LIFE WITH DIGNITY: MYTH OR REALITY
UNDER INDIAN LAW

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Abstract: It is quite difficult to define the meaning and concept of life as there are numerous definitions of and about life which are present. Similarly, it is not possible for even the law to define life. Herman Dooyeweerd’s philosophy about the Cosmonomic Idea also speaks regarding the problem of defining life, it says that the concept of life is indefinable i.e., it cannot be defined. Moreover even biology and psychology have not been successful in telling the world what the meaning and concept of life are.

INTRODUCTION

This paper will explore the meaning, concept and definition of life through numerous perspectives, cultures and texts. It is well known regarding the problems faced in defining life both in the legal and biological sense. This paper will explore the concept of dignity in human life and its importance in the society that how life loses its true essence without dignity. The nation states too in today’s world consider “a life with dignity” as a right and not just the state of living. Further the paper would also list out the key differences between being “alive” and “living with dignity” by critically analyzing the concept of euthanasia or “death with dignity”. Also the question on “Right to Die” under Article 21 will be discussed here too. The paper will list out the requirements for a person to live a life with dignity as promised by the various nation states to their citizens.

WHAT IS LIFE?

It is quite difficult to define the meaning and concept of life as there are numerous definitions of and about life which are present. Similarly, it is not possible for even the law to define life. Herman Dooyeweerd’s philosophy about the Cosmonomic Idea also speaks regarding the problem of defining life, it says that the concept of life is indefinable i.e., it cannot be defined. Moreover even biology and psychology have not been successful in telling the world what the meaning and concept of life are.

1 Life Law and Legal Definition, available at https://definitions.uslegal.com/l/life/, last seen on 18/09/2018
2 Life in being, available at https://www.merriam-webster.com/legal/life%20in%20being, last seen on 15/09/2018
3 Right to die with dignity, available at https://www.thehansindia.com/posts/index/Editors-Desk/2018-03-14/Right-to-die-with-dignity/366009, last seen on 18/09/2018
4 Life Law and Legal Definition, available at https://definitions.uslegal.com/l/life/, last seen on 18/09/2018
5 Life in being, available at https://www.merriam-webster.com/legal/life%20in%20being, last seen on 15/09/2018
6 Duhaime's Law Dictionary, available at
24 Silver Black foxes, District Court of U.S.A where Justice Neterer said that the states of life is a state where the strength of function never decays moreover it resists decay and dissolution. This statement by the Hon’bl Justice was however very much similar to the statement given by William Blackstone in 1756 through his book – The Commentaries on Laws of England where he says that life is a very precious present offered by God himself and this right is not hereditary or something personal but it is something which is received by every individual as heirs to mother nature. Life is the time span between birth and death but, this is merely a very basic and straight forward statement because such a life cannot be considered as a state of living, but would only be considered as a state of being alive. The true meaning of life is, what a being achieves in between the duration of their birth and death.

LIFE WITH DIGNITY

Dignity means respect and respect is one of the most important things which a human requires to be alive in the true sense. If a person has got no respect or dignity then they would feel like their life has no meaning, no purpose and ultimately it would give birth to the feeling of being useless or undesirable. Right to life is something which is granted by almost every nation state in the current world but this right merely doesn’t imply existence of some animals, rather it means the right which gives people the power and binds the governments into giving the citizens the power to live and lead a dignified life. Therefore, the Right to life is considered to be a innate right granted to every human being. A natural right is a right which is already infested in a person naturally and cannot be detached without a proper mode of process as established by the law of the land or be waived off according to a person’s discretionary rights.

Dignity in human life is the basic principle, which helps people understand the meaning of life. There is no sense in living unless a life with dignity is being led. In the absence of dignity the existence of human life would be the same as the existence of other uncivilized creature living on the face of the earth. But as crucial as dignity is to human being but this concept as a whole “life with dignity” is not an age old concept, it is somewhat young.

7 A Law Dictionary, Adapted to the Constitution and Laws of the United States. By John Bouvier. Published 1856., last seen on 12/09/2018
Previously when the humans were not educated they considered everything to be a threat or danger to their lives even their own fellow human beings. In that society there was jungle rule i.e., the survival of the fittest. The weak were conquered and thus the concept of slaves took birth. A new concept of dignity came into light where the one who could conquer more numbers of weak had high reputation in the society leading to numerous wars fought during the medieval times and the beginning of the modern era. But as the saying goes “the thing which cannot kill you only makes you stronger” and following the same saying various radical thinkers came, some even from these “well dignified” communities who fought for the rights of the weaks, seeing this even the weaks started voicing their opinions regarding their rights, their need for freedom and most importantly their dignity.

LIFE DEFINED UNDER THE INDIAN LAWS

The Constitution of India, in the Article 21 as Right to Life and Personal Liberty, describes the meaning and concept of life. Justice Bhagwati gave a very famous statement regarding this Article stating that it is because of Article 21 that a democracy exists and thus it is of utmost, if not, of supreme importance in the whole of the Constitution which is said to be the Grundnorm of the largest democracy of the world. Whereas Justice Iyer said that Article is a protector of lives and liberty of the general public.

ARTICLE 21 OF THE INDIAN CONSTITUTION

It is said that just as the heart is considered to be the most important part of the human body because if the heart stops the person would be dead, similarly Article 21 is the heart of the Constitution of India. The Constitution of India is said to be, ever dynamic and living and Article 21 is the ever developing provision of this foundation of the laws of India. Article 21 is wide in its scope as it is not exclusively given to the citizens of India but is provided to even the non-citizens as the words “any person” has been used and not citizens. Even the “State” as defined under Article 12 of Constitution cannot take away this right unless “a procedure established by law” i.e., a proper procedure which has already been defined or established by the law of the land is followed.

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13 Article 21: Right to Life - All You Need To Know, available at, https://www.myadvo.in/blog/article-21-right-to-life-all-you-need-to-know/, last seen on 25/09/2018
Even during emergency this Article 21 cannot be suspended as it is considered to be one of the basic human rights granted to human beings all across the globe as it is considered to be a natural right which no one can take away from them.

Though Article 21 begins negatively with the word “No” in connection with the word “deprived” but the intention of the law makers was to provide anyone and everyone a sense of security by stating that this basic human right of a person cannot be taken away by anyone according to their whims and fancies unless and until a proper procedure as established by the law is followed. But when thought about in a narrower sense it means that no private body can be held liable for the violation of this right as it only mentions state as defined under Article 12 and has no mention regarding private bodies. So if a private body intrudes upon a person’s personal liberty or deprives an individual of their life then it will not be called a violation of Article 21. But if the state in support of private body has played any role in the infringement or violation of the fundamental rights of an individual then the act will definitely get summed under the confinements of Article 21.

The case of A. K. Gopalan V. State of Madras is considered to be one of the most important cases, in this case the Apex Court of India constrained the capacity of the fundamental rights and read those in division of Article 21 and 22. Numerous precedents from foreign countries like United Kingdoms and United States of America were used in restricting the extent of Article 21. Here it was taken into view that a “Law” which has its effects on the life and liberty of the people cannot be said to be in violation of the constitutional provision because of something as insignificant as lack of natural justice or due procedure. Therefore it was held in the A.K. Gopalan case judgement, that under Article 21 no exemption will be given to anyone against any efficient or capable or efficient legislative action.

In the case of Kharak Singh V. in the State of Uttar Pradesh the appeal was filed under Article 32 of Constitution of India. Where it was challenging the legitimate legality of Chapter number 20 of the Regulations Act of Uttar Pradesh (U.P) Police and the authority bestowed in the police through the necessities of the Act on the ground of the provisions Chapter 20 of the Act being violative of the Fundamental Rights given under Article 19 and 21 of the Constitution of India. Resultingly, the Supreme Court broke through its previous decision of A.K. Gopalan Case, stating that no law should come in contradiction to the fundamental rights guaranteed under Article 19 and 21 and even if they are violative, they should prove that the restrictions imposed or the violation taking place is equal in amount to the reasonable restrictions as stated under Article 19(2) of the Constitution of India.

15 HUMAN RIGHTS DURING EMERGENCY, available at http://www.allahabadhighcourt.in/event/humanrightsduringemergency.html, last seen on 24/09/2018
Then came the landmark judgement in the case of *Maneka Gandhi V. Union of India*\(^{19}\) where the petitioner’s passport was confiscated without the petitioner being given the opportunity of a hearing. Therefore the court stated that in accordance with the theory of “audi alteram partem” the confiscation of the passport was violation of the “procedure established by the law” further violating the ethics of innate righteousness.

It was only subsequent to the Maneka Gandhi case that the notion of PIL started being built which in the very first place was developed by Justice P.N. Bhagwati, who introduced the idea that in some crucial matters coming to the courtyard of law, the court itself, suo moto, (instead of the revelry which had suffered) can file or introduce a PIL.

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**EUTHANANSIA**

As stated earlier in paper that one of the most important aspect of Right to life is to lead a well dignified life. Now here arises the question regarding the people living in conditions which are not fit to lead a dignified life. What about the people who are medically unfit, those living on life support system or in a vegetative condition. And this brings us to the issue or topic of “euthanasia”.

Euthanasia is defined as intentional ending of some one’s life or on purpose letting the person get over the hardships faced by them which is impossible to do if they are left alive, it is also known as “mercy killing”. It means to end a person’s life who is suffering from some disease or condition which causes them a lot of pain and distress and is impossible to be cured. Different countries define this concept of euthanasia in their own distinctive ways. In Great Britain a committee is selected based on Medical Ethics by the House of the Lords which defines euthanasia as *"a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering."*\(^{20}\) Netherlands has a separate act for this matter named as *“Termination of Life on Request and Assisted Suicide (Review Procedures) Act, 2002”*. This acts legalizes euthanasia and physician-directed suicide on the justification that – if the physician in charge is acting according to the “due care” criterion concerning the patient's appeal, the patient's unberable and unpromising suffering, the information transferred to the patient, the lack of rational alternatives, consultation of another general practitioner and the functional method of finishing life.\(^{21}\) Whereas the Dutch law does not uses the term euthanasia but in its place the prevalence of including it under a wider definition *"assisted suicide and termination of life on request"* is present there.

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\(^{19}\) *Maneka Gandhi v. Union Of India And Another*, available at [https://www.casemine.com/search/in?q=maneka+gandhi+versus+union+of+india](https://www.casemine.com/search/in?q=maneka+gandhi+versus+union+of+india), last seen on 27 09/2018


\(^{21}\) Euthanasia in the Netherlands, available at [https://en.wikipedia.org/wiki/Euthanasia_in_the_Netherlands](https://en.wikipedia.org/wiki/Euthanasia_in_the_Netherlands), last seen on 21/09/2018
It can be traced back to Socrates, Plato, and the Stoics the allowance on euthanasia in a moral and respectful way. However it is a highly criticized topic in Christianity because here it is mainly believed that such a practice contravenes the prohibition of murder in the Ten Commandments. It was in 1935 that a structured movement started taking shape in England as C. Kiilick Millard established the Voluntary Euthanasia Legalisation Society which later came to be known as the Euthanasia Society. However the bill which was introduced for the legalization of euthanasia, in 1936 in the House of the Lords, was beaten and similarly a motion on euthanasia was again defeated in 1950 in the house of the Lords. It is highly debated whether euthanasia should be legalized or not. As everything is about living a dignified life so whether it is correct to not let a human being have a dignified death. As a result we see numerous developed countries of the west along with countries like South Korea legalizing euthanasia and thus giving their citizens “right to die” under reasonable restrictions in harmony with the conventional procedure by the law.

DOES “RIGHT TO DIE” UNDER ARTICLE 21 EXISTS IN INDIA?

It is a well known fact that India provides its citizens with “Right to Life” under Article 21 so here the question arises that if the citizens of India have right to life so does that mean that they also have right to die as a elementary privilege. This question initially got flashed in the State of Maharashtra V. Maruti Sripati Dubal. Here it was seized by the Bombay High Court that, “Right t Die” is included and assurance to the populace of India under Article 21. This judgement of the Bombay High Court was supported in the judgement given by a allotted Bench of Supreme Court and affirmed “attempt to suicide” which is a penal felony under Section 309 of the IPC as unconstitutional. Nevertheless, the concept of “right to die” under Article 21 again came into question in front of the Apex Court in Gian Kaur V. State of Punjab. Here a Constitutional counter of five judges overruled the previous verdict of the Division counter of Supreme Court in the P. Ratinam’s case. The Apex Court stated that Article 21 doesn’t incorporate “Right to Die” or “Right to be Killed” moreover the judgement also made Section 309 of the Indian Penal Code (IPC) valid in accordance with the Constitution. The judgement stated that the meaning of “Right to life” under Article 21 is to lead a dignified life and with the passage of time whatever would be considered dignified according to the dynamic society should be included under this right but the concept of “Right to Die” can never be included under this article as this article defines “Life” and the requirements for a healthy and dignified life, and just as life and death are something which can never share the same definition similarly “right to life” and “righto die” are something which can never be explained or granted under the same right or legal provision.

22 Euthanasia, available at https://www.britannica.com/topic/euthanasia, last seen on 29/09/18
However in the year 2018 the Constitutional Bench of Supreme Court gave the landmark judgement in the Common Cause NGO case making passive euthanasia constitutionally valid. The Chief Justice of India, Deepak Misra, who headed the counter led to coordinate the foreseeable yet conflicting angles of life and death and declared in agreement that “right to die with dignity is an intrinsic facet of right to life guaranteed under Article 21”\(^{24}\)

**CONCLUSION**

Life even though is a concept which is impossible to define but cultures, nation states, laws and texts across the globe have done their best to explain it. Just as the Earth keeps changing, similarly, the human society is also dynamic in nature, so is the concept of life as it changes with the society. The definition regarding life has always been and always will be evolving and dynamic in nature. However one very noticeable change which this paper witnessed is that in the current world the most important aspect of life is dignity. Human beings are ready to give up life if they are forced to live a life without dignity.

In India Article 21 is the protector of “Right to live with dignity” of the citizens of India. The Apex Court as stated during its judgment in Gian Kaur case did eventually change the provision as according to requirements of the society. Though they did not recognise Right to Die framed under the Article 21 but they did recognize that Right to die with Dignity is an essential component of Right to Live with Dignity.

\(^{24}\) Right to live includes right to die: Supreme Court, available at, https://timesofindia.indiatimes.com/india/right-to-live-includes-right-to-die-supreme-court/articleshow/63239760.cms, last seen on 02/10/2018