

08 May 2024

TOPICS COVERED

1. A dignified peaceful passing is everyone's right (8 May) (GS Paper II: Right to Die)
2. The Kotak Mahindra Bank controversy. (GS Paper III: Banking)
3. How is the U.K. deporting migrants to Rwanda? (GS Paper II: Human Right Issue)

A dignified peaceful passing is everyone's right (8 May) (GS Paper II: Right to Die)

Most Indian families seem to be unprepared 'when the time comes

- Ronald Reagan, 40th US President, died in 2004 at age 93 at home with family.
- He had dementia for nine years before his death.
- His wife, Nancy Reagan, found his peaceful death a great gift.

- In contrast, former Indian PM Atal Bihari Vajpayee died in 2018 after nine years of being non-ambulant due to a stroke.
- His last 35 days were spent in a hospital in New Delhi on artificial life support.
- Vajpayee's condition required him to be hooked up to machines.
- Reagan died peacefully at home, while Vajpayee died on artificial life support in a hospital.
- Death is certain for everyone.
- If faced with an incurable disease, how would you prefer to die?
- Option 1: At home in your bed, surrounded by loved ones.
- Option 2: Alone in an intensive care unit (ICU) with tubes and machines monitoring vital organs and providing artificial support.
- Option 1 offers comfort and support from family during final moments.
- Option 2 involves medical intervention to prolong life but lacks emotional support.

In the West and India

- Ronald Reagan and A.B. Vajpayee's stories follow a similar pattern.
- In Euro-American countries, people are creating advance medical directives (living wills) to specify their end-of-life preferences.
- Terminally-ill individuals in these countries can choose to die naturally by discontinuing life support if the chance of recovery to a reasonable quality of life is low.
- Advance medical directives allow individuals to express their wishes regarding **end-of-life care in advance**.
- This helps ensure that their preferences are respected and followed even if they are unable to communicate later.
- Ronald Reagan and A.B. Vajpayee died differently, highlighting cultural differences in end-of-life care.
- In **Euro-American countries, more people are creating advance medical directives (living wills) to express end-of-life preferences**.
- Terminally-ill individuals in these countries can choose natural death by discontinuing life support if recovery chances are low.

- Study shows that in European ICUs, only 10.3% of people die while on life support; others opt for **palliative care**.
- In India, approximately **70% of critically ill patients die on life support systems in ICUs**.
- Families often deal with hefty hospital bills and have no time to grieve.
- Some patients are discharged against medical advice, resulting in suffering for patients and families.
- Survey shows **83% of people in Pune prefer to die at home**.
- The contrast in end-of-life care practices between the West and India raises ethical concerns and highlights the need for better palliative care options.

ICU routinisation, lack of legal clarity

- Some practices in healthcare continue due to a mistaken belief that doctors must prolong life at all costs, even when treatment is futile.
- However, there's no ethical duty for doctors to prolong life unnecessarily.
- In India, the **official duty of care for healthcare providers, according to the Indian Council of Medical Research (ICMR), is to mitigate suffering, cure sometimes, relieve often, and comfort always**.
- Despite this, actual practices in ICUs across India differ significantly.
- The routine use of intensive care for end-of-life care is a relatively recent phenomenon, with ICUs previously reserved for those with salvageable health issues.
- The acceptance of ICU deaths as normal may be influenced by societal changes, such as the breakdown of traditional family structures.
- Families are often unprepared to make decisions about end-of-life care due to a lack of familiarity with death.
- The **Lancet Commission on the Value of Death** suggests **promoting "death literacy" to empower individuals to have open discussions about death and dying**.
- **India lacks a specific law regarding end-of-life care**.
- In the absence of a law, a **2023 Supreme Court verdict** remains valid.
- Advance medical directives from mentally competent individuals are binding on healthcare professionals.
- The Court also allows withdrawal of life support in cases of futility.

- However, the **process outlined by the verdict is complex**, and there is low awareness about it among the public and professionals.
- The term "passive euthanasia" is misleading according to the **Indian Council of Medical Research (ICMR)**.
- Euthanasia involves actively causing death, whereas withholding or withdrawing life support allows natural death.

On palliative care and a living will

- **World Health Day 2024 theme: "My health, my right"**.
- The World Health Organization defines **health as physical, social, and mental well-being**.
- On March 7, 2024, a three-member Supreme Court Bench chaired by Chief Justice of India D.Y. Chandrachud observed that the right to health includes the right to palliative care.
- This observation aims to ensure a rational system for everyone to live with dignity during their last days and to pass away peacefully.
- When the time comes, we may not be able to advocate for our desires for a peaceful death.
- Without family agreement, we may not have a way to enforce our rights.
- Protect ourselves by creating a living will.
- Have it witnessed and countersigned by a gazetted officer.
- Discuss the living will with immediate family members.

Euthanasia and the Right to Die with Dignity

Common Cause v Union of India

- 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.
- In 2023 the Supreme Court modified the guidelines to make the right to die with dignity more accessible.

PARTIES

Petitioner: Common Cause

Lawyers: Prashant Bhushan

Respondent: Ministry of Health and Family Welfare (Union of India)

Lawyers: P. S. Narasimha; K.V. Jagdishvaran; S.S. Shamsbery

Intervenor: Jai Kishan Agarwal; Delhi Medical Council; Society for the Right to Die with Dignity; Dr. Surendra Dhelia; Indian Society of Critical Care Medicine; Vidhi Centre for Legal Policy

Lawyers: Arvind Datar; Sanjay Hegde; Praveen Khattar; R.R. Kishore.

1. Whether the constitutional guarantee of the Right to Life includes the Right to Die.
2. Whether euthanasia can be made lawful only by legislation.
3. Whether there is a difference between passive and active euthanasia.
4. Whether individuals can give 'advance directives' on medical treatment for if they lose the ability to communicate in the future.

CASE DESCRIPTION

In 2002, Common Cause, a registered society had written to the Ministries of Law & Justice, Health & Family Welfare, and Company Affairs as well as State Governments, on the issue of the right to die with dignity.

In 2005, Common Cause approached the Supreme Court under Article 32, praying for the declaration that the right to die with dignity is a fundamental right under Article 21. It also prayed the Court to issue directions to the Union Government to allow terminally ill patients to execute 'living wills' for appropriate action in the event that they are admitted to hospitals. As an alternative, Common Cause sought guidelines from the Court on this issue, and the appointment of an expert committee comprising lawyers, doctors, and social scientists to determine the aspect of executing living wills.

Common Cause argued that terminally ill persons or those suffering from chronic diseases must not be subjected to cruel treatments. Denying them the right to die in a dignified manner extends their suffering. It prayed the Court to secure the right to die with dignity by allowing such persons to make an informed choice through a living will.

On February 25th 2014, a three-Judge Bench of the Supreme Court comprising the then P. Sathasivan CJI, Ranjan Gogoi and Shiva Kirti Singh JJ had referred the matter to a larger bench, to settle the issue in light of inconsistent opinions in [Aruna Ramchandra Shanbaug v Union Of India](#) (2011) and [Gian Kaur v State of Punjab](#) (1996).

On March 9th 2018, a five-Judge Bench comprising Dipak Misra CJI, A K Sikri, A. M. Khanvilkar, D Y Chandrachud and Ashok Bhushan JJ held that the right to die with dignity is a fundamental right. An individual's right to execute advance medical directives is an assertion of the right to bodily integrity and self-determination and does not depend on any recognition or legislation by a State. On March 8th 2018 the Supreme Court delivered two concurring opinions:

- [Majority opinion](#) authored by Dipak Misra CJI on behalf of himself and AM Khanwilkar J
- [Concurring opinion](#) authored by DY Chandrachud J

On July 19th, 2019, the Indian Society for Critical Care filed a miscellaneous application requesting a 5-Judge Constitution Bench to modify some of the guidelines prescribed in the 2018 Judgment. They claim that the procedure for terminally ill patients to exercise their right to die is extremely cumbersome and requires streamlining. The case is being heard by a 5-Judge Constitution Bench led by Justice K.M. Joseph.

MAINS PRACTICE QUESTION:

Question: Discuss the ethical and legal implications of the right to life in relation to the right to take one's own life. Analyze the arguments for and against the recognition of a right to die with dignity. (250 words/15 Marks)

ANSWER APPROACH

ANSWER

An inheritance tax will help reduce inequality (8 May)

Property of the elite being bequeathed to descendants implies that the descendants do no work to acquire it. There is no economic reason for it to be a freebie for them

- Sam Pitroda's remark on implementing an inheritance tax sparked debates.
- The article advocates for progressive taxes to reduce inequality.
- It highlights the harm of high inequality.
- In an unequal society, a few dominant individuals control resources and wield disproportionate power.
- This can lead to wealthy elites dictating socioeconomic and political decisions that benefit them at the expense of the majority.
- The recent electoral bonds scam exemplifies this imbalance of power.
- In such a scenario, the citizenship of wealthy elites holds more weight than the majority, posing ethical concerns.

Why inequality matters

- Inequality harms growth by reducing firm productivity, lowering labor income, and diverting resources from education.
- In unequal countries like India, place of birth significantly influences lifetime outcomes, with a third of consumption variation explained by residence.
- High inequality is linked to political polarization and increased conflict.
- Inequality has negative economic effects, leading to reduced consumption, savings, and increased indebtedness among the poor.

- Data from various sources highlights declining real wages for agricultural laborers and households earning below minimum wage recommendations.
- Concerns are raised over sharp reductions in household savings and increased debt, while the richest 1% holds a disproportionate share of India's wealth.
- Some argue that some level of inequality during economic growth is unavoidable.
- Priority should focus on reducing poverty rather than eliminating all inequality.
- Research by Tianyu Fan and co-authors reveals that India's growth benefits have largely favored high-income urban residents.
- There is no inherent superiority in children of the wealthy compared to children of the poor.
- The Constitution mandates equality of status and opportunity.
- The government is obligated to address disparities stemming from birth circumstances and ensure equal opportunities for all.

An inheritance tax

- A wealth tax is imposed on an individual's physical and financial assets, recurring annually.
- Inheritance tax, on the other hand, is a one-time tax levied on intergenerational transfers of wealth.
- Both taxes target individuals with high wealth exceeding a certain threshold.
- Implemented effectively, these taxes reduce wealth concentration and promote productive investments.
- Inherited wealth often involves no effort from descendants, raising questions of fairness.
- Critics argue inheritance tax may discourage innovation, but innovation remains vital for competitiveness.
- Revenue from inheritance tax can fund a range of innovations.
- Japan has a high inheritance tax rate of up to 55%.
- India had an estates duty, a form of inheritance tax, from 1953 to 1985, which was effective in reducing wealth concentration.

- The economist Rishabh Kumar demonstrates the effectiveness of inheritance tax in reducing the top 1% personal wealth share in India.
- The land value tax (LVT) taxes the rental value of land, regardless of the property built on it.
- This tax is paid by the landowner, not the tenants.
- Land is a natural resource and is not affected by changes in taxes, making LVT a reliable source of revenue.
- LVT can help redistribute wealth, particularly in regions where land ownership perpetuates feudal caste relations in rural areas or fosters political-builder connections in urban settings.
- Unlike labor, which can be influenced by taxes, land remains constant, making LVT efficient for generating revenue and addressing societal inequalities.
- Critics argue that tax evasion among the wealthy makes wealth-related taxes impractical.
- Research by Natasha Sarin in the U.S. suggests that investing in improving tax compliance can yield significant revenue.
- Sarin's research projects that such investments could generate revenue up to 10 times the initial investment.
- Nathaniel Hendren and co-authors found that auditing the top 1% and 0.1% of earners resulted in three to six times the return on investment.
- Economists Jayati Ghosh and Prabhat Patnaik propose a 2% wealth tax and a 33.3% inheritance tax, targeting only the top 1% in India.
- These taxes could generate additional public expenditure equivalent to 10% of the GDP.
- The increased revenue can fund various socioeconomic rights for the poor, including living wages, healthcare, employment opportunities, and food security.
- Advancements in technology make these initiatives feasible with sufficient political determination and support.

An example of language tolerance (8 May)

For years, Hindi has peacefully coexisted with Gujarati in Gujarat

- Since 2014, Prime Minister Narendra Modi has predominantly spoken in Hindi during his speeches and events in Gujarat, his home state.
- This is a shift from his earlier practice during his tenure as Gujarat Chief Minister, where he primarily spoke in Gujarati, his mother tongue.
- Mr. Modi's use of Hindi in Gujarat is aimed at connecting with a national audience, as his speeches are telecast live by news channels.
- During election campaigns, Mr. Modi addresses rallies in Hindi, occasionally using Gujarati sentences.
- He explained his preference for Hindi during a visit to Surat in April 2017, stating that using Hindi allows the country to better understand the achievements in Gujarat.
- Despite primarily speaking in Hindi, Mr. Modi sometimes switches to Gujarati during election speeches to resonate with specific audiences, such as rural dairy farmers.
- Prime Minister Narendra Modi's use of Hindi in Gujarat doesn't spark much discussion because Hindi is widely understood in the state, even in rural areas, thanks to Bollywood movies and Hindi TV serials.
- Former Prime Minister Manmohan Singh and Congress leader Sonia Gandhi also addressed the public in Hindi during their Gujarat campaigns.
- Modi is perceived as a national leader in Gujarat, not just a regional one, so it's expected for him to speak in Hindi as he is the Prime Minister.
- Gujarat has peacefully coexisted with Hindi since its formation in 1960, and there's no insistence on speaking Gujarati exclusively.
- Tolerance towards language diversity in Gujarat is evident in its thriving Bollywood market and the presence of public schools teaching languages like Odia, Telugu, Urdu, Marathi, besides Gujarati.
- While Gujarati remains the primary language, bureaucrats in Gujarat freely communicate in Hindi or English, reflecting linguistic diversity.
- Chief Minister Chimanbhai Patel conducted Cabinet meetings in Gujarati and English, while S. Jaishankar, a Rajya Sabha member from Gujarat, speaks in English during government-organized events in the state.
- In the Gujarat Assembly, the Governor's speech is delivered in Hindi, without real-time translation into Gujarati.

- While a Gujarati translation of the speech is provided to members of the House and the press, it's not translated sentence by sentence during delivery.
- Gujarat demonstrates language tolerance, allowing non-Gujarati migrant workers to freely speak their own language or dialect.
- The state attracts many migrant workers from Hindi-speaking states like Rajasthan, Uttar Pradesh, and Madhya Pradesh.
- As a result, Hindi has become almost like a second language in Gujarat due to its widespread use among migrant workers.

PatrioticIAS