

Medical Treatment of Terminally-ill Patients Bill

The Medical Treatment of Terminally-ill Patients (Protection of Patients and Medical Practitioners) Bill, 2016 is an important bill that is pending in the Indian Parliament. In this article, you will find the salient features of the bill, the concerns and also how this will help in the implementation of passive euthanasia in India for the [UPSC exam](#).

Medical Treatment of Terminally-ill Patients Bill, 2016

This bill makes provisions for patients of sound mind to make an informed decision regarding the withholding of medical treatment for themselves, paving the way for the implementation of passive euthanasia in the country.

Read more about [euthanasia](#), its pros and cons and the legal status in India in the linked article.

- As per the provisions of the bill, any person who is terminally ill and above the age of 16 can make the decision to withhold medical treatment and allow nature to take its own course.
- Most importantly, the bill offers protection to medical professionals including doctors and nurses from legal implications for withdrawing or withholding medical treatment, and states that palliative care (pain management) can continue.
- When a patient informs this decision to the medical practitioner, such a decision is binding on the practitioner.
- However, the medical practitioner should be satisfied that the patient is competent to take the decision and that the decision was taken with a free will (under no pressure).
- The final decision of terminating treatment would be taken by a panel of medical experts, and the decision will be taken on the basis of individual cases.
- The pending bill also gives provisions for the detailed process involved such as the constitution of the medical experts' panel, moving the High Court for permission, etc.
- The permission for withholding/withdrawing treatment should be obtained from the concerned High Court.
 - **Who can apply?**
 - Near relative, legal guardian, friend, medical doctor or staff attending the patient, or any person obtaining the leave of the court.
 - Such an application is treated as original petition and the chief justice of the High Court shall assign the same to a divisional bench. The petition should be disposed of as far as practicable within a month.
 - This bench will nominate and need a report from a committee of three reputed doctors.
- The medical practitioner should maintain all the details of the patient and make sure that he/she makes an informed decision.
- The practitioner should inform the patient if it is best to withdraw or continue treatment.
 - In case the patient is not conscious, he should inform the family members.
 - In case the family members are not available, any person who is a regular visitor to the patient should be informed.
- The bill talks only about passive euthanasia and not active euthanasia. The latter is still illegal in the country as it is felt that it could be misused by people with ulterior motives.
 - Passive euthanasia is where medical treatment is withheld or withdrawn and the patient dies because of the absence of life support. In active euthanasia, the medical professional injects a lethal drug into the patient leading to his death.
 - Active euthanasia will invite penalties laid down in the IPC.

- The bill does not recognise an advanced medical directive (which is often called a living will) and declares it to be void and says that a living will is non-binding on a physician.

What is a Living Will?

A living will is a document that sets out a patient's wishes regarding health care and how they want to be treated if they become seriously ill and unable to make or communicate their own choices. Living wills are also called active declarations or advance medical directives.

Medical Treatment of Terminally-ill Patients Bill Concerns

Experts have pointed out a few concerns with the pending bill. Some of them are discussed below.

1. There is no clarity on the concept of the living will in the bill. It is noteworthy to point out that in 2018, the Supreme Court allowed people to draw up living wills.
 2. The provision of allowing minors of the age of 16 and 17 competent to make this decision of withholding or withdrawing treatment has been pointed out as contradictory as in India, a person who has attained the age of 18 or above only can marry or sign a contract.
 3. There are chances of misuse of the provisions of the bill. For instance, a corrupt medical practitioner may fabricate evidence to show that there was no chance of recovery in a particular case when it was not so. Also, relatives or friends of a terminally ill patient who is unconscious or in a coma (or not capable of giving consent) could take advantage of the law to allow the patient to be euthanized, only out of selfish interests and not act in the best interests of the patient.
 4. Experts also opine that the definition given by the bill for 'terminal illness' is subjective and vague. Terminal illness is defined as a persistent and irreversible vegetative condition under which it is not possible for the patient to lead a "meaningful life". This definition may also put disabled people at a disadvantage.
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