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Passive Euthanasia and Advance Directives: India's Legal Framework

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Passive Euthanasia and Advance Directives: India's Legal Framework

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WHY IN NEWS

The Supreme Court heard arguments in the Harish Rana case, revisiting the practical implementation of its 2018 landmark judgment in Common Cause v. Union of India, which recognised passive euthanasia and advance directives but whose procedural guidelines have rarely been used due to their complexity.

THE QUESTION: THE RIGHT TO DIE WITH DIGNITY

One of the most profound intersections of constitutional law, medical ethics, and personal liberty is the question of whether an individual has the right to refuse life-sustaining medical treatment when facing terminal illness. India's Supreme Court addressed this directly in 2018, and the January 2026 hearing represents an effort to make the ruling practically workable.

UNDERSTANDING EUTHANASIA — TYPES AND DISTINCTIONS

Active Euthanasia

Active euthanasia involves the deliberate administration of a lethal substance or action to end a patient's life — for example, a physician injecting potassium chloride into a terminally ill patient to cause immediate death. This is **illegal** in India and most countries.

Passive Euthanasia

Passive euthanasia refers to the withdrawal or withholding of life-sustaining treatment — disconnecting a ventilator, removing a feeding tube, or stopping artificial resuscitation — allowing a patient to die naturally from their underlying condition. The Supreme Court legalised passive euthanasia for terminally ill patients under specific conditions in 2018.

Voluntary vs Non-Voluntary

Voluntary euthanasia: patient has explicitly consented (e.g., through an advance directive)

Non-voluntary euthanasia: patient is unable to give consent (in a vegetative state) — family or doctors decide

Physician-Assisted Suicide (PAS)

In PAS, the physician provides the means (e.g., a lethal prescription) but the patient administers it themselves. Distinct from euthanasia where the physician acts. Not addressed by Indian law.

THE JOURNEY TO 2018: KEY CASES

Gian Kaur v. State of Punjab (1996)

A 5-judge constitutional bench held that the right to life under Article 21 does **not** include the right to die. This overruled the earlier *P. Rathinam* judgment (1994) that had briefly recognised a right to suicide. After *Gian Kaur*, the law was settled: Section 309 IPC (attempt to suicide) remained valid.

Aruna Shanbaug v. Union of India (2011)

Nurse Aruna Shanbaug had been in a persistent vegetative state (PVS) for 36 years after a brutal assault in 1973. In this 2-judge bench ruling, the Supreme Court:

- Recognised the concept of **passive euthanasia** in India for the first time
- Allowed courts to authorise withdrawal of treatment in exceptional cases
- Established guidelines requiring High Court approval through a divisional bench

However, the bench denied the specific petition to withdraw treatment from Shanbaug (the hospital staff opposed it). Aruna Shanbaug passed away naturally in 2015.

Common Cause v. Union of India (2018) — The Landmark Ruling

A **5-judge constitutional bench** (CJ Dipak Misra, and Justices A.K. Sikri, A.M. Khanwilkar, D.Y. Chandrachud, Ashok Bhushan) delivered this unanimous judgment:

Key holdings:

- The right to life under **Article 21** includes the **right to die with dignity**
- **Passive euthanasia** is legally permissible for terminally ill patients or those in a permanent vegetative state
- **Advance Directives (Living Wills)** are legally valid — a competent adult can execute a document stating they do not wish to be kept alive on life support in the event of a terminal illness
- The earlier *Gian Kaur* ruling was clarified — the court distinguished between wanting to die (which is not protected) and wanting to die naturally without extraordinary prolongation (which is protected)

Procedure laid down in 2018:

- A competent adult executes an advance directive in writing, signed before two witnesses and attested by a judicial magistrate

If the patient later becomes incapacitated, a medical board of two doctors assesses the situation

A second hospital medical board also reviews

A judicial magistrate must then grant permission

The problem: This 5-step procedure was so cumbersome that it was almost never used in practice. In the intervening 7 years, virtually no advance directives were successfully executed through this process.

THE HARISH RANA CASE (2026)

Harish Rana is a petitioner who sought to execute an advance directive but found the 2018 procedure unworkable. His case, before the Supreme Court, argues that the right to die with dignity is rendered meaningless if the practical pathway is too complex for ordinary citizens and medical professionals to navigate.

The court in January 2026 was considering modifications, including:

Simplifying the attestation process (removing the judicial magistrate requirement)

Allowing a single medical board (rather than two separate boards)

Creating a **national advance directive registry** where citizens can register their living wills

Allowing video-witnessed execution of advance directives

CONSTITUTIONAL AND ETHICAL DIMENSIONS

Article 21: Right to Life

Article 21 reads: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” The Supreme Court has interpreted this broadly over decades to include:

Right to livelihood (*Olga Tellis*, 1985)

Right to health and medical treatment

Right to privacy (*Puttaswamy*, 2017)

Right to die with dignity (*Common Cause*, 2018)

The **dignity** dimension is key: forcing a terminally ill patient to remain on life support against their wishes violates their bodily autonomy and the essence of dignity.

Medical Ethics — The Four Principles (Beauchamp & Childress)

Principle	Application to Euthanasia
Autonomy	Patient has right to decide own medical treatment
Beneficence	Acting in patient's best interest may mean not prolonging suffering
Non-maleficence	Prolonging futile treatment can constitute harm
Justice	Fair access to end-of-life care; not biased by cost or age

The Slippery Slope Argument

Critics argue that legalising passive euthanasia or advance directives creates a "slippery slope" toward active euthanasia, abuse of elderly patients, or withdrawal of care from economically disadvantaged patients. Proponents argue that robust safeguards (medical boards, advance directives) prevent abuse.

INTERNATIONAL COMPARISON

Country	Status
Netherlands	Active euthanasia + PAS legal (since 2002)
Belgium	Active euthanasia legal (since 2002)
Canada	Medical Assistance in Dying (MAID) legal (since 2016)
Switzerland	PAS legal; assisted suicide for terminally ill
UK	Passive euthanasia allowed; active illegal
India	Passive euthanasia legal (with advance directive, 2018); active illegal
USA	PAS legal in Oregon, Washington, California (Death with Dignity Acts); federal law silent

SECTION 309 IPC — ATTEMPT TO SUICIDE

Separately, Section 309 IPC (attempting suicide is a criminal offence) has been effectively decriminalised for survivors in practice. The **Mental Healthcare Act, 2017** (Section 115) provides that any person who attempts suicide shall be presumed to be under severe stress — they cannot be tried under Section 309 and must be provided care and rehabilitation. Section 309 itself has not been formally repealed.

UPSC RELEVANCE

Prelims:

- Article 21 — scope of right to life
- Common Cause v. UoI — year (2018), bench strength (5-judge), CJ Dipak Misra
- Passive vs active euthanasia distinction
- Aruna Shanbaug case — year (2011), outcome
- Mental Healthcare Act — year (2017), Section 115
- Section 309 IPC — attempt to suicide

Mains GS-2: Fundamental rights; judicial interpretation of Article 21; advance directives; Personal Liberty
Mains GS-4: Ethics of euthanasia; autonomy vs sanctity of life; medical ethics principles; compassion in governance

📌 FACTS CORNER — KNOWLEDGEPEDIA

PASSIVE EUTHANASIA — LEGAL TIMELINE:

Gian Kaur v. Punjab (1996): no right to die under Art. 21; Section 309 IPC upheld

Aruna Shanbaug v. UoI (2011): first judicial recognition of passive euthanasia; HC approval required

Common Cause v. UoI (2018): landmark 5-judge bench; advance directives made legal

Harish Rana (2026): revisiting simplification of 2018 procedure

COMMON CAUSE CASE — KEY FACTS:

Year: 2018

Bench: 5-judge constitutional bench

Presiding: CJ Dipak Misra

Ruling: Art. 21 includes right to die with dignity; passive euthanasia legal; advance directives valid

TYPES OF EUTHANASIA:

Active euthanasia: administering lethal drug — ILLEGAL in India

Passive euthanasia: withdrawing life support — LEGAL in India (with conditions)

Voluntary: patient has consented in advance

Non-voluntary: patient incapacitated; family/medical board decides

Physician-Assisted Suicide: patient self-administers lethal prescription — not addressed in India

ADVANCE DIRECTIVE (LIVING WILL):

Written document by competent adult

States: do/do not administer extraordinary life-sustaining treatment if terminally ill

2018 procedure: judicial magistrate + 2 medical boards (widely criticised as too cumbersome)

2026 issue: simplification sought

ARTICLE 21 EXTENSIONS (KEY CASES):

Right to livelihood: Olga Tellis (1985)

Right to education: Unni Krishnan (1993)

Right to health: CESC Ltd (1996)

Right to privacy: Puttaswamy (2017)

Right to die with dignity: Common Cause (2018)

OTHER RELEVANT FACTS:

Section 309 IPC: attempt to suicide (not yet formally repealed)

Mental Healthcare Act 2017, Section 115: presumption of severe stress; no prosecution

Netherlands: first country to legalise active euthanasia (2002)

Canada: Medical Assistance in Dying (MAID), legalised 2016

Aruna Shanbaug: nurse, assaulted 1973; PVS for 42 years; died naturally 2015

Sources: Supreme Court of India, The Hindu, Indian Express

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