



Passive Euthanasia

For Prelims: Passive euthanasia, National Health Digital Record, Article 21, Living Will.

For Mains: Major Changes in Guidelines of Passive Euthanasia, Euthanasia in India.

[Source: TH](#)

Why in News?

Recently, the [Supreme Court of India](#) denied a petition from an elderly couple seeking "**passive euthanasia**" for their comatose (deeply unconscious) son, who has been bedridden for 11 years following a fall.

- This ruling has reignited discussions on the legal and ethical dimensions of euthanasia in India.

What is the Background of the Case?

- The Supreme Court ruled against the patient's parents' plea, stating that the **case did not qualify as [passive euthanasia](#)** since the patient was **not on any life support systems** and was **receiving nutrition through a feeding tube**.
- The court said that allowing him to die would **not constitute passive euthanasia** but rather **active euthanasia**, which **remains illegal in India**.

What is Passive Euthanasia?

- **About:**
 - **Euthanasia** is the practice of ending the life of a patient to limit the patient's suffering.
- **Types of Euthanasia:**
 - **Active Euthanasia:**
 - Active euthanasia occurs when the **medical professionals, or another person, deliberately do something** that causes the patient to die, such as administering a **lethal injection**.
 - **Passive Euthanasia:**
 - Passive euthanasia is the act of **withholding or withdrawing medical treatment**, such as withholding or withdrawing life support, with the intention of allowing a person to die.
- **Euthanasia in India:**
 - The **Supreme Court of India** in a landmark judgement in [Common Cause vs Union of India \(2018\)](#) recognised a person's **right to die with dignity**, saying that a **terminally ill person can opt for passive euthanasia** and execute a living will to **refuse medical treatment**.
 - It also laid down guidelines for **'living will'** made by terminally ill patients who beforehand know about their chances of slipping into a permanent vegetative state.
 - Previously in 2011, the SC recognised passive euthanasia in the **Aruna**

Shanbaug case for the first time.

- The court specifically stated that “**Dignity in the process of dying is as much a part of the right to life under Article 21.** To deprive an individual of dignity towards the end of life is to deprive the individual of a meaningful existence.”

▪ **Different Countries with Euthanasia:**

- **Netherland, Luxembourg, Belgium** allows both types of euthanasia and assisted suicide for anyone who faces “unbearable suffering” that has no chance of improvement.
- **Switzerland** bans euthanasia but allows assisted dying in the presence of a doctor or physician.
 - Since 1942, Switzerland has allowed assisted suicide, focusing on personal choice and control over the dying process. The law requires individuals to be of sound mind and their decision must not be driven by selfish motives.
- **Australia** has also legalised both types of euthanasia, and applies to adults with full decision-making capacity who have a terminal illness with a prognosis of death within six or twelve months.
- The **Netherlands** has a well-established legal framework for euthanasia, regulated by the “Termination of Life on Request and Assisted Suicide (Review Procedures) Act” of 2001.

What were the Recent Changes in Guidelines made by the Supreme Court on Passive Euthanasia?

- The **Supreme Court** in 2023 **modified the 2018 Euthanasia Guidelines** to ease the process of granting passive euthanasia to terminally ill patients.
 - In 2018 the Supreme Court recognised the **Right to die with dignity** as a **fundamental right** and prescribed **guidelines for terminally ill patients** to enforce the right.
- **Modifications in SC Guidelines:**
 - **Attestation of Living Will:** The Court removed the requirement for a judicial magistrate's attestation on a living will. Now, attestation by a notary or a gazetted officer suffices, simplifying the procedure for individuals to express their end-of-life choices.
 - **Integration with National Health Digital Record:** Previously, living wills were held by the district court. The revised guidelines mandate that these documents be part of the **National Health Digital Record**. This ensures easier access for hospitals and doctors nationwide, facilitating timely decision-making.
 - **Appeal Process for Denial of Euthanasia:** If a hospital's medical board denies permission to withdraw life support, the patient's family can appeal to the relevant High Court. The Court will then form a new medical board to reassess the case, ensuring a thorough and just review.

THE CHANGES BROUGHT

NOW

EARLIER

Living will

An attestation by a notary or a Gazetted officer to be sufficient for a living will

It was necessary that a judicial magistrate attest or countersign a living will

Access to the living will

Living will a part of national health record which can be accessed by Indian hospitals

Living will was kept in the custody of the district court concerned

Primary board to examine patient's condition

Three doctors, including treating physician and two other doctors with five years of experience in the specialty, will comprise the primary board of doctors

Primary board of doctors needs at least four experts from general medicine, cardiology, neurology, nephrology, psychiatry or oncology with overall standing of at least 20 years

Time taken to decide

Primary/secondary board to decide within 48 hours on withdrawal of further treatment

The 2018 judgment did not specify any outer limit on withdrawal of treatment

Secondary board

Hospital must immediately constitute a secondary board of medical experts

The district collector had to constitute the second board of medical experts

What are the Ethical Considerations of Euthanasia?

- **Autonomy and Informed Consent:** Euthanasia involves respecting individual autonomy, meaning people should have the right to decide about their own lives, especially to end suffering if they are mentally competent.
 - It also requires informed consent, where the person must fully understand their condition, the euthanasia process, and its consequences to ensure they are not coerced or manipulated.
- **Quality of Life vs. Sanctity of Life:** Euthanasia debates often centre on **quality of life**, which argues that ending suffering and preserving dignity in severe illness can be ethical, versus **sanctity of life**, which holds that life is intrinsically valuable and should not be ended prematurely, often reflecting religious or philosophical beliefs.
- **Legal and Social Implications:** Euthanasia's legal framework varies by jurisdiction, reflecting different cultural attitudes and ethical debates on end-of-life issues.
 - The social impact involves questions about medical professionals' roles, societal

responsibilities, and the need for equitable access to palliative care and psychological support to address the underlying reasons for seeking euthanasia.



Drishti IAS

EUTHANASIA

ABOUT

- The practice of an individual deliberately ending their life; to get relief from an incurable condition/intolerable pain

ACTIVE EUTHANASIA

- An active intervention to end a person's life with substances or external force, (e.g. - by a lethal injection)

PASSIVE EUTHANASIA (PE)

- Withdrawing essential life support/treatment keeping a terminally ill person alive

ARGUMENTS FOR

- Patient's freedom of choice
- Right to die with dignity
- More humane to end the suffering
- Shortens the grief of patient's loved ones

ARGUMENTS AGAINST

- Unacceptable from moral, religious perspectives
- Euthanasia cannot be properly regulated
- Guilt-ridden patients may feel bound to give consent

EUTHANASIA - LEGALITY IN INDIA

P RATHINAM V UNION OF INDIA (1994)

- SC challenged the constitutional validity of IPC Section 309 (penalty for attempt to suicide)

SMT. GIAN KAUR VS THE STATE OF PUNJAB (1996)

- SC overturned its 1994 judgement and held that Right to Life (Article 21) did not include the Right to Die (which must **not be mistaken with Right to Die with Dignity**)

ARUNA RAMCHANDRA SHANBAUG V UNION OF INDIA (2011)

- SC allowed PE for Aruna Shanbaug and made a distinction between 'active' and 'passive', and allowed the latter in "certain situations"

COMMON CAUSE V UNION OF INDIA & ANR. (2018)

- SC legalised Passive Euthanasia claiming it contingent upon the person having a **'living will'**
- If a person does not have a living will, his/her family members can make a plea before the HC to seek permission for PE

Recently, the SC has agreed to significantly ease the procedure for passive euthanasia by altering the existing guidelines for 'living wills' (laid down in 2018 case)

Drishti Mains Question:

What is Active Euthanasia? What are the ethical and moral implications for this practice?

PDF Refernece URL: <https://www.drishtias.com/printpdf/passive-euthanasia-2>

