

Balancing Rights And Ethics: India's New Guidelines Draft On Euthanasia

SANKHYA (संख्या)

“There cannot be a good plan for economic progress without adequate data and there cannot be adequate data without a good plan for collecting them...”

P.C Mahalanobis, Member, First Planning Commission of India & Scientist

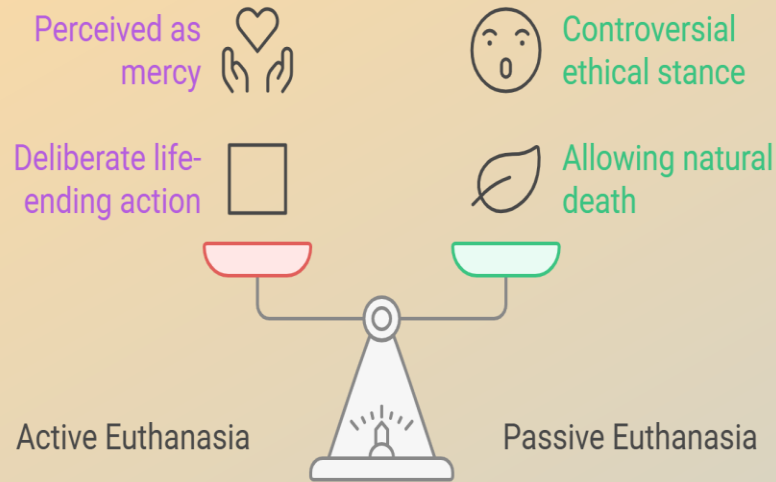
CONCEPT & CLASSIFICATION

Euthanasia has been a contentious issue since its inception. The term "Euthanasia" is derived from the Greek words "Eu" meaning "good" and "thanatos" meaning "death." When combined, the term refers to a "good death". It is defined as the hastening of death of a patient to prevent further sufferings.

It is the intentional ending of a person's life to relieve suffering, particularly in cases of terminal illness or intractable pain.

CLASSIFICATION BASED ON PERFORMANCE

Active euthanasia involves deliberately taking actions, such as administering lethal injections, to cause a patient's death

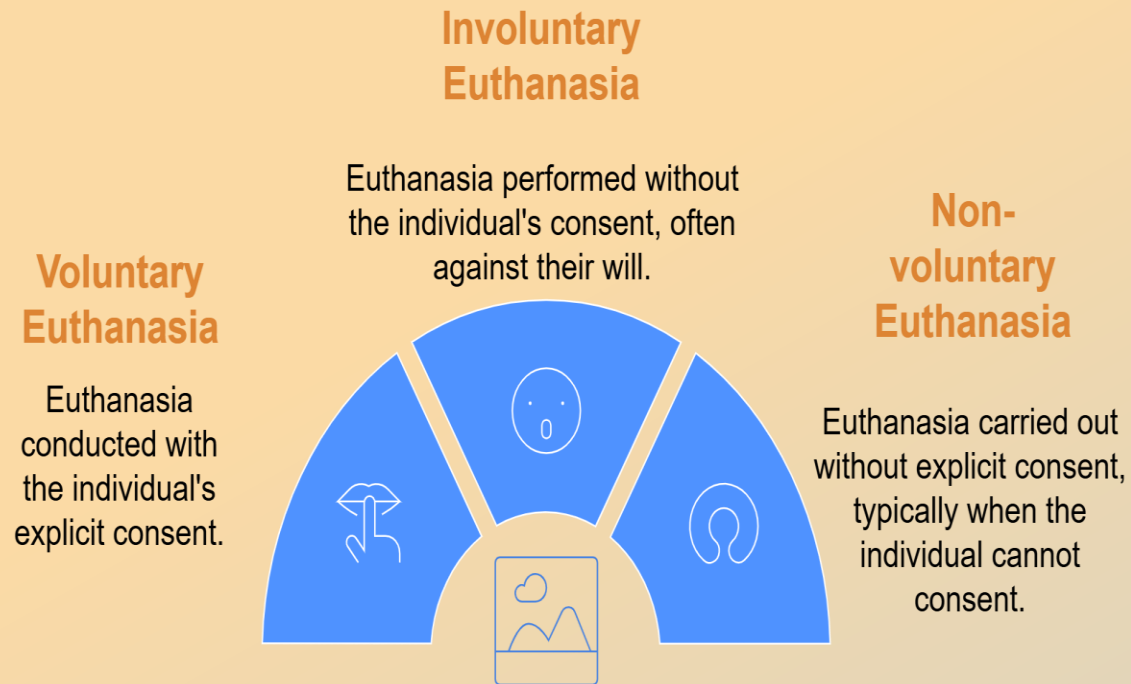


Passive euthanasia occurs when life-sustaining treatments, like life-support machines or feeding tubes, are withheld or withdrawn, allowing the patient to die naturally.

Comparing Active and Passive Euthanasia Approaches

CONCEPT & CLASSIFICATION

CLASSIFICATION BASED ON CONSENT



LEGALITY OF THE EUTHANASIA

Countries where Active Euthanasia is legal	Countries where Passive Euthanasia is legal
Netherlands	India
Belgium:	United Kingdom
Luxembourg:	France
Canada	Australia

INDIA'S EVOLVING LEGAL LANDSCAPE

1996

Gian Kaur v. State of Punjab

The Apex court ruled that the right to life under Art. 21 does not include the right to die, affirming the constitutionality of Sections 306 and 309 of the IPC.

2012

241st Law Commission Report

The Report proposed the legalizing of passive euthanasia in India, recommending guidelines for competent patients and judicial oversight for incapacitated patients while protecting medical professionals from liability.

2024

Guidelines for withdrawal of life support in terminally Ill Patients 2024

The guidelines established criteria for determining terminal illness, requiring consent from patients or their surrogates, ensuring proper documentation, and providing palliative care options before withdrawing life support, emphasizing patient autonomy and dignity.

Aruna Shanbaug v. Union of India

In Aruna Shanbaug v. Union of India (2011), the Supreme Court denied euthanasia but legalized passive euthanasia, affirming the right to die with dignity under Article 21.

2011

Common Cause v. Union of India

The Supreme Court recognized the right to die with dignity as a fundamental right under Article 21, allowing terminally ill patients to execute "living wills" and making advance medical directives legally binding, subject to certain guidelines and safeguards.

2018

KEY HIGHLIGHTS OF THE 2024 GUIDELINES

Conditions for Withdrawal: Life support can be withdrawn if the patient is declared brainstem dead per the THOA Act, the prognosis indicates that further aggressive intervention is futile, and the patient or surrogate consents, following awareness of the prognosis.

Legal Framework and Patient Autonomy: The guidelines highlight that adults capable of making healthcare decisions have the right to refuse life-sustaining treatment (LST), even if it leads to death, based on their right to autonomy, privacy, and dignity.

Do-Not-Attempt-Resuscitation (DNAR): The guidelines provide for DNAR orders, where CPR can be withheld if there is no reasonable chance of survival or meaningful recovery.

Process and Oversight: For patients without decision-making capacity, a Primary Medical Board (PMB) of three physicians must propose FLST, while a Secondary Medical Board (SMB), including a representative appointed by the Chief Medical Officer, must validate the decision.

Distinction Between Passive and Active Euthanasia: Active euthanasia, involving intentional direct intervention to end life, remains illegal. Passive euthanasia, which involves withdrawal or withholding of life support, was legalised by the Supreme Court in 2018 under specified conditions.

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* *Sankhya means numbers and is also a school of rationalist Indian philosophy. According to Sankhya philosophy reliable knowledge comes from only three pramanas (proofs)- pratyakṣa ('perception'), anumāṇa ('inference') and śabda (āptavacana, meaning, 'word/testimony of reliable sources').*