Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2026 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

Passive Euthanasia: Legal Acceptance and Ethical Concerns

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Received 08 July 2026; *Accepted* 08 August 2026; *Published* 14 August 2026

The right to life is one of the most paramount concepts that has undergone a lot of expansion over the years. The area it encompasses further proves that it has enough necessity to expand to protect the interests of every person living in the country, and not only citizens. That being said, Article 21, declaring the right to life and personal liberty to all the people in the country, has further gone on to create a dilemma as to the existence of a 'Right to die with dignity' with that of Article 21. By clearing the clouds of confusion on this point, the court expanded the scope of this right under Article 21 by legalising passive euthanasia. The application of the legalisation was done recently in a case, with certain relaxations, which sparked discussions throughout the country. This article aims to analyse the legal side and the evolution of the expansion of the Right to life and Personal liberty to the realm of the Right to die with dignity, as different from suicide. Moreover, it also tries to throw light on the various landmark cases that shaped the events till March 2026, ending with the ending with the ethical concerns of the same.

Keywords: *right to life, personal liberty, right to die, passive euthanasia.*

INTRODUCTION

In India, an individual's life is taken to have a purpose for which they were born in the country. In Hindu culture, a living person is viewed as a complex, multi-layered entity where a physical body serves as a temporary vessel for an eternal soul. In both Islam and Christianity, a living person is viewed as a unified creation of God, consisting of both

physical and non-physical elements. In Sikh culture, a living person is viewed as a unified being of mind, body and soul created by the one divine light to serve a higher spiritual purpose.

Here, it is evident that, in any culture in the country, a living body is not per se considered a living body. It has a meaning and purpose, which the human body is bound to fulfil while being on this Earth. It has a divine connection. This connection is recognised by religious cultures. The life of a person has been presented with greater connotations through the interpretations of Article 21 of the Indian Constitution. Article 21 states that "No person shall be deprived of his right to life and personal liberty except according to the procedure established by law." Here, life is protected to the extent of a valid reason. The unique feature is that it has been vested in all the people in the country, not limited to citizens. Therefore, in the landscape of protecting the lives of people, the concept of death was not discussed within it due to the irony. It became intensely discussed enough to take suicides, euthanasia, etc., within the purview of Article 21. This article will deal with the evolution of the right to life and personal liberty within the arena of death, various cases associated with the same, which will be thoroughly analysed and finally will end with ethical concern over passive euthanasia, through the aid of secondary sources.

HISTORICAL EVOLUTION OF ARTICLE 21

Being one of the most interpreted articles, the right to life and personal liberty went on to influence the protection of the life of people in the country. From a narrow interpretation in the case of AK Gopalan v State of Madras[1] in the year 1950, it has evolved till now to include a lot of aspects necessary for the existence of a human being. Some of the most important interpretations will be discussed therein.

In 1961, the court interpreted the article in the case of Kharak Singh v State of Uttar Pradesh[2] to state that the term 'life' under Article 21 means more than animal existence, including the full enjoyment of bodily and personal integrity. In 1970, through the case of RC Cooper v Union of India,[3] the court interpreted the term 'law' to mean a law which is within the competence of the legislature. Adversely affecting the interests of the citizens, the Supreme

[1] *AK Gopalan v State of Madras* AIR 1950 SC 27
[2] *Kharak Singh v State of Uttar Pradesh and Ors* AIR 1963 SC 1295
[3] *Rustom Cavasjee Cooper v Union of India* AIR 1970 SC 564

Court held that no person has any locus standi to claim the protection of Article 21 if an emergency is in operation in the country, even if they have been illegally detained. Further, in the case of Maneka Gandhi v Union of India,[4] the court held that procedure should be just, fair and reasonable. Fast forward to 1985, in the case of Olga Tellis v Union of India,[5] the court held that the right to life includes the positive entitlements necessary for the dignified existence of a person. In the year of 2017, the right to privacy was adjudged as a fundamental right, confirming it as an essential aspect of the right to life and personal liberty in the case of Justice K.S Puttaswamy v Union of India.[6] Sexual autonomy was held to be an intrinsic part of the right to life and personal liberty under Article 21 in the case of Joseph Shine v Union of India.[7] The court in the case of Common Cause v Union of India[8] held that the right to life includes the right to die with dignity. In Jacob Puliyel v Union of India,[9] the court held that individuals cannot be forcefully vaccinated and bodily integrity is protected under Article 21.[10]

It is clearly evident from these interpretations that, as time went by, people started asking the court about the scope of their rights, leading to the identification and bringing up of several essentials of life within the purview of Article 21, thereby leading to the enhanced protection of the masses in the nation.

DISTINCTION BETWEEN SUICIDE AND RIGHT TO LIVE WITH DIGNITY

This distinction has significance under the Article, due to the fact that 'death' is a contrary truth, that is different from life. According to the Bharatiya Nyaya Sanhita (BNS), 2023, abetment of suicide is a crime under Section 108.[11] Attempt to commit suicide was criminalised under Section 309 of the Indian Penal Code (IPC), 1860, previously.[12] Now it is no longer penalised in the general sense. But yet, the act of killing or taking away the life of

[4] *Maneka Gandhi v Union of India* AIR 1978 SC 597
[5] *Olga Tellis and Ors v Bombay Municipal Corporation and Ors* AIR 1986 SC 180
[6] *Justice KS Puttaswamy (Retd) and Anr v Union of India and Ors* (2017) 10 SCC 1
[7] *Joseph Shine v Union of India* (2019) 3 SCC 39
[8] *Common Cause (A Regd Society) v Union of India* (2018) 5 SCC 1
[9] *Jacob Puliyel v Union of India and Ors* (2022) 3 KLT SN 55 (Case No 43)
[10] 'The right to life and personal liberty under Article 21: A timeline' (*Supreme Court Observer*, 26 June 2025) <https://www.scobserver.in/journal/the-right-to-life-and-personal-liberty-under-article-21-a-timeline> accessed 31 March 2025
[11] Bharatiya Nyaya Sanhita 2023, s 108
[12] Indian Penal Code 1860, s 309

any person by any means remains a crime. The courts have excluded the right to suicide within the vicinity of the article, but guaranteed the right to die with dignity.

KEY JUDICIAL DECISIONS

The Hon'ble Supreme Court in the case of Gian Kaur v State of Punjab,[13] held that the right to life does not include, within its purview, the right to die by suicide. This verdict overturned an earlier view and upheld criminal penalties for the protection of the life of citizens. Whereas, the Supreme Court in the case of Common Cause v Union of India,[14] recognised that the 'right to die with dignity' constitutes a fundamental right under Article 21. In 2023, the court modified the guidelines to make the right to die more accessible. The guidelines included advance medical directives for passive euthanasia, including medical board approvals. In sum, it allowed for passive euthanasia by following proper procedural safeguards and the patient's wishes. The court, in the interim, clarified that active euthanasia remains impermissible under Indian Law.

In the case of Aruna Shanbaug v Union of India,[15] the Court, for the first time in the nation, legalised passive euthanasia. The Common Cause case and Aruna Shanbaug case profoundly influenced later rulings, leading to the Harish Rana case.

Pre-Euthanasia Developments: The Pre-Euthanasia developments can be termed as pre-Aruna developments. The right to die under the article focused specifically on the aspect of suicide. There were greater speculations on removing the criminalisation of suicide under Section 309 of the IPC, viewing it as inhumane. In the case of P. Rathinam v Union of India,[16] the two-judge bench struck down the provision as unconstitutional, holding that Article 21's right to life includes the right to live, extending to suicide. This judgment was overruled in the Gian Kaur case, clarifying that Article 21 protects life and excludes the right to die by suicide.

Aruna Shanbaug v Union of India (2011): Facts of the Case: Aruna Shanbaug was a nurse employed at King Edward Memorial Hospital (KEM) in Mumbai. On 27th November, 1973, she was violently attacked by a ward boy at the hospital, which resulted in severe brain injury

[13] *Smt Gian Kaur v State of Punjab* (1996) 2 SCC 648
[14] *Common Cause (A Regd Society) v Union of India* (2018) 5 SCC 1
[15] *Aruna Ramchandra Shanbaug v Union of India and Ors* (2011) 4 SCC 454
[16] *P Rathinam v Union of India* (1994) 3 SCC 394

that left her in a persistent vegetative state. Since the assault, Aruna Shanbaug remained in a vegetative state for over 37 years. In 2009, a close friend of Aruna Shanbaug filed a petition under Article 32 of the Indian Constitution and requested the Supreme Court of India to permit passive euthanasia, i.e., to allow withdrawal of life support to end the prolonged suffering of Aruna Ramachandra Shanbaug. The Respondents in the case, particularly the hospital staff and administration, presented various arguments against allowing euthanasia for the nurse Aruna Shanbaug. The dean and staff of the KEM Hospital strongly opposed the petition. They stated that Aruna had been cared for with utmost dedication and compassion for over three decades by willingly and responsibly attending to all her needs. They stated that they were emotionally attached to her. They further argued that Aruna, who had lived for more than 60 years, might naturally pass away without intervention, and warned against the potential misuse of legalising passive euthanasia. They also raised concerns about whom having the authority to make decisions on her behalf and urged that ending her life would be immoral and inhumane.[17]

The key issues of the case:

1. Should euthanasia be allowed in India?
2. Can someone else decide to withdraw life support for a patient?
3. Difference between active and passive euthanasia.

The Judgment given by the Court: The Court allowed passive euthanasia in India. It means withdrawing life support (such as ventilators), which was held to be allowed in certain cases. But active euthanasia remains illegal (which is deliberately causing death). Passive euthanasia would only be allowed if approval is obtained from the concerned High Court. The court must form a medical board, then hear the opinions of doctors and family or guardians and act in the best interest of the patient. The court thus framed guidelines until Parliament makes a law. But, in the case, permission for passive euthanasia was denied, and she continued to live under care until she died in 2015.

Common Cause v Union of India (2018): Facts of the case: In the year 2018, the society, Common Cause, filed a petition seeking to expand the 'right to life' under Article 21 of the

[17] 'Aruna Shanbaug v Union of India: Landmark Judgement on Passive Euthanasia' (*Testbook*) <https://testbook.com/landmark-judgements/aruna-shanbaug-vs-union-of-india> accessed 31 March 2025

Indian Constitution. It was an attempt to include the right to die with honour and dignity with the right to life. The case was initially heard by a three-judge bench, and later on it was referred to a Constitution Bench due to the conflicting rulings on the right to die.

The key issues of the case:

1. The difference between passive and active euthanasia.
2. Does the right to die with dignity fall under the broader right to life under Article 21?
3. Whether individuals have the legal right to stop medical treatment or remove life-supporting equipment, which would lead to the death of the patient.
4. Inclusion of passive euthanasia in living wills and its legality.

Judgment of the Case: The Court held that the right to die with dignity is a part of the right to life under Article 21 of the Constitution of India. Passive euthanasia is legally permitted, building upon the earlier judgment in the Aruna Shanbaug case. Also, the court held that individuals can make a 'Living Will', stating that they do not want life-sustaining treatment if they are terminally ill or in a vegetative state, thus ensuring patient autonomy. The court also laid down strict guidelines for the same, which require verification by medical boards and approval by a Judicial Magistrate (which was simplified in later rulings).

Harish Rana v Union of India (2026): The case of Harish Rana v Union of India (2026)[18] holds greater significance in the article due to its recentness and the discussions and opinions it called for post the judgment in the country.

Facts of the Case: After the judgment in Common Cause v Union of India, the process to execute a living will was considered very complex and difficult for the purpose of practical implementation. A petition was filed by several others, including Harish Rana, to seek clarifications and simplifications of these guidelines. The Supreme Court held that Clinically Assisted Nutrition and Hydration (CANH) is a "medical treatment" as opposed to primary care. Doctors may exercise clinical judgement to determine if CANH treatment can be withheld for passive euthanasia. A fall had left Harish Rana in a permanent vegetative state for 13 years. His plea for passive euthanasia was rejected by the Delhi High Court in 2024. The same year, the Supreme Court upheld the High Court's decision that withholding

[18] *Harish Rana v Union of India* (2026) SCC OnLine SC 358

CANH treatment through PEG tubes would result in Rana starving to death. In a miscellaneous application, filed in 2025, Rana's parents sought a declaration that CANH should be classified as "medical treatment" for passive euthanasia. The Court permitted Rana's plea for passive euthanasia, holding that it would be in his "best interest" to withhold or withdraw CANH. It held that administering CANH requires clinical judgement and routine checks from medical professionals. It is not on the same level as spoon or oral feeding. The Court observed that Rana's medical condition was irreversible and that continued CANH treatment was not improving it.[19]

The Key Issue of the Case: Whether the procedure laid down in the Common Cause case for living wills and passive euthanasia should be simplified?

Judgment of the Case: The court simplified the procedure. The court relaxed earlier requirements and held that there is no need for the attestation of a Judicial Magistrate. It was held that the living will can be attested by two witnesses, and it should be attested by a notary or gazetted officer. Practically, the court reduced the bureaucratic hurdles for the easier execution of living wills and made it more practical and accessible for ordinary people. Two medical boards are still required, but the process is much faster and clearer. The judgment clearly focused on patient autonomy by emphasising the right to die with dignity and respect for individual care, reinforcing principles from the Common Cause case. In March 2026, the court allowed passive euthanasia for Harish Rana, a man who has been in a vegetative state for 12 years.

ETHICAL CONCERNS AND THE SUGGESTIONS POSED

The case sparked a lot of talk in the country, considering the ethical consequences it would raise after the judgment of the case. Some of the ethical concerns raised by philanthropists are:

- Some people state that it's a slippery slope to reach active euthanasia from passive euthanasia, following concerns about its misuse.

[19] Advay Vora, 'Assisted Nutrition as "Medical Treatment" in Passive Euthanasia' (*Supreme Court Observer*, 21 December 2025) <https://www.scobserver.in/supreme-court-observer-law-reports-scolr/assisted-nutrition-as-medical-treatment-in-passive-euthanasia/> accessed 31 March 2025

- Judicial enforcement protects, but informal decisions risk the practitioners. They could be subjected to unnecessary litigation. Doctors are at risk of culpable homicide or abetment to suicide under BNS.
- The concept and the practice of passive euthanasia contradict the concept of life, ordained as divine.
- The philanthropists all over the nation are suggesting the formulation of legislation that would codify all the dilemmas and incorporate the final judgment concerning passive euthanasia, to provide clarity and structure for the same.
- There is great concern that the reduction of the complexities of the living will procedure may lead to potential misuse by other people whose an acquaintance of the person in the vegetative state.

CONCLUSION

The evolution of 'Right to die with dignity' has passed through different stages, starting from the P Rathinam case to the Harish Rana case, embedding the right within the protective umbrella of Right to Life, under Article 21 of the Indian Constitution. These judgements actively differentiate between active and passive euthanasia, laying down extensive protection for the latter, preventing any possibility of misuse. The time is flooded with huge ethical concerns, especially regarding the relaxation of procedures in the Harish Rana case, but still, patient autonomy was taken with the highest regard and esteem, influencing these decisions. According to the discussions, what the country needs right now is a very well-codified legislation, which would ensure ethical equilibrium, without giving a chance to compromise the chance of recovery, thereby protecting the patient with a golden shield, which would also dignify deaths without compromising societal values.