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Right to Life and Right to Die: A Constitutional Critical Analysis

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Abstract

In the great silence of which terminal disease, or the incurable pain, may well be the prelude, the Indian Constitution is asking us to consider one of the most personal questions of humanity: does the right to life in Article 21 apply to a noble decision to die as well? This essay critically examines the constitutionality of the so-called right to die with dignity, and how it has been developed over the years in the Supreme Court cases. Since the early swings of doctrine in Gian Kaur (1996), which strongly denied a general right to die, through the sympathetic but prudent approach adopted in Aruna Shanbaug (2011) and Common Cause (2018), the judiciary has increasingly come to understand that the real dignity requires more than a biological presence. The decision in Harish Rana v. Union of India (March 2026) was the first case in history where the Court allowed the removal of clinically assisted nutrition and hydration to a young man in a persistent vegetative state more than thirteen years, who made no effort to sustain his life by signing a living will. The ruling is not only operationalisation of the constitutional promise but also highlights the clash between personal autonomy and the solemn responsibility of the State to safeguard life.

The paper discusses the ethical, philosophical, and practical dilemmas through a humanist prism: the danger of abuse in an heterogeneous society with socio-economic weaknesses, the long-standing legislative gap despite the frequent judicial prompting, and the more human need to reconcile the sanctity of life and the suffering of the unendurable. It contends that passive euthanasia is now a part of Article 21, but active euthanasia is still constitutionally unacceptable. Finally, the analysis recommends considerate legislation that respects life and dignified death, so that the constitutional values can be translated into benevolent reality of each citizen.

Keywords : Fundamental, Human, Philosophical, Judicial, Advance, Vulnerability, Decision.

1. Introduction

The fundamental truth of all constitutional promises centers on a very human fact: life is not about breathing, but about meaningful, agency-filled and dignity-driven living. Article 21 of the Indian Constitution that guarantees the right to life and personal liberty, has come a long way since its written origins to embody this broader concept. However, in the face of the possibility of a life of long, irreversible pain, as in a hospital bed on a machine or in the silent, mute anguish of a persistent vegetative state, the right to die with dignity is deeply, sometimes awkwardly, challenged by this right: does the right to live with dignity also apply to the right to die with dignity? The paper will critically engage in a constitutional analysis of that question. It examines the way the Supreme Court has handled the fine line between the protective instinct of the State to continue life, and the autonomy of the individual to the peaceful end of suffering. It starts with initial judicial reluctance and ends with the groundbreaking 2026 decision in Harish Rana v. Union of India, in which the Court, first, provided a concrete interpretation of passive euthanasia.

This analysis is done through the lens of intellectual honesty and human empathy, and does not aim at romanticising death or reducing the sanctity of life. Rather, it addresses the existences of families caught between hope and compassion, patients confined in bodies that are no longer theirs and a legal system that struggles to be both rigorous and humane. Combining constitutional doctrine and philosophical contemplation of the issue of autonomy, dignity, and vulnerability, the paper points to the gradual but meaningful judicial stance as well as the necessity of a legislative clarification. By so doing it challenges us to think not only of what the law authorises, but of what justice and human decency require in the sight of mortality.

2. The Conceptual Foundations: Right to Life under Article 21

The brightest guarantee of the Constitution is Article 21: No human being would be deprived of his life or his personal liberty except in accordance with the procedure that is provided by the law. But in the decades of judicial interpretation, this seemingly merely simple provision has turned into a deep statement of human value. It has been continually emphasized by the Supreme Court that life as envisaged in Article 21 is not animal life or vegetative survival, but a dignified, autonomous, and meaningful life (Francis Coralie Mullin v. Administrator, Union Territory of Delhi, 1981).

This broad interpretation was further philosophically enhanced in Maneka Gandhi v. Union of India (1978), where the Court added to Article 21 the substantive fairness, which is based on justice and human values. Dignity became its fundamental pillar- a natural, irreplaceable attribute of human beings, which requires respect towards the inner being, decisions as well as the physical integrity of the person. In Justice K.S. Puttaswamy v. Union of India in 2017, this foundation was further enriched, acknowledging the notion that the personal autonomy and the right to make intimate choices about the body are key to dignified living. Based on this theoretical foundation comes the rational but frail extension into end-of-life decisions. When dignity involves liberty to live in the way one wants it should also entail the liberty to decline unnecessary medical treatment when life has become a never ending ordeal of pain and helplessness. The Court never took this lightly. It recognizes the strong interest of the State in the preservation of life and demands that dignity is not to be lost on the altar of mechanical protraction. This principle was poignantly applied in Harish Rana (2026): the withdrawal of clinically assisted nutrition was not considered an act of murder, but an act of mercy, which was in accordance with constitutional principles.

In this way, Article 21 challenges us to see life not as something absolute to be maintained by all means, but as a holy process the end of which, as well, is worthy of respect and compassion. It is on this basis that a subtle jurisprudence about passive euthanasia becomes possible.

3. Evolution of the Right to Die by the courts The jurisprudence of the Supreme Court on the right to die has been characterized by wavering and ultimately a doctrinal focus:

P. Rathinam v. Union of India (1994): A two-judge court declared Section 309 IPC (attempt to suicide) illegal, in breach of Article 21, acknowledging a right to die. This was short-lived.

- Gian Kaur v. State of Punjab (1996): A five judge Constitution Bench overturned Rathinam, declaring that Article 21 does not contain the right to die. Nevertheless, the Court did not exclude the opportunity that the right to die in the natural process of death can be safeguarded. This became the basis of the difference between right to die and right to die with dignity.
- Aruna Ramchandra Shanbaug v. Union of India (2011): The Court allowed passive euthanasia on tight judicial provisions in extraordinary situations of PVS, but did not accept the criminality of active euthanasia. It presented the test of best interests and had to be approved by the High Court.

Common Cause v. Union of India (2018): Article 21 gives a right to die with dignity, which was authoritatively interpreted by a five-judge Constitution Bench as an inseparable part of the right. It legalised passive euthanasia (withholding/withdrawing life-sustaining treatment) and legalised the validity of advance medical directives (living wills). Extensive rules were established to eliminate abuse.

- Harish Rana v. Union of India (11 March 2026): The first case to apply the Common Cause framework directly was to allow the withdrawal of clinically assisted nutrition and hydration (CANH) of a 32-year-old patient in PVS by 13 years, by a two-judge court (Justices J.B. Pardiwala and K.V. Viswanathan). The Court made it clear that CANH is a form of medical treatment (not of basic care), reinstated the doctrine of best interests, and the importance of palliative care. This ruling put the constitutional right to die with dignity into practice and not purely in theory.

Also, the Mental Healthcare Act, 2017 decriminalised attempt to suicide (the Section 309 IPC was practically declared inapplicable in the majority of instances), acknowledging the mental health aspects of self-harm.

4. Passive vs. active Euthanasia: constitutional difference.

The fundamental distinction of end-of-life jurisprudence is one of the strongest and most human of all the distinctions our Constitution has been urged to make: that which is a natural death, and that which is an artificial death. The Supreme Court has always believed that passive euthanasia, the refusal or denial of life-sustaining treatment, such as clinically assisted nutrition and hydration, is under the protective umbrella of Article 21. It is not considered as killing, rather it is seen as a mercy that allows the natural functions of the body to have its way when medical science is unable to create life that is worth living. Active euthanasia, where lethal substances are used, is in contrast constitutionally forbidden under the Bharatiya Nyaya Sanhita since it would require the State to act as the means of killing in order to take away life. This is not a technical difference, but a deep-rooted philosophical and ethical meekness. It recognizes

that the State has a solemn obligation to protect the vulnerable particularly in a society characterized by extreme inequalities, and at the same time, the individual dignity of the person in denying futile continuation of suffering. This has been rationale, to the Court, that passive actions respect autonomy but do not go further into State-approved homicide and maintain the ethical positions of the medical profession and avoid subtle coercion that might be found in families strained by care or poverty. However, this limit calls into question further consideration; once the bodily autonomy and dignity are considered inviolable, how is it possible to deny an adult and competent person the right to informed request of assisted dying in the terminal agony?

It is not inflexibility but prudence, based on accumulated human experience, which is reflected in the cautious approach of the judiciary, most recently reaffirmed in Harish Rana v. Union of India (2026). It acknowledges that death is not the foe, but rather dignity and long suffering are, but that the compassion should never jeopardize the overall aim of the commitment to the sanctity of all life. With restraint and empathy the Constitution speaks in this fine balance.

5. Strengths of the Judicial Approach Critical Analysis

The changing jurisprudence of the Supreme Court on the right to die with dignity is a masterpiece of constitutional statesmanship--considerable, judicious, and most sensitive to the humanity of the heart. The Court has not been in a hurry to make sweeping pronouncements but has been gradual in making its judgments, which have enhanced our knowledge of Article 21, without necessarily leading us out of constitutional values. Since Gian Kaur rejected the notion of a general right to die, Aruna Shanbaug dispensed humane advice, and Common Cause acknowledged living wills, and lastly, Harish Rana (2026) put his practical judgment to the test and has shown the judiciary institutional wisdom rare among institutions. The unique virtue of this approach is its humane realism. The Court has never considered patients as legal entities but as people whose suffering, family distress, and dying moments need to be approached with empathy. It has tried to protect the weak by demanding high procedural standards, judicial checking, and the test of best interests in order to safeguard the vulnerable and leave the competent to act independently. The way the advance directives are validated in Common Cause is particularly proactive: the personal agency is not violated when the person is still capable of making decisions, and families do not have to endure the agony of a long court case and the moral dilemma.

Furthermore, the judiciary has been able to streamline constitutional doctrine with the changing medical ethics and international human rights standards without sacrificing the Indian cultural respect of life. Harish Rana is a case in point: the Court has reconciled theory and practice by explaining that withdrawal of treatment is not abandonment but an act of dignified care. During the age of medical breakthrough and social rethinking about death, the Court has demonstrated that the real interpretation of the Constitution is not mechanical and undergroundly ethical, guided by the principles of justice, compassion, and an unshaken belief in the dignity of people in their lives and their death. This gradual, but liberal course, deserves silent admiration.

Weaknesses and Challenges

Legislative Vacuum

In the case of Common Cause and Harish Rana, the Supreme Court made several, almost imploring attempts to draw the attention of Parliament, but to no avail; this has left a great legislative vacuum between the constitutional promise and the daily human plight. Families faced by terminal illness have to face costly, emotionally draining, High Court proceedings just to make a loved one a dignified farewell. This non-action is not just a failure to take action but more of a failure of institutions to address the issue of mortality in a society that is still influenced by cultural adoration of life at all costs. What is left is a legal ambiguity that strains the very citizens which Article 21 is supposed to safeguard. Even a humane constitutional order requires more than judicial directions, it requires Parliament to put the judicial prudence into definite, caring acts that will deprive the family this unnecessary suffering, and still maintain the sanctity of life.

Implementation Gaps

The reality on the ground even where the law has spoken, exposes painful implementation gaps. There is more medical boards, ethics committees and palliative care infrastructure in the urban centres as compared to the vast heartland of India where the majority of Indians live and die. A small town family with a valid advance directive can have no trained doctor willing or capable to act on the directive without fear of prosecution. Such inequalities make constitutional rights a geographical and class privilege. The progressive dream of the judiciary is threatened to be just a dream, unless the State constructs the institutional scaffold or protocols, nationwide training, and availability of end-

of-life care that can transfer dignity to every bedside. In the absence of this, the right to die with dignity is yet another promise that is unequally fulfilled.

Risk of Misuse

The threat of abuse is the most vulnerability in a society where there are severe socio-economic fault lines. Pressures by patriarchy, economic hardships and lack of protection might easily force the aged, the incompetent or the poor into making a decision that is not really theirs to choose death. The guidelines given by the Court, as considerate as they are, cannot completely protect the vulnerable against the insidious familial or social pressure. This issue is not an abstraction, but rather an issue based on the realities of inequality and reliance that India has experienced. A constitutional order which values human dignity must then pose the question whether the expansion of the right to die could, in reality, weaken the right to live of those who are the least able to defend themselves. The most tricky ethical tightrope is balancing between autonomy and protection.

Ethical Tension

Fundamentally, the jurisprudence presents a deep ethical dilemma: the old Indian admiration of the sacrosanctity of life is in conflict with the new constitutional obligation of individual self-determination and self-respect. The Court has traversed this line cautiously, but the difference between letting die and causing death remains a challenging issue to both philosophers and laypersons. Is it dignity that a good man who is in unbearable distress has not the last of it to act on? Or will active assistance undermine the core role of the State to cherish all life? This is not just an abstract discussion; it gets to the innermost questions of what it means to be a human being. This restraint on the part of the judiciary is prudent but it also leaves hanging in the air the moral uneasiness many Indians experience when personal choice collides or clashes with collective cultural conscience.

Comparative Perspective

In comparison with the world trends, the attitude of India is chosen intentionally conservative. Countries like the Netherlands, Belgium, and Canada have adopted active euthanasia or physician-assisted dying, which is regulated and believing in strong protections and adult discourse. India in contrast, has maintained a strict constitutional boundary at passive action only, giving preference to defence of the weak as opposed to radical autonomy. This conservatism is not retrogression but a deliberate decision based on cultural, demographic and developmental facts. However, it provokes a thought: in an increasingly globalized world can we afford not to be vulnerable to the developing international human rights standards without seeming to devalue individual suffering? The comparative lens helps us to remember that constitutional dignity should not be viewed in a vacuum but in a place of sincere recognition of our special ethos as well as the collective human plight.

Conclusion and Recommendations

The constitutional transformation of the stern refusal of a general right to die of Gian Kaur into a sympathetic pragmatism of Harish Rana v. Union of India (2026) is an indicator of an awakening judicial conscience--a conscience which now takes into consideration the fact that the promise of life with dignity of Article 21 must also include a dignified surrender when the agony becomes untenable. The Supreme Court has demonstrated an institutional wisdom that has been rarely exercised: the creation of greater liberty for individuals without undermining the sacrosanct obligation of the State to defend the weak. Passive euthanasia is now a part of the right to life, but the framework is still judge-made, procedurally burdensome and incomplete without legislative support. Celebration is not the only thing needed at this moment, but reflection and responsibility. Parliament should lift up to the occasion by passing a multi-faceted bill -End-of-Life Care and Advance Medical Directives Act-that embodies the constitutional ideals into reality. Among the most important are: the legalisation of living wills with streamlined, standardised procedures; compulsory palliative care policies and ethics training; iron-clad protections, such as independent medical boards, psychological assessment, and legislative control, against coercion of the elderly, the disabled, and the economically marginalised; and, once the issue has matured in the public mind, regulated provisions of active assistance in the most

After all, the Constitution does not require us to preserve life, at the expense of humanity, or to hasten death without serious reason. It requests us to not only venerate the sanctity of life but also the silent dignity of its termination. Our general moral maturity rests in this fine balance. The judiciary has shown the way with compassion and restraint; now must the legislature tread it with wisdom, compassion, and undying service to the human dignity with which Article 21 was always intended to deal.

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