address the crimes that the Nazi administration committed against both humans and animals in their quest for biological and medical knowledge. A way to assist or get voluntary and informed consent is to implement a policy that mandates involvement of human subjects in all research studies. In keeping with the Declaration of Helsinki, which is the ethical guideline of the World Medical Association, the Declaration of Helsinki which was adopted in 1964 stressed the importance of properly informing study subjects of the

⁹ Suresh Bada Math_ & Santosh K. Chaturvedi, *Euthanasia: Right to life vs right to die*, IJMR 2012 Dec; 136(6): 899–902, (Mar. 20, 2018, 07:00 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3612319>.

¹⁰ Ajay Kumar *et. al.*, *Consent and the Indian medical practitioner*, IJA 2015 Volume 59 (11) 695-700, (Apr. 01, 2018, 09:10 PM), <http://www.ijaweb.org/article.asp?issn=0019-5049;year=2015;volume=59;issue=11;spage=695;epage=700;aulast=Kumar>.

aims, methods, anticipated benefits, possible hazards, and any discomfort that may be associated with the research. Several international treaties and declarations, such as the declaration on human subjects and protection of human research participants, as well as the Nuremberg Code, support the requirement to get agreement from patients before conducting and/or providing medical treatments. This article deals with the entire spectrum of concerns related to consent in the existing legal context in India. Nowadays, it appears that the circle of legal development on consent has almost been completed in the relevant jurisdiction, as the Indian Supreme Court determined that it is not only “consent” or “informed consent” but prior informed consent must be required by law in every case, except in the limited circumstances of emergency. To be very frank, this puts the doctor in an awkward position. So, it is important to examine the notion of "consent and medical treatment" to gain a deeper grasp of its delicate and fundamental features.¹¹

According to the 196th Report on Medical Treatment to Terminally Ill Patients (protection of patients and medical practitioners) of the Law Commission, the patient (competent) has the legal and constitutional right to refuse medical treatment that would result in a transient increase in life expectancy. In the patient's final moments, life hangs in the balance. There isn't even a glimmer of hope for recovery. When one is in incredible pain and in a state of mental agony, one wants to live out his life without the use of any artificial methods. She/he wants to avoid spending money on something that has no effect. One takes care of his or her well-being over that of suffering. If one must be kept in the critical care unit for a few days or months prior to dying, then he or she does not want to be treated like a "cabbage". His right to privacy must be maintained, which includes protection from unwanted interference and infringement of his bodily integrity. As in Gian Kaur's case, the natural process of his death has already begun, and he wishes to die peacefully and dignifiedly. No law can prevent him from taking this path. Leaving aside the argument for decriminalizing attempted suicide, this is not a situation comparable to suicide. One will not undergo invasive medical treatment, regardless of how his doctor or relatives try to compel him to do so.¹²

Furthermore, the best interest principle adopted by Lord Goff in Airedale when he placed the child's interests ahead of the mother's best interests is relevant here. This question to be considered in these situations is, therefore, whether it is in the child's best interests that

¹¹ Omprakash V. Nandimath, *Consent and medical treatment: The legal paradigm in India*, Indian J Urol. 2009 Jul-Sep; 25(3): 343–347, (Mar. 21, 2018, 03:30 PM), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2779959>.

¹² *The 196th Report on Medical Treatment to Terminally Ill Patients (protection of patients and medical practitioners)*, The Law Commission of India, March 2006, www.lawcommissionofindia.nic.in/.

treatment that causes him to live longer than his biological age should be continued. In the instance of Airedale, it was established that it was acceptable for doctors to stop treating patients who refuse therapy. The doctor's responsibility is to act in the patient's best interests if the patient is unable to communicate.¹³

PASSIVE EUTHANASIA

Passive euthanasia is a more common occurrence in the majority of the hospitals in the county, where patients and their families are no longer willing or able to continue with life-prolonging treatment because of the price. If euthanasia is allowed, the Indian commercial health sector will make a killing off of the elderly and disabled citizens, many of whom would otherwise die waiting for expensive medical care.¹⁴

Euthanasia cannot be perceived to be passive unless one also has an understanding of active euthanasia, which was widely studied and discussed after the Aruna Shanbaug case through the Law Commission's *241st Report on Passive Euthanasia: A Relook*. It was made clear in the Supreme Court of India's ruling in *Aruna Ramachandra Shanbaug v. Union of India*, as to whether or not Aruna Shanbaug's identity had been stolen. Active euthanasia, alternatively, includes taking steps to end a patient's suffering, such as injecting them with a lethal substance like Sodium Pentothal, which causes the patient to fall into a deep sleep in a few seconds, and from there, death is painless and peaceful. Thus, the amount of good accomplished via ending a person's suffering by a positive deed is the same as murder. Euthanasia which includes active intervention to stop the agony and suffering of a patient about to die is an activity that is performed on that patient. A treatment approach that has had success in the field is the administration of a medication that allows the patient would go into deep sleep for a few seconds, and subsequently the patient passes away quietly and painlessly. Because in this case, it is defined as euthanasia to alleviate the sufferings of a person in the end phase of terminal illness, this qualifies as a sort of euthanasia. Penalizing patients for any part of their medical treatment, regardless of their expressed desires, is seen as a felony throughout the world, with the exception of where it is sanctioned by statute, as the Supreme Court of the United States demonstrated earlier. Legalization of euthanasia in India is prohibited under both Section 303 & Section 306 of Indian Penal Code. To commit suicide is a crime under Section 306 of IPC (abetment to suicide). In other words, negative

¹³ *Airedale N.H.S. Trust v. Bland*, (1993) 2 WLR 316; (1993) 1 All ER 821, HL.

¹⁴ *Supra* Note 10.

euthanasia is generally known as passive euthanasia. This withholding of medical treatment, for example, the withdrawing of antibiotics if there is no rational reason to prescribe them, and the withholding of life support system when a patient is going to die and does not have a chance of survival unless it is provided, are all methods that are examples of covering something up. While there is no legal requirement for active euthanasia, passive euthanasia is permitted nonetheless, as long as the necessary conditions and precautions are in place. Active euthanasia, as defined by the Supreme Court, is most heavily weighted in terms of significance. Passive euthanasia is defined as the following: "Nothing is done to induce the patient's death in passive euthanasia, but in active euthanasia, something may be done to speed up or assist the patient's passing". In Aruna's case, Hon'ble Judges used the word above as a source of additional insight, stating "Passive euthanasia suggests that the doctors aren't actively killing him; they are simply passively allowing him to die." When asked about how people react when someone makes a life-saving manoeuvre, the court stated that although we generally applaud someone who saves another person, we do not commonly blame someone for failing to do so. The Supreme Court came to a definitive conclusion, stating that while the debate about whether or not active euthanasia should be allowed can be controversial, there is no room for uncertainty about passive euthanasia, the position which argues that passive euthanasia should be permitted no matter whether one does or does not take action. Voluntary euthanasia is further subdivided into voluntary and non-voluntary passive euthanasia. Voluntary euthanasia, in which the patient agrees to accept the procedure, is called by that name. Involuntary euthanasia is commonly referred to as non-voluntary euthanasia because the patient lacks the capacity to give consent, for example, if he is in a vegetative state. This is the moment when the Supreme Court issued an additional statement, saying: "In the former case, there are no issues; nevertheless, in the latter case, we will be discussing various questions raised by it." This was the first time the Supreme Court stepped in to regulate non-voluntary passive euthanasia since the patient was in a vegetative condition.¹⁵

The inability to provide patients with instructions for discontinuing and withdrawing life support from a patient when their quality of life has deteriorated to an unacceptable level is seen as the greatest hindrance to competent end-of-life care in India. Additionally, it indicates that physicians are apprehensive about the possibility of facing civil or criminal culpability when they're compelled to make medical choices to limit life-sustaining measures. While the

¹⁵ *The 241st Report on Passive Euthanasia – A Relook*, The Law Commission of India, Report No. 241, August 2012, <http://www.lawcommissionofindia.nic.in>.

argument about whether it is acceptable to apply a specific medical treatment to an individual and whether the individual has the right to refuse treatment rests on a broader question of which society and nation's interests come first, the dispute concerns which of the two treatment paths is best for the individual. As when it comes to public health, the claims of the society prevail. This is a great example, as it can be mandatory vaccination to prevent an epidemic from breaking out. But where treatment is designed for an individual and his immediate family member, individuals should be treated on an individual basis, even if that contradicts the claims of an organization. With regard to the people who have a demonstrated right to refuse treatment, they have an unquestionable right to say no. The right to freedom originates from the need of the community to respect, safeguard, and not encroach upon the individual's ability to have his own views and ideas when it comes to subjects relating to individual sovereignty, which is a clear indication of a free society.¹⁶

Prior to the judgment, in 2006, the Law Commission had laid down an act for *The Medical Treatment of Terminally Ill Patients (protection of patients, medical practitioners)*¹⁷. A 'competent' patient who is going through terminal illness has the right to discontinue or refuse treatment if the patient has been made aware of all of the facts concerning the disease and treatment, as well as the right to know the results of any medical tests. In that case, the doctor must respect the decision to withhold or withdraw treatment or life support system. But in cases where the patient is incompetent which includes those considered to be under the influence of others and those who are diagnosed with minor personality disorders and are unable to make decisions for themselves, the doctors will have to make the best decisions. As with other controversial medical treatments, the parents' and guardians' preferences may prevail in the event that the subject is allowed to live with medical treatment that will lead to his inevitable death. On the other hand, the health ministry decided not to pass any legislation on euthanasia at the time.

In Law Commission's *196th Report on Medical Treatment to Terminally Ill Patients (protection of patients and medical practitioners)*, to summarize, the Commission explicitly states that they feel it necessary to say that the use of the terms 'assisted suicide' and 'euthanasia' as crime categories should continue. It has a specific objective, namely, to research a variety of legal issues and concept related to "withdrawal of life support measures"

¹⁶ *Supra* Note 7.

¹⁷ *The 196th Report on Medical Treatment to Terminally Ill Patients (protection of patients and medical practitioners)*, The Law Commission of India, March 2006, www.lawcommissionofindia.nic.in/.

and to make recommendations to the medical profession regarding how to make decisions about withdrawing life support, which the inquiry will do solely on the matters of the conditions in which doctors should or should not withdraw support if they believe it is in the patient's best interests. Furthermore, there is debate on the circumstances in which a patient may refuse or reject treatment and seek a discontinuation or withholding of treatment or life support measures, if the patient has intentionally made a decision. Decades ago, when the science of medicine and health technology had not advanced to include artificial techniques of prolonging the life of patients who were dying from natural causes, including ventilators and feeding devices, such people perished of natural causes. Today, everyone agrees on this: While the general public considers this acceptable, an opposing theory describes it as dangerous and selfish, a dereliction of a patient's civil duty to reject contemporary medical treatment and let natural world do its thing since it has achieved in better times. Precise choices have been reached throughout the globe in regard to people who are both conscious and capable but who have cancer that has already spread. People who understand they may make an informed choice to die peacefully and who request that they need not be provided medical care which could only extend their life, are expected to have their wishes honoured. Although a substantial percentage of certain patients have reached a stage of their illness where doctors have determined that there are no realistic medical prospects for recovery, to date, many of these patients have been treated by renowned doctors, making their condition far more complicated than it may appear at first glance. While modern medicine and technology could provide people with the tools to extend their lives without providing any purpose for doing so, patients may have to go through pain and suffering in their extended lives. The majority of patients who get palliative care have done so to relieve the symptoms of pain and suffering, where some of these patients do not want to have any medical treatments that could extend life or delay death.¹⁸

Even in the *210th Report on Humanization and Decriminalization of Attempt to Suicide*¹⁹ given by the Law Commission of India, it was stated that there was an undeniable obligation to provide every Indian with the option to live to the end of one's natural life with human dignity. The notion of right to live should include the right to die with dignity and comparing

¹⁸ Id.

¹⁹ *The 210th Report on Humanization and Decriminalization of Attempt to Suicide*, the Law Commission of India, Report No. 210, October 2008, <http://www.lawcommissionofindia.nic.in>.

the right to end one's life prematurely through suicide to the right to die in a way that addresses misery or misery to one's body till the normal life span is attained is improper.

THE CONCERN

Technological advancements in healthcare and health have led to improvements in life support mechanisms that have allowed for extended periods of time spent on life support, sometimes years long, for which the concept of the right to refuse treatment has become a talking point. Patients who are already terminally ill or in a persistent vegetative condition can pursue the right to refuse or reject treatment in order to extend their comfort, but also the right to be free from any kind of invasive procedures, including surgery, prescription medications, or life enhancing system of any form in order to prevent the lingering pain. A competent individual who is not experiencing medical condition that renders them unable to give informed consent is allowed to refuse medical treatment. Although the conservative viewpoint on these three diverse topics differs greatly from suicide, physician-assisted suicide and any form of euthanasia. The ethics of euthanasia and assisted suicide is put into question when a terminally sick patient refuses or rejects to undergo artificial life support system or any treatment. It is clear that this cannot be called either euthanasia or assisted suicide. Refusing treatment is synonymous with death for those suffering from a terminal illness. There is just one possible consequence when it comes to either killing oneself or refusing therapy. They all lead to death. However, refusing to accept therapy cannot be regarded to be suicide.

However, it may be argued that this problem in that there is a limitation of the patient's freedom to deny treatment, rather than just wanting to die, is less critical. By refusing medical treatment, patients who suffer from a disease that has not yet developed may die prematurely, due to their underlying illness. In this way, their deaths are mostly triggered by the illness, and not due to an action or inaction that they themselves chose to implement in the form of a self-inflicted passive euthanasia system. An inquiry into prevalent legislation and rules of terminally ill people would lead to the conclusion that all individuals who can give informed consent have always had the right to refuse healthcare and have the right to determine the circumstances of their own death, which is impervious to passive euthanasia, and is permitted in India.

While the question of whether a patient is allowed to refuse treatment seems affirmative, the question raises serious concerns about the refusal of the treatment and the life support system that involves passive euthanasia. Touched by the more complicated questions: Does the right to refuse to treat the system even in accordance with medical directives extend to denial of life-support? Affirmative errors in the law are the questions of the legality of an individual exercising his or her right with informed decision or through *parens patriae* as regards the law on suicide.

In Indian Law, none of these topics has explicitly established its view. It must be first established that a specific professional body has an opinion on the issue before the legislative regulation of life-support measures can be developed. As no pertinent case law exists in the country, this is essential.²⁰ Even the landmark opinions in Aruna Shanbaug and Common Cause cases on the assimilation of Reports of Law Commission of India are not able to take care of the gaps in problems relating to passive Euthanasia and the right to reject processing to the present. Since time immemorial the right to refuse treatment is generally considered as an issue that hinders the state's health and health responsibility and is now a type of passive euthanasia which is allowed in the face of the right to reject treatment. The ruling appears to serve the elite strata of the society as a legal punishment to restrict finances, paying little mind to the society at a stage in which disabilities and the public health sector are being cared for in healthcare services. The impoverished people have always lived with the choice of right to refuse treatment and enable passive euthanasia to continue infringing their rights to improved healthcare in the nation.

CONCLUSION

Indian law neglects to emphasize the fields of medico-legal concerns even after the two key decisions towards the end of life. While suicide laws muddle this problem, since the latter concerns only a determined decision to harm ourselves in absence of any illness, there is no clarity if a patient is entitled to reject treatment. According to the interpretation of Article 21 and 14 by the Supreme Court, there is no moral distinction between rejecting or removing life-support. They both serve to stop counterproductive interventions, such as death due to allowing it to occur by way of treatment or through euthanasia using a new definition for the law on privacy in the perspective of terminal health and medical interventions. For the use of

²⁰ *Supra* Note 7.

life support, receiving palliative care is absolutely necessary. Palliative care is the physician's major responsibility, and the main aim of any medical intervention is to relieve pain and suffering. It is relevant to add that the notion of the right to refusal and passive euthanasia authorized in India is the opposing side of a coin, yet it helps terminally ill patients' emotional and psychological pain as both stand for their right to self-determination.

The Judicial approach towards this controversial concern has walked through some steps in contrast to the regulations in developed nations towards a new age of healthcare and medicine for terminally ill patients, as the Supreme Court has established decisions to the decision by authorizing passive euthanasia on the difficult topic of euthanasia. In a society in front of a complicated medical, social and legal challenge in medico-legal ethics, the sentences put down are aimed at maintaining harmony. Legislation is required to safeguard end-use patients, as well as the care of physicians, according to the Law Commission Recommendation. Need for new legislations on these issues cannot be withheld as for the development and enhancement of the rights of the patients, laws need to be framed in the area of Right to Refuse Treatment or Informed Refusal of Treatment, Withdrawal or withholding of Life Sustaining Treatment, Right to Palliative Care and in absence the intervention of Judiciary to formulate guidelines for upholding the Basic Structure of the Constitution by allowing basic human right to life.