

Euthanasia and a living will

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In news— Recently, a five-judge Bench of the Supreme Court agreed to significantly ease the procedure for passive euthanasia in the country by altering the existing guidelines for 'living wills', as laid down in its 2018 judgment in Common Cause vs. Union of India & Anr case.

What is euthanasia?

- Euthanasia refers to the practice of an individual deliberately ending their life, oftentimes to get relief from an incurable condition, or intolerable pain and suffering. **Euthanasia, which can be administered only by a physician.**
- Different countries have different euthanasia laws.
- **Euthanasia is categorized in different ways, which include voluntary, non-voluntary, or involuntary.**
- Voluntary euthanasia is when a person wills to have their life ended and is legal in a growing number of countries.
- Non-voluntary euthanasia occurs when a patient's consent is unavailable and is legal in some countries under certain limited conditions, in both active and passive forms.
- **Involuntary euthanasia, which is done without asking for consent or against the patient's will, is illegal** in all countries and is usually considered murder.

What is 'living wills'?

A living will—also known as an advance directive—is a legal document that specifies the type of medical care that an individual does or does not want in the event they are unable to communicate their wishes.

Practice of Euthanasia in India & across the world-

- **The Supreme Court allowed passive euthanasia while recognising the living wills of terminally-ill patients** who could go into a permanent vegetative state, and issued guidelines regulating this procedure.
- **A five-judge Constitution Bench headed by then Chief Justice of India (CJI) Dipak Misra said that the guidelines would be in force until Parliament passed legislation on this.**
- However, this has not happened, and the absence of a law on this subject has rendered the 2018 judgment the last conclusive set of directions on euthanasia.
- As of 2006 euthanasia had become the most active area of research in bioethics.
- In some countries divisive public controversy occurs over the moral, ethical, and legal issues associated with euthanasia.
- **Netherlands, Luxembourg, Belgium allow both 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.
- **Canada had announced that euthanasia and assisted dying would be allowed for mentally ill patients** by March 2023; however, the decision has been widely criticised, and the move may be delayed.
- **United States has different laws in different states.** Euthanasia is allowed in some states like Washington, Oregon, and Montana.
- **United Kingdom considers it illegal and equivalent to manslaughter.**

What changes after the SC's order this week?

- The petition was filed by a nonprofit association that submitted that the 2018 guidelines on living wills were “unworkable”. Though the detailed judgement is yet to be

released, the Court dictated a part of their order in open court.

- **As per 2018 guidelines, a living will was required to be signed by an executor** (the individual seeking euthanasia) in the presence of two attesting witnesses, preferably independent, and to be further countersigned by a Judicial Magistrate of First Class (JMFC).
- Also, the treating physician was required to constitute a board comprising three expert medical practitioners from specific but varied fields of medicine, with at least 20 years of experience, who would decide whether to carry out the living will or not.
- If the medical board granted permission, the will had to be forwarded to the District Collector for his approval.
- The Collector was to then form another medical board of three expert doctors, including the Chief District Medical Officer.
- Only if this second board agreed with the hospital board's findings would the decision be forwarded to the JMFC, who would then visit the patient and examine whether to accord approval.
- This cumbersome process will now become easier.
- Instead of the hospital and Collector forming the two medical boards, both boards will now be formed by the hospital.
- The requirement of 20 years of experience for the doctors has been relaxed to five years. The requirement for the Magistrate's approval has been replaced by an intimation to the Magistrate.
- The medical board must communicate its decision within 48 hours; the earlier guidelines specified no time limit.
- The 2018 guidelines required two witnesses and a signature by the Magistrate; now a notary or gazetted officer can sign the living will in the presence of two witnesses instead of the Magistrate's countersign.
- In case the medical boards set up by the hospital

refuses permission, it will now be open to the kin to approach the High Court which will form a fresh medical team.