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The Right to Die with Dignity — India's Evolving Jurisprudence Demands Simpler Implementation



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 The Indian Express

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INTERVIEW ANGLE

"The Supreme Court has progressively expanded the right to die with dignity — from *Aruna Shanbaug (2011)* to *Common Cause (2018)* to *Harish Rana (2026)*. Yet advance directives remain barely used in practice. Where is the breakdown?"

WHY IN NEWS

The Supreme Court in *Harish Rana v. Union of India (2026)* permitted CANH (Clinically Assisted Nutrition and Hydration) withdrawal for a patient in Persistent Vegetative State for ~13 years — the first such ruling in India. The judgment builds on the landmark *Common Cause v. Union of India (2018)* that legalised advance directives, which itself built on *Aruna Shanbaug v. Union of India (2011)*.

A JURISPRUDENTIAL JOURNEY WORTH TRACING

The Indian Supreme Court's expansion of Article 21 to encompass a right to die with dignity has been slow, careful, and ultimately persuasive. The 1996 *Gian Kaur* judgment — which held that Article 21's right to life did not include a right to die — created a conceptual barrier that took 22 years to overcome. The *Common Cause (2018)* five-judge bench resolved the tension cleverly: not by recognising a "right to die" but by recognising a "right to die with dignity" — framing it as the final expression of personal autonomy rather than a negation of life.

Harish Rana (2026) extends this to its logical conclusion: if withdrawing a ventilator is permissible passive euthanasia, withdrawing artificial nutrition and hydration must also be permissible. The medical consensus — that CANH is a clinical intervention, not "basic care" — has been available to Indian courts for years; the 2026 judgment finally adopts it.

THE IMPLEMENTATION GAP

Yet the gap between judicial recognition and clinical reality is vast. The 2018 Common Cause ruling created advance directives (living wills) in law. In practice, how many Indians have executed one? The process — requiring notarisation, witness signatures, and Judicial Magistrate authentication — was deliberately cumbersome to prevent abuse. The 2023 review judgment simplified it, but awareness remains near-zero outside urban, educated circles.

The result is a de facto two-tier system: patients with informed families and access to senior lawyers can exercise their constitutional right to die with dignity; the majority cannot. Most ICU-bound patients in India's government hospitals die with every available intervention deployed — not because of medical ethics but because withdrawing treatment requires institutional confidence and legal cover that most doctors and hospitals lack.

ACTIVE VS. PASSIVE EUTHANASIA — AN ANACHRONISTIC LINE?

Indian law continues to draw a sharp distinction between passive euthanasia (permissible) and active euthanasia (prohibited). This distinction — philosophically contested in bioethics literature — is maintained for pragmatic reasons: fear of abuse, slippery slopes, and exploitation of vulnerable elderly populations.

Countries that have legalised physician-assisted dying (Netherlands, Belgium, Canada, Switzerland) have built elaborate safeguard frameworks — multiple independent assessments, waiting periods, psychiatric evaluations. India lacks the institutional infrastructure to replicate these safeguards. The passive/active distinction may be arbitrary in moral philosophy but serves a practical gating function in the Indian context.

WHAT MUST CHANGE

For the right to die with dignity to become real, three things must happen. First, AIIMS and major medical institutions must develop clear protocols for implementing advance directives — standard operating procedures that give doctors legal confidence to act on them. Second, the National Health Authority must integrate advance directive registration into the Ayushman Bharat digital health ecosystem — making it as routine as organ donation registration. Third, medical education must include end-of-life care ethics — ensuring future doctors understand the distinction between prolonging life and prolonging dying.

The Supreme Court has done its part. The implementation failures lie in the executive and the medical establishment.

UPSC RELEVANCE

Article 21; passive vs active euthanasia; Aruna Shanbaug (2011); Common Cause (2018, 2023); Harish Rana (2026); CANH definition; advance directives.

MAINS GS-2:

“Trace the judicial expansion of Article 21 in the context of the right to die with dignity. What legislative or executive action is needed to bridge the gap between legal recognition and practical implementation?”

MAINS GS-4 (ETHICS):

“Autonomy, dignity, and sanctity of life are three competing values in euthanasia debates. How should a welfare state navigate these tensions?”

FACTS CORNER — KNOWLEDGEPEDIA

RIGHT-TO-DIE CASES CHRONOLOGY:

P. Rathinam v. Union of India (1994): 2-judge bench; right to die upheld

Gian Kaur v. Punjab (1996): 5-judge bench; right to die NOT in Article 21 (overridden)

Aruna Shanbaug v. Union of India (2011): Passive euthanasia first recognised; 42-year PVS patient, KEM Hospital Mumbai

Common Cause v. Union of India (2018): Advance directives legalised; right to die with dignity = Article 21; 5-judge bench

Common Cause (Review, 2023): Process for advance directives simplified

Harish Rana v. Union of India (2026): CANH withdrawal permitted for first time

CANH: NASOGASTRIC TUBE, PEG (PERCUTANEOUS ENDOSCOPIC GASTROSTOMY), IV NUTRITION, IV FLUIDS — CLASSIFIED AS MEDICAL INTERVENTION (NOT BASIC CARE)

GLOBAL COMPARISON:

Active euthanasia / physician-assisted dying: Legal in Netherlands, Belgium, Canada, Colombia, Switzerland (assisted suicide)

Passive euthanasia: Legal in most countries including India (post-2018)

OTHER RELEVANT FACTS:

Article 21: Part III, Fundamental Rights — “No person shall be deprived of his life or personal liberty except according to procedure established by law”

Maneka Gandhi (1978): Article 21 procedure must be fair, just, reasonable

PVS irreversible threshold: 12 months (traumatic brain injury); 3 months (non-traumatic)

Sources: [Supreme Court of India](#), [Indian Express](#), [Bar and Bench](#)

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