3. Passive Euthanasia in India - Polity

Despite the legal validity of passive euthanasia, its implementation remains mired in procedural complexity, institutional gaps, and ethical ambiguity.

Understanding Euthanasia

Definition and Concept - *Euthanasia*, derived from the Greek words *eu* (good) and *thanatos* (death), means "good death" or "mercy killing." It refers to the intentional ending of a person's life to relieve intractable suffering, typically in cases of terminal illness or irreversible vegetative state. It raises fundamental ethical, moral, and legal questions about human dignity, autonomy, and the sanctity of life.

Types of Euthanasia

Active Euthanasia - Direct administration of a lethal substance by a medical professional to cause death. It remains illegal in India under the Bharatiya Nyaya Sanhita (BNS).

Passive Euthanasia - Withdrawal or withholding of life-supporting treatment (e.g., ventilators, feeding tubes) when recovery is impossible. Legal in India under safeguards.

Physician-Assisted Suicide (PAS) - When a doctor provides means (e.g., medication) but the patient self-administers it — punishable under Section 108 of BNS (2023).

Legal Framework of Euthanasia in India

Current Legal Status (Post–Bharatiya Nyaya Sanhita, 2023) - Section 103, 105 of BNS - Criminalizes active euthanasia as culpable homicide. Section 108 of BNS - Penalizes aiding or abetting suicide, including physician-assisted death. Passive euthanasia is allowed under judicially evolved safeguards, primarily from Supreme Court precedents.

Major Judicial Milestones

(a) Aruna Shanbaug v. Union of India (2011) - Landmark case involving a nurse who lived in a persistent vegetative state for over 40 years. The Supreme Court allowed passive euthanasia under strict medical and judicial supervision. It distinguished between "active killing" and "allowing to die", holding the latter constitutionally permissible. Introduced the concept of High Court approval and medical board oversight for life-support withdrawal.

(b) Common Cause v. Union of India (2018) - The Constitution Bench recognized the Right to Die with Dignity as an integral part of Article 21 (Right to Life). It legalized living wills (advance directives), empowering individuals to record end-of-life medical preferences. Specified procedural safeguards - constitution of primary and secondary medical boards, judicial oversight, and periodic review.

(c) 2023 Clarifications - In January 2023, the Supreme Court simplified procedures for implementing passive euthanasia. Removed mandatory judicial involvement at every stage, delegating authority to hospital-level ethics committees and medical boards for efficiency.

Medical and Institutional Perspectives

ICMR Ethical Guidelines - The Indian Council of Medical Research (ICMR) emphasizes that technological prolongation of life should not compromise human dignity. Recommends robust palliative care systems to reduce the demand for euthanasia. Urges hospitals to establish Ethics Committees to guide compassionate, evidence-based end-of-life decisions.

Role of Medical Boards (as per Government Guidelines) –

1. **Primary Medical Board -** Examines the patient's medical condition, certifies irreversibility, and recommends withdrawal of life support.
2. **Secondary Medical Board -** Independently reviews the recommendation to prevent misuse.
3. **Ethical Oversight -** Hospital committees ensure decisions are made free from financial, familial, or social coercion. Timeline - A 48-hour window is prescribed to finalize decisions, minimizing unnecessary suffering.

Ethical and Cultural Dimensions

1. **Religious and Philosophical Contexts**

   Hinduism - While rooted in *ahimsa* (non-violence), it recognizes *prayopavesa* — voluntary fasting unto death under spiritual discipline, distinct from suicide.

   Jainism - Accepts *Sallekhana* — a ritual fast unto death undertaken with spiritual awareness, seen as self-purification, not self-destruction.

   Islam and Christianity - Generally oppose euthanasia, viewing life as sacred and ending it as interfering with divine will.

2. **Socio-Cultural Realities in India**

   Family-Centric Decision-Making - Families often take a central role in end-of-life choices, sometimes overriding individual autonomy.

   Healthcare Inequality - Lack of accessible **palliative care** and **institutional ethics frameworks** complicate uniform application.

   Risk of Coercion - Vulnerable groups—elderly, disabled, or economically dependent—may feel **pressured** to consent to death to reduce family burdens.

Comparative Perspective

Global Trends

Netherlands and Belgium - Permit both active and passive euthanasia under strict legal conditions and medical certifications.

Canada - Legalized *Medical Assistance in Dying (MAiD)* in 2016, extending to certain mental illnesses by 2024.

New Zealand and Spain - Have enacted similar frameworks emphasizing informed consent and physician oversight.

UK's 2025 Reform – Terminally Ill Adults (End of Life) Bill - Passed by the UK House of Commons (June 2025). Permits physician-assisted dying for mentally competent adults with less than six months' life expectancy. Mandates dual medical certification, psychological evaluation, and strict monitoring mechanisms. Reflects a broader shift toward autonomy-based medical ethics in advanced healthcare systems.

Why the UK Model Doesn't Suit India (Contextual Constraints)

Healthcare System Limitations - The UK relies on a universal healthcare model (NHS) with well-trained general practitioners and independent regulatory bodies. India's system remains fragmented and under-resourced, with limited medical ethics enforcement.

Socio-Economic and Cultural Complexities - Strong family authority and religious sensitivities could distort voluntary consent. Economic dependency and patriarchal decision-making may lead to subtle coercion of vulnerable patients. Absence of adequate palliative and mental health services undermines patient autonomy and informed choice.

Ethical Risk - Without robust institutional safeguards, active euthanasia could devolve into a tool for exploitation or cost-saving, eroding human rights protections.

Refining India's Passive Euthanasia Framework

1. Digital Advance Directive Registry - Develop a national online portal linked to Aadhaar for registering, updating, or revoking living wills. Ensure biometric verification and medical practitioner countersignature for validity.

2. Strengthened Hospital Ethics Committees - Mandate committees in all tertiary hospitals, including - Senior physicians, Palliative care experts, A legal or social work representative. Authorize life-support withdrawal decisions within 48 hours, with appeal mechanisms for disputes.

3. Decentralised Oversight and Transparency - Create digital dashboards for state health authorities to monitor euthanasia cases in real-time. Empower independent medical auditors or health commissioners to ensure accountability.

4. Safeguards Against Misuse - Introduce a seven-day cooling-off period for reconsideration. Mandate palliative care counselling before approving withdrawal. Document every step digitally for audit and

review.

5. Building a Culture of Dignified Dying - Integrate end-of-life care ethics into medical curricula. Launch nationwide public awareness campaigns on advance care planning. Expand palliative care infrastructure under Ayushman Bharat and PM-ABHIM schemes.

Ethical and Legal Balancing - Autonomy vs. Protection

The challenge lies in balancing patient autonomy (right to die with dignity) and state responsibility (to protect life). Courts have consistently reaffirmed that right to life includes the right to a dignified death, but not an unregulated one. The principle of proportionality — ensuring life-sustaining treatment aligns with patient welfare — remains the guiding philosophy.

Conclusion - Toward Compassionate Legal Reform

India's evolving euthanasia framework reflects a moral and constitutional shift from preserving life at all costs to preserving dignity until the end of life. To uphold both compassion and legality, India must -

Strengthen passive euthanasia mechanisms through digital, transparent, and humane systems.

Expand palliative and hospice care to ensure ethical alternatives.

Foster societal acceptance and institutional integrity, ensuring that the choice to die with dignity remains voluntary, informed, and safeguarded.

Source - https - //www.thehindu.com/opinion/op-ed/reforming-passive-euthanasia-in-india/article70131004.ece