



## CONSTITUTIONAL DISCOURSE - SEASON 1: EPISODE 1

### 'RIGHT TO DIE WITH DIGNITY'



**DATE: AUGUST 6, 2018**

**DAY: MONDAY**

The first question taken up at the session was- Should there be a right to die? According to the recent judgment of the Hon'ble Supreme Court in the case of *Common Cause (A Regd. Society) v. Union of India*, the court upheld a person's right to choose passive euthanasia by creating an 'Advance Medical Directive' in the eventuality of a terminal illness with no hope of recovery, an irreversible coma or a permanent vegetative state.

But why did the court not extend this right to a '*rational normal*' person? Does the state consider that the people are not rational enough to decide on the matter of their own life and death? Why is the right to die not an absolute right? The court has not extended this right to everyone and when it extends this right selectively, it deviates from the general scheme of rights mentioned in the constitution. The case of *Aruna Ramchandra Shanbaug v. Union of India & Ors (2011)* was discussed in detail.

The judgments have shown a trend where the courts have assumed that a rational man would not consider the option of dying. But what if a '*rational normal*' person wants to die? Even in other countries this right is only limited to people with terminal illness. Swiss non-profit societies such as '*Dignitas*' and '*Exit*' provide assisted suicide to people who suffer from terminal illness and/or severe physical and/or mental illnesses, supported by qualified doctors.

But why would a rational normal man decide to die? The state cannot allow its people to die as people are asset for a nation. For rational person death normalization would actually lead to a dangerous situation. Death would become a viable and easy option. People would wish to give up easily. The debate about legalizing suicide would come up where everyone will see death as a simpler option.

People can also argue that right to die should be given where it is important to exercise the right to freedom from religion as in the case of *Santhara*. But a strict demarcation has to be made between belief and superstitions and in the scheme of rights Article 21 has always been kept on a higher pedestal.

Justice D.Y. Chandrachud in the introduction of PART C of his judgment in the case of Common Cause v. Union of India has said that “The right to life is the right to decide whether one will or will not continue living. If the right to life were only a right to decide to continue living and did not also include a right to decide not to continue living, then it would be a duty to live rather than a right to life.” Do we have a right to life or a duty to live? The Supreme Court has left this question unanswered.

The key-takeaways from the session were that the right to die cannot be made an absolute right and it is essential that it is regulated properly in the interest of public policy. The first episode of Constitutional Discourse received a huge participation and we hope that it will continue in the future sessions also.

