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THE LEGAL AND ETHICAL PARADIGM OF PASSIVE EUTHANASIA IN INDIA

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Abstract -

Passive Euthanasia: The Constitutional and Ethical Paradigm

"Right to dignified life also includes the right to die in case the life holds no more value, in the sense of bodily consciousness," is the jurisprudence behind the concept of passive euthanasia that aims to terminate life of those individuals which have had been subjected to permanent vegetative state or brain death and has lost all the consciousness about the existence of themselves. Doctrine of sanctity of life, although prevent the ending of life but an exception must be made in this regard and the parens patriae, the court must have the final say in the cause of euthanasia. India was isolated from this terms and its legal approach until Aruna shanbaug case happened and then further refinement was done in the common cause case and the latest case of harish rana v union of india became the 1st to give any person death by passive euthanasia. This research paper aims to elaborate the concept of euthanasia in its both forms active and passive with emphasis on the later one and analysis of law on this regard in indian context through the Aruna shanbaug and common cause judgment.

Keywords: *Right to Die with Dignity, Persistent Vegetative State (PVS), Advance Medical Directive, Aruna Shanbaug Case, Common Cause Judgment, Living Will, Human Dignity, Sanctity of Life*

Introduction to Passive Euthanasia: The Constitutional and Ethical Paradigm

Article 21 of the Indian Constitution serves as the bedrock of individual existence, articulating that every person possesses the fundamental right to life and personal liberty, which shall not be deprived except according to the procedure established by law. However, judicial interpretation has long clarified that this "right to life" is not merely confined to mere animal

existence or a drudgery of survival. Instead, it encompasses the right to live with human dignity and to maintain a standard of life that is meaningful. While the Constitution grants extensive liberty to individuals regarding their bodies, neither this provision nor any other Indian statute traditionally recognized a right to terminate one's own life. Historically, the law maintained that the body is not a commodity to be discarded through suicide or other artificial means; rather, life was to be surrendered only to natural decay.

From an ethical standpoint, the preservation of life is viewed as a paramount duty. Yet, humanity often encounters "extraordinary situations" where the boundary between life and death becomes blurred. While psychological traumas, such as severe depression, may lead an individual to view life as trivial, these conditions are clinically treatable through medication and therapy. The legal prohibition of suicide acts as a societal safeguard in these instances, ensuring that temporary mental distress does not lead to an irreversible end.

However, a distinct and more harrowing reality exists for those whose bodies have fundamentally given up. In these cases, a person may be trapped in a state where they are entirely dependent on medical machinery—unable to walk, eat, or exercise any control over their bodily functions. When a patient is reduced to a vegetative state where there is no hope of recovery, the artificial prolongation of life can often become a source of further pain rather than a benefit. In such an "inhumane" condition, continuing treatment may serve neither the interests of the patient nor the family, as the "life" being preserved lacks the essential quality of human dignity.

It is within this narrow, tragic window that the law recognizes an alternative to natural decay: death by the "omission" of further medical intervention. This process, known as Passive Euthanasia, involves the withdrawal of life-sustaining equipment or the withholding of medical treatment that is merely delaying the inevitable end of a terminal condition. By removing the artificial barriers to death, the patient is allowed to pass away peacefully.

The Indian legal journey toward this realization has been profound. While the Aruna Shanbaug case set the foundational guidelines, the recent 2024-2025 legal climate has seen a more streamlined application of these principles. Notably, the case of *Harish Rana v. Union of India*¹

¹ *Harish Rana v. Union of India* 2026 INSC 222.

(2024) stands as a significant milestone, representing one of the first instances where the judiciary, recognizing the absolute futility of further treatment for a patient in a long-term vegetative state, granted the petition for the withdrawal of life support. This case dictate that when the spark of human agency is permanently extinguished, the law, , must prioritize the right to a dignified death over the forced preservation of a hollow existence.

Defining the Concept of Euthanasia

Before delving into the complexities of its passive form, one must grasp the foundational concept of euthanasia and its functioning within both the global and Indian legal frameworks. The term "euthanasia" is derived from the Greek words "eu" (good) and "thanatos" (death), literally translating to a "good death" or a "peaceful death." It is defined as a deliberate and intentional act of ending a person's life out of mercy, typically when that individual is suffering from an incurable illness, excruciating pain, or an incapacitating condition where further existence only promises prolonged agony. This is precisely why it is colloquially referred to as "mercy killing."²

Euthanasia aims to conclude a life in a dignified manner without inflicting additional trauma or injury. Based on the nature of the intervention, it is fundamentally divided into two distinct categories:

- Active Euthanasia
- Passive Euthanasia.

Active Euthanasia: The Direct Intervention

In the landmark case of *Aruna Ramchandra Shanbaug v. Union of India*³, the Supreme Court provided a definitive clarification:

"Active euthanasia involves taking specific, affirmative steps to cause the patient's death, such as injecting the patient with a lethal substance—for example, sodium pentothal—which induces deep sleep within seconds, leading to an instantaneous and painless death."

In simpler terms, active euthanasia is a method characterized by a "positive act." It typically involves the administration of a lethal injection or medication that directly and immediately terminates life⁴. For instance, if a physician provides a patient with a substance that causes

² Pranjal Srivastava, 'A Critical Analysis of the Rights of Arrested Persons in India' 5(1) *International Journal of Legal Research and Analysis* 1-10 (2025) <https://ijlr.iledu.in/wp-content/uploads/2025/03/V5I192.pdf> (last visited on March 31, 2026).

³ *Aruna Ramchandra Shanbaug v. Union of India* (2011) 4 SCC 454.

⁴ 'Active vs Passive Euthanasia: What is the Difference and Why Does it Matter Legally?' *News18* (March 11,

rapid respiratory failure to end their terminal suffering, this falls squarely within the definition of active euthanasia.

This practice is generally subdivided into two specific modalities:⁵

Euthanasia performed by a medical practitioner: Where the doctor directly administers the lethal dose.

Physician-assisted suicide (PAS): Where the medical professional provides the means (such as a prescription for lethal drugs), but the patient performs the final act themselves.

The Global and Indian Legal Landscape of Active Euthanasia

The legality of active euthanasia varies significantly across the globe, reflecting diverse ethical, and social values:

The Netherlands: Became the pioneer by enacting the "Termination of Life on Request and Assisted Suicide (Review Procedures) Act" in 2002, establishing strict criteria for legal intervention.⁶

Belgium: Followed shortly after in September 2002, becoming the second European nation to legalize the practice.⁷

Switzerland: Maintains a unique legal position where assisted suicide is permitted and can notably be performed even by non-physicians, provided the motive is not selfish.⁸

The Position in India:

Conversely, the legal stance in India regarding active euthanasia is unambiguous: it is strictly illegal. No legislation has been enacted to permit the active administration of death, and any such act is treated as a grave criminal offense. Under the Indian legal system, active euthanasia is categorized as culpable homicide or murder. Specifically, under Section 302 of the Indian Penal Code (IPC)⁹ (section 101 of the Bharatiya Nyaya Sanhita)¹⁰, the deliberate killing of another person—regardless of mercy as a motive—is punishable by life imprisonment or the death

2026) available at <https://www.news18.com/explainers/active-vs-passive-euthanasia-what-is-the-difference-and-why-does-it-matter-legally-ws-el-9954677.html> (last visited on March 31, 2026).

⁵ *Aruna Ramchandra Shanbaug v. Union of India* (2011) 4 SCC 454. At 49

⁶ *Termination of Life on Request and Assisted Suicide (Review Procedures) Act*, 2002 (Act No. 194 of 2001) (Netherlands). Available at <https://www.wfrtds.org/wp-content/uploads/2021/01/Law-on-the-Termination-of-life-on-request-and-assisted-suicide.pdf>

⁷ *Act on Euthanasia*, 2002 (Act of 28 May 2002) (Belgium) available at <https://eol.law.dal.ca/wp-content/uploads/2015/06/Euthanasia-Act.pdf>

⁸ *Swiss Criminal Code*, 1937, art. 115 (Switzerland) available at https://www.fedlex.admin.ch/eli/cc/54/757_781_799/en

⁹ *The Indian Penal Code*, 1860 (Act 45 of 1860).

¹⁰ *The Bharatiya Nyaya Sanhita*, 2023 (Act 45 of 2023)

penalty. The Indian judiciary maintains that while one may have the right to die with dignity via the withdrawal of support, no one has the right to be killed through a positive, lethal act.

Conceptual Framework of Passive Euthanasia

In the landmark judgment of *Aruna Shanbaug v Union of India* Passive euthanasia is generally defined as the withdrawal or withholding of life-sustaining medical treatment with the deliberate intention of allowing a patient to die naturally. This form of euthanasia does not involve the administration of lethal substances, which would constitute active euthanasia instead, it involves an omission of medical intervention. For instance, if a patient dependent on kidney dialysis to survive is denied the treatment despite the availability of the machine, it constitutes passive euthanasia. Similarly, the act of disconnecting a ventilator or a heart-lung machine from a comatose patient, or the decision to withhold life-saving medications such as antibiotics in a terminal clinical setting, falls under this category¹¹.

Judicial Interpretation in the Common Cause Case (2018)

In the landmark *Common Cause v. Union of India (2018)*¹² judgment, the Supreme Court of India provided profound clarity on the nature of these omissions. The various opinions of the bench refined the legal understanding of the term:

Justice D.Y. Chandrachud observed that passive euthanasia fundamentally refers to the omission of specific steps which might otherwise sustain or prolong life, shifting the focus from "causing death" to "allowing the natural process of dying" to take its course when treatment becomes futile.¹³

Chief Justice Dipak Misra emphasized that passive euthanasia connotes the absence of any "overt act" by either the patient or the medical practitioners. It is the cessation of medical intervention that serves as the catalyst for the end of life, rather than a positive, lethal action.¹⁴

Consequently, passive euthanasia is understood as a clinical and legal method through which a patient's life is permitted to end by the cessation of further medical treatment. It involves removing or withholding the medical equipment and interventions that have, until that point, artificially sustained life, without which the patient would have succumbed to their underlying condition.

¹¹ *Aruna Ramchandra Shanbaug v. Union of India* (2011) 4 SCC 454.

¹² *Common Cause (A Regd. Society) v. Union of India* (2018) 5 SCC 1.

¹³ *Harish Rana v. Union of India* 2026 INSC 222, para 34.

¹⁴ *Harish Rana v. Union of India* 2026 INSC 222, para 34.

Classification: Voluntary vs. Non-Voluntary Euthanasia

The legal and ethical validity of passive euthanasia is further categorized based on the patient's capacity to consent:

1. Voluntary Passive Euthanasia

This occurs when a competent individual, capable of rational decision-making, expresses a clear desire to cease life-prolonging treatment. The motivations for such a decision are deeply personal and may include a desire to avoid unbearable physical pain, or a selfless concern for the financial well-being of their family, wishing that resources spent on futile treatment be redirected to those in greater need. In these instances, the patient consciously and of their own free will refuses life-saving medicines or procedures, exercising their Right to Die with Dignity.

2. Non-Voluntary Passive Euthanasia

This scenario arises when the patient is legally "incompetent" or physically unable to communicate their wishes. This typically applies to patients in a coma, a Persistent Vegetative State (PVS), or those suffering from advanced dementia. Because the individual cannot decide for themselves, the decision to withdraw support is made by surrogates—such as family members, medical boards, or the Courts acting as *parens patriae*—based on the best interest principle. The law ensures that this is only permitted when there is no reasonable hope of clinical recovery and where continuing treatment would merely prolong a state of suffering or vegetative existence.

Legality in India-

The confusion surrounding the legality of terminating the life of a person in a Persistent Vegetative State (PVS) through passive euthanasia primarily stemmed from the earlier ruling in *Gian Kaur v. State of Punjab*¹⁵. In that case, the Supreme Court held that the Right to Life under Article 21 does not encompass a "Right to Die," implying that the Constitution does not authorize any individual to claim an entitlement to end their own life. This created a legal paradox where the right to life was claimable against every form of death except natural expiration. Coupled with the penal provisions of Section 309 of the IPC, which criminalized attempted suicide, it became exceedingly difficult to ascertain the legal status of individuals in a PVS or other terminal medical conditions where there is no potential for recovery or clinical improvement.

¹⁵ *Gian Kaur v. State of Punjab* (1996) 2 SCC 648.

The definitive legal turning point was the landmark case of Aruna Ramchandra Shanbaug v. Union of India (2011), which served as the cornerstone for the legality of passive euthanasia in India. In this matter, the Indian judiciary formally recognized passive euthanasia and articulated detailed guidelines for its implementation. The case centered on a nurse who, following a brutal attempted rape by a coworker, was left with a permanent brain injury due to strangulation and oxygen deprivation. For approximately 36 years, she remained bedridden, unable to move her limbs—save for her eyelids and lips—leading doctors to classify her condition as a PVS. This harrowing existence prompted a petition for mercy killing via passive euthanasia, filed by a social activist who had authored a book on Aruna's life.

In its deliberation, the Court analyzed global legal jurisprudence, placing significant reliance on the UK House of Lords' decision in *Airedale NHS Trust v. Bland* (1993)¹⁶. That ruling established that while the "Sanctity of Life" doctrine generally prohibits the taking of life, an exception must be carved out for PVS patients where recovery is impossible and prolonging life serves no interest for the patient or their family. The House of Lords settled that if doctors act on informed medical opinion to withdraw artificial life support in the patient's "best interest," such an act is not a criminal offense.

The Supreme Court of India adopted this logic, holding that voluntary passive euthanasia—the withholding or withdrawal of life-sustaining treatment—is legally permissible under strict judicial monitoring to prevent potential exploitation. However, a critical question emerged: who decides what constitutes the "best interest" of an incompetent patient? While the wishes of parents or spouses are paramount, the Court ultimately acts as *parens patriae* (parent of the nation). As noted in *In Re J (A Minor)* (1990)¹⁷ and reiterated in *Charan Lal Sahu v. Union of India*¹⁸, the Court, as a representative of the Sovereign, adopts the standard of a "reasonable and responsible parent" to make the final determination, giving due weight to the views of next friends and medical experts.

To operationalize this, the Court initially assigned the High Courts the duty of oversight under Article 226. The procedure required the Chief Justice to empanel a committee of three doctors to review the patient's condition. Their report would then be furnished to all stakeholders including the state and relatives—before a verdict was rendered. The Court emphasized that such decisions must be made expeditiously to prevent prolonged mental agony for the family. The legal landscape evolved further with the *Common Cause v. Union of India* (2018)

¹⁶ *Airedale NHS Trust v. Bland* [1993] AC 789.

¹⁷ *Re J (A Minor) (Wardship: Medical Treatment)* [1991] Fam 33.

¹⁸ *Charan Lal Sahu v. Union of India* (1990) 1 SCC 613

judgment. A Constitution Bench clarified that the Aruna Shaunbag bench had erred in suggesting that passive euthanasia could only be made lawful through legislation. More importantly, the Court drew a sharp distinction: while voluntary passive euthanasia (via an Advance Directive) and non-voluntary passive euthanasia (for incompetent patients based on best interests) are legal, involuntary passive euthanasia—acting against a person's express will remains strictly illegal and equivalent to murder. The Court reaffirmed that the Right to Die with Dignity is a fundamental right under Article 21, rooted in individual autonomy. Consequently, any withdrawal of support against a competent patient's wishes violates the sanctity of life and the state's duty to protect its citizens, ensuring that the law balances compassion with the prevention of abuse.

Current legal status in india

Based on the landmark rulings of the Supreme Court, the current legal position can be drawn -

1. *Constitutional Recognition under Article 21*

The fundamental Right to Life guaranteed under Article 21 has been judicially expanded to include the Right to Die with Dignity. The law now distinguishes between the "sanctity of life" (the preservation of life at all costs) and the "quality of life." When a patient reaches a point of terminal illness or a Persistent Vegetative State (PVS) where there is no hope of recovery, the law views the forced, artificial prolongation of life as an affront to human dignity.

2. *The Legality of "Omission" vs. "Commission"*

The Indian legal system draws a sharp line between Active and Passive euthanasia:

Active Euthanasia (Illegal): Any positive act to terminate life (e.g., lethal injection) remains a criminal offense under Section 302 of the IPC (Murder) or Culpable Homicide.

Passive Euthanasia (Legal): The withdrawal or withholding of life-sustaining treatment (an omission) is legally permissible. This is not viewed as "killing" the patient, but rather as allowing nature to take its course.

3. *The Distinction in Consent (Voluntary vs. Non-Voluntary)*

The legal status varies based on the patient's capacity to provide consent:

Voluntary Passive Euthanasia: Legalized through the recognition of Advance Medical Directives (Living Wills). A competent individual can specify in advance that they do not wish to be kept on life support.

Non-Voluntary Passive Euthanasia: In cases where the patient is incompetent (e.g., in a coma or PVS), the decision can be made by "next friends," family, or doctors, subject to the "Best Interest" principle and medical board certification.

Involuntary Passive Euthanasia: Remains strictly illegal. Terminating life against the express will of a patient is treated as murder.

4. Procedural Safeguards and Judicial Oversight

Following the 2018 and 2023 Common Cause refinements, the procedure has been streamlined to balance autonomy with protection against elder abuse:

Medical Boards: A two-tier medical board system (Primary and Secondary) must certify that the patient's condition is terminal and irreversible.

Parents Patriae Jurisdiction: While the 2023 guidelines reduced the need for mandatory judicial magistrate countersignatures for Living Wills, the High Courts (under Article 226) retain the ultimate power as *parents patriae* (custodian of the citizen) to intervene if there is a dispute or suspicion of foul play.

Conclusion-

The legal journey of passive euthanasia in India represents a profound shift in the interpretation of Article 21, moving from the rigid "sanctity of life" doctrine in *Gian Kaur* to a compassionate "quality of life" framework. As established through the foundational guidelines of *Aruna Shanbaug* and the constitutional mandates of *Common Cause*, the law now firmly recognizes the "Right to Die with Dignity" as an essential component of human autonomy. This evolution ensures that individuals are no longer forced to endure a "miserable and inhumane" existence in a Persistent Vegetative State (PVS), where life is sustained only by the artificial "omission" of nature's end.

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