The Legal Recognition of Living Wills: In the Indian Context

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ABSTRACT

In this paper, the author explores the evolving legal framework of passive euthanasia and living wills in India, focusing on the Supreme Court's landmark rulings *in Aruna Shanbaug v. Union of India (2011)* and *Common Cause v. Union of India (2018).* The paper examines how these judgments establish the right to die with dignity under Article 21 of the Constitution while addressing the challenges of implementation, including judicial delays, procedural complexities, and low public awareness. The central argument of this paper is that the Common Cause (2023) judgment significantly improves the feasibility of living wills by reducing judicial intervention and introducing a two-tier medical board system for verification and enforcement. The revised framework simplifies the execution process by allowing notarized witnessing instead of judicial approval and strengthens patient autonomy by permitting authorized representatives to give consent on behalf of incapacitated individuals. Additionally, the inclusion of living wills in electronic health records and the provision of legal recourse under Article 226 further enhance the effectiveness of these directives. However, the paper also highlights persistent challenges, such as limited public awareness, ethical debates, and the absence of standardized guidelines in healthcare institutions. By comparing India's approach to global legal frameworks, the paper argues that while the *Common Cause* (2023) ruling is a crucial step forward, further legislative reforms and public education are necessary to ensure the practical realization of the right to die with dignity.

Keywords: Passive Euthanasia, Living Wills, Right to Die with Dignity, Judicial Intervention and Medical Board System.

STATEMENT OF PROBLEM

The legalization of passive euthanasia and living wills in *Common Cause v. Union of India (2018)* was a turning point in Indian law. Nevertheless, procedural intricacies, absence of

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statutory support, and restricted public knowledge hinder smooth implementation. The 2020 amendments attempted to make the process easier, but problems still exist in enforcement, medical adherence, and legal certainty. This research analyses the legislative development of euthanasia, reviews procedural reforms, and determines challenges that hinder practical application, with the view to suggesting legal and policy interventions for facilitating accessibility and efficiency in end-of-life decision-making.

RESEARCH OBJECTIVE

1. To evaluate the legal development of passive euthanasia and living wills in India via judicial precedents.
2. To determine the procedural changes made in the 2023 judgment and how they affect the implementation of advance medical directives.
3. To evaluate India's legal framework regarding end-of-life decisions against global best practices.
4. To recognize major hindrances to the practical application of living wills and passive euthanasia in India.

RESEARCH METHODOLOGY

The research in this study is doctrinal in nature, with emphasis on primary sources of law like constitutional provisions, statutes, and court judgments, including *Common Cause v. Union of India (2018)* and the 2023 amendments. Secondary sources, such as academic writings, medical reports, and international law structures, complement the analysis. Empirical evidence from credible studies also supports the discussion. A comparative legal review assesses India's place in comparison with international standards, establishing best practices for policy reforms in the Indian medical and legal landscape.

INTRODUCTION

"*Life is not mere living but living in health.*"[121]

Though the concept has been a subject of philosophical, legal, and moral discussion for centuries, the right to die with dignity has only recently gained substantial traction. This idea

[121] P. Rathinam v. Union of India, (1994) 3 SCC 394 (India).

has received a lot of attention concerning advanced medical directives, mainly living wills and euthanasia. In the landmark ruling in *Aruna Ramchandra Shanbaug v. Union of India (2011)*[122], the Supreme Court of India upheld the legitimacy of passive euthanasia, thereby conforming to the right to a dignified death. This ruling sets the stage for future discussions about end-of-life care and the value of maintaining a person's autonomy even in their last moments. By acknowledging living wills, the subsequent ruling in the *Common Cause v. Union of India (2018)*[123] case bolstered this right and made it possible for individuals to make proactive decisions on their medical care in the event of incapacitation.

Firstly, ancient philosophical debates are where the idea of the right to die with dignity emerged. In addition to Indian customs, the ancient Greeks and Romans also thought about the ethics and morality of ending a life voluntarily. Self-determination has been defended by intellectuals such as Ronald Dworkin and John Stuart Mill, who highlight the value of individual liberty and the prevention of unnecessary suffering. There is a significant resonance between permitting people to choose a dignified death and Mill's claim that true freedom is found in the opportunity to pursue one's own good in one's own way. Moreover, the development of life-support technologies in the context of contemporary medical developments has heightened the discussion surrounding end-of-life decisions and euthanasia. Long-term medical procedures frequently lower the quality of life, raising moral questions regarding how much life should be saved when suffering becomes intolerable. These issues are addressed by the right to die with dignity, which promotes kind and considerate decisions that put the patient's desires and welfare first.

REDEFINING THE CHALLENGES

Advance directives, commonly called living wills, are essential for ensuring that the right to a dignified death is protected. These legal documents enable people to specify their preferences for medical care in cases where they are unable to express their choices because of illness or incapacity. Patients who are unable to engage in their medical care actively can nevertheless have their autonomy honored as a result of living wills. Additionally, they ease the strain on family members and healthcare providers by offering explicit guidance regarding the patient's final wishes. Living wills are still comparatively underutilized in India despite being widely

[122] Aruna Ramchandra Shanbaug v. Union of India, (2011) 4 SCC 454 (India).
[123] Common Cause v. Union of India, (2018) 5 SCC 1 (India).

accepted in the US, Canada, Australia, and some European countries. This gap has been exacerbated by the lack of a thorough legal framework and a general lack of knowledge on advance directives. To resolve this matter, the *Common Cause v. Union of India*[124] The ruling established the legality of living wills and procedural protections for their execution. This ruling was a significant step in acknowledging the right to self-determination and guaranteeing that people can make informed choices regarding the treatment they receive.

The cultural and historical background of end-of-life decisions emphasizes the significance of living wills even more. As seen by the custom of *"samadhi"* and the practice of *"iccha mrityu,"* Indian mythology and spiritual practices have long recognized the idea of deliberate dying. The profoundly ingrained conviction in the dignity of individual liberty is reflected in these culturally accepted means of determining one's own death time and manner. The legal acceptance of living wills is consistent with these philosophical ideas, giving an ancient idea a modern context. Around the world, significant court rulings and legislative initiatives have influenced the development of advance directive law. With a focus on patient autonomy and informed decision-making, the Patient Self-Determination Act of 1990[125] established precise standards for the execution of living wills in the United States. More thorough documents like the "Five Wishes"[126] directive, which includes medical treatment preferences, comfort measures, and interpersonal issues, have also emerged as a result of the evolution of advance directives. This ensures a comprehensive approach to care during one's final days.

Living will present specific difficulties, though. The necessity for strong legal and procedural frameworks has been brought to light by legal disputes, differing interpretations of medical futility, and the requirement for frequent revisions to account for evolving individual preferences. By establishing precise guidelines for the creation, execution, and application of living wills, the Common Cause ruling sought to resolve these problems and reduce uncertainty and potential conflict. According to the Indian judiciary, the freedom to pass away with dignity is an essential component of both individual liberty and compassionate healthcare. Living wills are crucial tools in this context, guaranteeing that people's final desires are respected and their dignity maintained. *The Common Cause v. Union of India*[127] ruling is a groundbreaking ruling

[124] *Id*.
[125] Patient Self-Determination Act, 42 U.S.C. § 1395cc (1990).
[126] Aging with Dignity, *Five Wishes*, AGING WITH DIGNITY (Mar. 13, 2016), http://www.agingwithdignity.org/five-wishes.php.
[127] Common Cause v. Union of India, (2018) 5 SCC 1.

that gave advance directives in India's legal standing and procedural clarity. This paper aims to investigate the practical, ethical, and legal aspects of living wills, looking at how they promote the right to a dignified death and the necessity of a thorough legal framework to enable their use.

LIVING WILLS IN OTHER COUNTRIES: LEGAL EVOLUTION, CASE STUDIES, AND CONTEMPORARY CHALLENGES

With the ongoing debate over the right to die with dignity, living will have become a significant tool for those who want to take charge of their end-of-life medical care. While a few countries have adopted it as a vital component of patient autonomy, others have yet to do so, with some resistance based on ethical, religious, and cultural grounds. The international canvas of living wills is, therefore, one of complexity, composed of strands of historic judicial precedents, ethical discussion, and present healthcare dilemmas.

Origins and Legal Status of Living Wills

Living wills originated in prominence within the United States in the 1960s with Luis Kutner, an attorney on human rights matters. The concept was based on the notion that patients should be in charge of their healthcare decisions as they are of their finances after their death. Legal approval of living wills in the United States was greatly enhanced by precedent cases like *In re Quinlan (1976)*[128] and *Cruzan v. Director, Missouri Department of Health (1990)*[129]. The earlier case set a precedent for the right to withdraw life-sustaining treatment, and the latter reiterated the requirement of clear and convincing evidence to justify such actions. These cases resulted in the enactment of the Patient Self-Determination Act in 1990[130], which required all healthcare facilities that received federal funding to inform patients of their right to establish advance directives.

Other nations followed the U.S. model. The United Kingdom, by the Mental Capacity Act of 2005[131], legislatively enshrined advance decisions to refuse treatment ("ADRTs") so that patients could make their care wishes known in legally enforceable documents. In Canada, the

[128] In re Quinlan, 355 A.2d 647 (N.J. 1976).
[129] Cruzan v. Dir., Mo. Dep't of Health, 497 U.S. 261 (1990).
[130] Patient Self-Determination Act, 42 U.S.C. § 1395cc (1990).
[131] Mental Capacity Act, 2005, c. 9 (UK).

Supreme Court's decision in *Carter v. Canada (2015)*[132] opened up Medical Assistance in Dying ("MAID")[133] on the back of further solidifying the values of self-determination and dignity in end-of-life care. Australia followed suit, with several states enacting laws permitting advance directives and voluntary assisted dying[134]. The Netherlands, renowned for its progressive stance on euthanasia, became the first country to legalize the practice in 2002, allowing individuals to draft advanced euthanasia directives. Similar provisions exist in Belgium, Luxembourg, and Switzerland, where assisted dying is integrated into the broader framework of end-of-life care.

In spite of their general acceptance in some parts of the world, living will continue to be a controversy in most parts of the globe. One of the major fears is exploitation. Opponents of living will claim that vulnerable populations like the elderly and people with disabilities can be pressured into signing living wills by family or society. Furthermore, there is the problem of progressing medical technology—what was apparently an incurable condition when written may subsequently become treatable, making the directive obsolete. Cultural and religious beliefs also play a considerable part in opposition to living wills. Most Islamic countries forbid euthanasia and doctor-assisted death on theological grounds since life is regarded as sacred and its ending is a divine right. In the same vein, Hindu and Buddhist thought stresses the sacredness of life, usually dissuading any action that could be seen as bringing about death. Even in India, where passive euthanasia was legalized in *Common Cause v. Union of India (2018)*[135], the use of living wills is legally and procedurally complicated owing to the absence of general awareness and clarity on mechanisms of execution.

A Comparative Analysis of Why Some Nations Support and Others Oppose Living Wills

Countries that endorse living will tend to focus on patient autonomy and pain relief. These directives have been included in the healthcare policies of the United States, Canada, the Netherlands, and Australia so that patients' preferences are maintained even when they cannot express them. They contend that it is immoral and against the values of human dignity to make people suffer needlessly because of legal or bureaucratic obstacles. Conversely, nations that oppose living will frequently voice concerns regarding ethical consequences and their role in

[132] Carter v. Canada (Attorney General), 2015 SCC 5 (Canada).
[133] Medical Assistance in Dying Act, S.C. 2016, c. 3 (Canada).
[134] Voluntary Assisted Dying Act 2017 (Vic) (Australia).
[135] Common Cause v. Union of India, (2018) 5 SCC 1.

society. Numerous African and South Asian countries, such as India, Pakistan, and Bangladesh, have been reluctant to adopt advance directives, in part because deeply ingrained cultural values regarding death and medical treatment are present. In such cultures, the family plays a central role in deciding about dying, and codifying such decisions using legal documents can be seen as challenging traditional care arrangements and familial relationships.

With increasing advances in medical technology and rising life expectancy, the controversy surrounding living wills is bound to grow. Those countries that still lack a definitive legal framework may be subject to increasing pressure to introduce one, especially with aging populations demanding more control over the end stages of their lives. Policymakers will then have the challenge of balancing respect for individual autonomy with sufficient protection against abuse. For India, where the Common Cause judgment laid the groundwork for the recognition of living wills, the subsequent steps must be the formulation of solid procedural guidelines, public awareness, and making these guidelines part of the overall healthcare system. Taking lessons from international best practices, India can formulate a system that promotes the right to die with dignity while ensuring solutions to the ethical and legal problems that have kept it from wider acceptance. The path toward global acceptance of living wills is still a long way off. While there have been remarkable advancements in other countries in integrating advance directives into law, there are others that remain cautious owing to cultural, ethical, and practical issues. As the debate progresses, a sophisticated approach that acknowledges both personal rights and collective values will be vital in charting the destiny of end-of-life care across the globe.

EVOLUTION OF LIVING WILLS IN INDIA

The emergence and legal recognition of living wills in India developed through a series of epoch-making judicial judgments, finally culminating in the Supreme Court judgment in *Common Cause v. Union of India, (2018)*[136]. The law relating to end-of-life care and patient autonomy was unclear, with contradictory judicial statements dominating the debate prior to this. The history of living wills in India can be traced through a number of landmark cases that established the foundation for the recognition of the right to die with dignity.

Early Judicial Approach to the Right to Die

[136] Gian Kaur v. State of Punjab, (1996) 2 SCC 648 (India).

The first ever discussion on the right to die in India appeared in *State of Maharashtra v. Maruti Sripati Dubal (1987)*[137], where the Bombay High Court decided that the right to life as enshrined in Article 21 of the Constitution also involved the right to die. According to the court, a person should be allowed to control their own body, including deciding to end their life in some situations. But this view was reversed in *Gian Kaur v. State of Punjab (1996)*[138], when the Supreme Court held that the right to life did not extend to the right to die. The court based its reasoning on the fact that the right to life was a natural right, while the right to die was an unnatural end to life. This ruling maintained the constitutionality of Section 309 of the Indian Penal Code, criminalizing attempted suicide, and reiterated that euthanasia, active or passive, fell beyond the ambit of fundamental rights.

The Turning Point: Aruna Shanbaug Case

The path of India's law on euthanasia and living wills was greatly altered by *Aruna Ramchandra Shanbaug v. Union of India, (2011)*[139]. The case was about a nurse who was in a permanent vegetative state ("PVS") for more than three decades after she was brutally attacked. A petition was made requesting the withdrawal of life support so that she could die with dignity. In this path-breaking judgment, the Supreme Court made a distinction between active and passive euthanasia. Passive euthanasia, the court held, allowing a dying patient to die by withholding life-supporting treatment, could be sanctioned under judicial control. The court established a procedure of obtaining sanction from the High Court prior to the administration of passive euthanasia. But the ruling did not directly acknowledge living wills, and there was uncertainty about the autonomy of those who had already stated their end-of-life wishes.

Consolidating The Right To Die With Dignity

The Law Commission of India, in its 196th Report (2006), had suggested that patients who are terminally ill should be given the right to refuse treatment. The report suggested a legal regime for advanced medical directives but did not have legislative support at that point. In the wake of the Aruna Shanbaug judgment, the need for a more formalized process of end-of-life decision-making became increasingly stronger, and there was further judicial examination. One of the key issues that came to the forefront was the procedure of seeking judicial permission for passive euthanasia, which was considered cumbersome and inconvenient. The

[137] State of Maharashtra v. Maruti Sripati Dubal, 1987 AIR 411 (India).
[138] Gian Kaur v. State of Punjab, (1996) 2 SCC 648 (India).
[139] Aruna Ramchandra Shanbaug v. Union of India, (2011) 4 SCC 454 (India).

lack of a straightforward legal process for advanced medical directives left patients and their families in a state of uncertainty regarding making end-of-life choices. This resulted in new legal challenges and demands for change.

The Common Cause Judgment and the Legalization of Living Wills

The historic ruling in *Common Cause v. Union of India (2018)*[140] is a landmark pronouncement in the developing jurisprudence of the right to die with dignity in India. This ruling, handed down by a Constitution Bench of the Supreme Court, not only reaffirmed the constitutionality of passive euthanasia but also established a holistic framework for recognizing and enforcing living wills. The judgment balanced the scales between individual autonomy, medical ethics, and state interest in saving life, thus setting a precedent for future discussion on end-of-life care and patient rights in India.

The genesis of this case lay in a public interest litigation ("PIL") by Common Cause, a registered society, seeking legal recognition of living wills and the right to forgo life-sustaining treatment in the context of terminal illness. The petitioners argued that the right to live with dignity, guaranteed under Article 21 of the Indian Constitution, necessarily included the right to die with dignity, thus requiring a legal framework for advance medical directives. The State, in their counter-submissions, contended that allowing passive euthanasia and the acknowledgement of living wills would open the door to possible abuse and would be inconsistent with the existing legal principle that the sanctity of life must be preserved at all costs.

a. **Recognition of Passive Euthanasia:** The Court, reaffirming its decision in *Aruna Ramchandra Shanbaug v. Union of India, (2011)*[141], held that passive euthanasia—meaning withdrawal of life-supporting measures for terminal or PVS patients—is legally valid subject to strict procedural safeguards. The Court observed that forcing a person to undergo long periods of suffering, even if they cannot recover, would offend the constitutional promise of dignity.
b. **Validity of Living Wills:** In a revolutionary step, the Supreme Court legitimized the idea of living wills, or advanced medical directives. It ruled that a person with sound mind and free will should be allowed to decide the direction of their future medical

[140] Common Cause v. Union of India, (2018) 5 SCC 1 (Inida).
[141] Aruna Ramchandra Shanbaug v. Union of India, (2011) 4 SCC 454 (India).

care, in case they become unable to communicate their desires. The Court held that if the right of refusal of treatment is an adjunct of the personal liberty and self-determination over one's own body, the legally executed will to live needs to be accorded legal integrity.

c. **Protective Measures Against Misuse:** Anticipating the possibility of coercion and malpractice, the Court established a strong mechanism for the administration of living wills. A two-stage certification procedure was adopted, with medical boards at the hospital and district levels having to confirm the validity of the advance directive and the patient's medical status before withdrawing life support.
d. **Harmonizing Conflict Interests**: The ruling endeavored to reconcile the tension between the right to reject treatment of an individual and the duty to preserve life on the part of the State. The Court reaffirmed that while the sanctity of life remains paramount, this cannot be extrapolated to where an individual has to live a life that is undignified and painful.

A study published in the Indian Journal of Medical Ethics found that 60% of terminally ill patients in India endure prolonged suffering due to the lack of defined end-of-life care policy. The fact that there are no uniform palliative care services nationwide results in such patients receiving invasive medical interventions without any notable improvement in the quality of their life. This anguish is also aggravated by the long-term hospitalization, which enhances the emotional distress of the patients and their family members. Research indicates that most terminally ill patients in India undergo unwarranted medical procedures, including forceful chemotherapy and ventilation, which neither enhance prognosis nor agree with the wishes of the patients. The absence of a defined legal and medical framework for end-of-life care results in medical professionals playing it safe in prolonging life at any cost, thus denying patients a dignified death.[142] Evidence indicates that about 70% of families experience severe economic hardship from hefty medical costs of keeping terminally ill patients alive[143]. Accounts report that more than 80% of Indians have no access to palliative care, further corroborating the imperative for a legal system that permits patients to decline unnecessary medical treatments[144].

[142] Suresh Bada Math & Santosh K Chaturvedi, *Euthanasia: Right to Life vs. Right to Die*, INDIAN J. MED. ETHICS (2020).
[143] Roop Gursahani & Raj Kumar Mani, *India: Not a Country to Die In*, INDIAN J MED ETHICS (2016).
[144] *Id*.

PHILOSOPHICAL AND LEGAL CONSIDERATIONS

The Common Cause judgment is consistent with international developments in medical jurisprudence, mirroring the transition from a paternalistic system of healthcare towards a patient-orientated approach. The decision finds harmony with the precepts enunciated by John Stuart Mill in On Liberty (1859)[145], where he concludes that sovereignty over one's body is individuality's central requirement. Additionally, it has harmonious resonance with global legal evolution, including the Mental Capacity Act, 2005 (UK)[146], and the Patient Self-Determination Act, 1990 (USA)[147], both of which support the resolution of advance medical directives.

Nevertheless, the judgment also poses intricate ethical challenges. Opponents of euthanasia argue that any legal endorsement of end-of-life decision-making may set a dangerous precedent, leading to potential exploitation of vulnerable individuals. Religious and cultural considerations further complicate the debate, as many traditional beliefs uphold the inviolability of life as a divine gift. However, the Supreme Court assuaged such fears by integrating robust procedural safeguards to ensure that the right to die with dignity is availed of in an environment free of coercion and undue influence.

Despite legal approval, there are still practical problems with the widespread use of living wills. These problems include accessibility and ignorance. Programs for legal literacy and awareness must be put in place because the majority of Indians are unaware of their legal right to adopt a living will, legal, and medical reserve. Doctors are still reluctant to enforce living wills because of the potential legal repercussions and the absence of a clear legislative regulation. Codification based on statutory requirements, as is the situation in nations like Canada and the Netherlands, is necessary due to the complex procedure of executing living wills.

The Common Cause judgment is a turning point in Indian jurisprudence, a clear departure from the past towards the recognition of personal autonomy in end-of-life care. Legalizing passive euthanasia and upholding living wills, the Supreme Court has reaffirmed the constitutional right to die with dignity, while at the same time putting in place procedural checks to avoid

[145] JOHN STUART MILL, ON LIBERTY (1859).
[146] Mental Capacity Act 2005, c. 9 (UK).
[147] Patient Self-Determination Act, 42 U.S.C. § 1395cc (1990).

abuse. But the actual fulfillment of this judgment's goals depends on proper implementation, legislative certainty, and social acceptance. While India charts its course through changing topographies of medical jurisprudence, policymakers, legal professionals, and the medical community alike are responsible for operationalizing this verdict in ways that balance individual rights with ethical medical practice. The Common Cause verdict is no ordinary legal finding—it is evidence of a forward-looking society committed to guaranteeing dignity, autonomy, and empathy even in the face of irrevocable mortality.

THE 2023 JUDGMENT: AMENDED PROCEDURE FOR LIVING WILLS AND PASSIVE EUTHANASIA

The Supreme Court of India renewed its 2018 decision in passive euthanasia and living wills in *Common Cause v. Union of India, (2023)*[148], amending the procedural framework to address issues raised over the operation of advance directives. The judgment sought to ease the process but ensure that effective safeguards continued to exist to ward off abuse. The amendments attempted to strike a balance between medical ethics, individual autonomy, and legal regulation, reaffirming the right to die with dignity under Article 21 of the Constitution.

In the wake of the 2018 judgment, operational challenges arose in the implementation of living wills. Physicians, relatives of patients, and legal experts faced procedural challenges in adhering to the advance directive guidelines, which made it burdensome. Significantly, the need for judicial intervention at several levels caused substantial delays, which frequently made living wills ineffective in life-or-death situations. Sensing these issues, the Indian Society of Critical Care Medicine moved an application requesting clarification and streamlining of the process. The Supreme Court recognized the merits of these issues and conducted a thorough review of its 2018 guidelines.

Major Procedural Reforms Introduced in 2023

The 2018 ruling mandated that an advance directive be witnessed by two independent witnesses and countersigned by a Judicial Magistrate of First Class ("JMFC"). The amended ruling permitted the document to be witnessed before a notary public or gazetted officer, thus minimizing judicial reliance while maintaining authenticity. The need to maintain a copy of the advance directive in the JMFC office and the Registry of the District Court was eliminated,

[148] Common Cause (A Regd. Society) v. Union of India, [2023] 1 S.C.R. 1137 (India).

making documentation more flexible. Under the previous system, the attending doctor was required to validate the genuineness of an advance directive in front of the JMFC prior to its execution. The modified procedure removed this necessity, permitting doctors to act on a living will based on the hospital's verification procedures. Rather than having judicial approval at various stages, the 2023 judgment empowered medical boards to control and certify the enforcement of living wills, making decision-making in vital cases more streamlined.

The new guidelines required hospitals to form a Primary Medical Board, which includes the treating doctor and two senior subject specialists, to determine the validity of an advance directive and the medical condition of the patient. A Secondary Medical Board, which includes an independent panel of doctors nominated by the district Chief Medical Officer, was introduced to provide an added layer of scrutiny prior to the withdrawal of life support. Both boards were mandated to provide their views within a specified time frame (ideally within 48 hours), avoiding unnecessary delays in the execution of a patient's directive. In case a patient was no longer able to make decisions, the individual(s) named in the advance directive were empowered to provide consent on their behalf. The decision also allowed advance directives to be included in a patient's electronic health records to facilitate more readily accessible and verifiable documentation. If one of the medical boards declined to act on an advance directive, the nominee or treating physician of the patient could go to the High Court under Article 226 for intervention. The court was mandated to hasten such cases, and the principle of “best interests of the patient” was to govern judicial decision-making. Where there was no living will, the new procedure mandated the same medical board mechanism, where the family and doctors of the patient would take an informed decision on withdrawing the treatment.

The procedural changes made in 2023 greatly improved the feasibility of implementing living wills in India. By limiting judicial intervention and empowering medical regulation, the verdict gave a more effective framework for honoring a patient's right to die with dignity. Implementing a dual medical board system ensured that life-or-death decisions relating to the end of life were made with expert medical knowledge, reducing possible ethical tensions. Still, challenges persist. Public sensitivity regarding living wills remains low, and most healthcare facilities have no standardized guidelines for dealing with such directives. Additional legislative measures might be needed to enact these judicial recommendations as statutory law, giving greater legal support to the right to reject medical treatment. The 2023 amendments to

the *Common Cause judgment*[149] were an important step in streamlining India's policy regarding passive euthanasia and advance medical directives. By confronting the practical inadequacies of the 2018 judgment, the Supreme Court strengthened the core right to die with dignity without compromising necessary protections against abuse. Going forward, sustained efforts in public education, doctor training, and legislation will be imperative in achieving effective enforcement of such enlightened judicial principles.

[149] *Id.*