

Bill No. 136 of 2019

THE EUTHANASIA (REGULATION) BILL, 2019

By

SHRI BHARTRUHARI MAHTAB, M.P.

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BILL

to regulate termination of life of persons who are in a permanent vegetative state or terminally ill and facing unbearable suffering and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Euthanasia (Regulation) Act, 2019.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "active euthanasia" means termination of life of a person who is terminally ill and facing unbearable suffering by administration of lethal drugs;

(b) "Board" means the Evaluation and Review Board constituted under
10 section 3;

(c) "Committee" means the Committee constituted by the Chief Medical Officer of a Government Hospital under section 8;

(d) "passive euthanasia" means termination of life of a person who is in a permanent vegetative state for not less than six months by withdrawal of life support system;

(e) "physician" means a medical practitioner registered with the Medical Council of India; and

(f) "prescribed" means prescribed by rules made under this Act.

Constitution of Evaluation and Review Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Evaluation and Review Board.

(2) The Board shall consist of—

(a) Director General of Health Services in the Union Ministry of Health and Family Welfare, who shall be *ex-officio* Chairperson of the Board;

(b) two eminent physicians;

(c) a jurist of repute; and

(d) an eminent person having experience

in ethics or social work, to be appointed by the Central Government in such manner, as may be prescribed, as members of the Board.

Officers and employees of the Board.

4. (1) The Board shall have such officers and employees as may be necessary for the efficient discharge of its functions.

(2) The term and other conditions of service of officers and employees of the Board shall be such as may be prescribed.

Examination of application of active and passive euthanasia.

5. The Board shall examine applications of active euthanasia and passive euthanasia made under sections 7 and 8, respectively and give its opinion thereon:

Provided that in examining an application of euthanasia in respect of a child below the age of eighteen years, the Board shall associate a paediatrician if neither of the physician in the Board is a paediatrician:

Provided further that in respect of an application of active euthanasia, the opinion of the Board shall be given within three weeks of the receipt of such application.

Euthanasia not to be an offence.

6. Notwithstanding anything contained in the Indian Penal Code, 1860 or any other law for the time being in force,—

(a) a physician shall not be deemed to have committed any offence for performing an act of termination of life through active euthanasia or passive euthanasia in accordance with the provisions of this Act and the rules made thereunder;

(b) no person applying for termination of life through active euthanasia or passive euthanasia either for himself or for a person in respect of whom he is so authorised under this Act shall be deemed to have committed any offence.

Application of active euthanasia.

7. An application for termination of life through active euthanasia shall be made to the Board by that person himself or where that person, by reason of his illness, lack of mental faculties or age or such other reasons, as may be prescribed, is unable to express his consent, by his parents or spouse or children or siblings or legal guardian.

Application of passive euthanasia.

8. (1) An application for termination of life through passive euthanasia shall be made to the Chief Medical Officer of a Government hospital by the parents or spouse or children or siblings or legal guardian of that person.

(2) On receipt of an application under sub-section (1), the Chief Medical Officer shall constitute a Committee consisting of three physicians for examining the person in respect of whom an application has been made and giving its opinion thereon.

5 (3) Notwithstanding anything in sub-section (2), where the application made under sub-section (1) is in respect of a person, whose any organ is to be transplanted to another person, or a girl child, the Chief Medical Officer shall forward that application to the Board.

10 **9.** If the Board or the Committee, after examining the person in respect of whom an application has been made is of the opinion that the life of that person requires to be terminated by active euthanasia or passive euthanasia, as the case may be, it shall issue a certificate to that effect containing therein the reasons for such opinion. Issuance of certificate of euthanasia.

10. No person shall be administered active euthanasia or passive euthanasia under this Act unless he makes an application in a Court of Session and such Court permits the application of euthanasia. Permission for euthanasia by the Court of Session.

15 **11.** (1) On receipt of an application of euthanasia under section 10, the Court shall appoint a team of lawyers to investigate and enquire as to whether the patient, actually and without any extraneous influence of any kind, desires to terminate his life through euthanasia and make a report thereon. Investigation of application of euthanasia by the Court.

(2) If the Court is satisfied with the report, it shall grant permission for euthanasia in the prescribed form under its seal and signature.

20 **12.** (1) On production of permission from the Court of Session, the Civil Surgeon or Chief Medical Officer of a Government hospital shall fix a date for euthanasia. Euthanasia of the patient.

(2) On the date so fixed, steps shall be taken to put the life of the patient to a gentle and painless end in the presence of the members of the family of the patient and a representative of the Court of Session.

25 **13.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing that difficulty: Power to remove difficulties.

30 Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

35 **14.** The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Act to have overriding effect.

15. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

40 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall 45 be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

There are divergent views world over whether a person has a right to end his life or not. The demands for such right are more vociferous in the case of individuals in permanent vegetative state and those with terminal illness and facing unbearable sufferings due to such illness.

The issues involved in the questions arising out of euthanasia are both ethical and legal. While there are different views on ethical questions among people of different persuasions, there is hardly any semblance of convergence on the legal aspects as well. A few countries have allowed euthanasia in some form or the other, but most of them have outlawed it. Indian law too does not permit euthanasia in any form. However, in Aruna Shanbaug's cases, Hon'ble Supreme Court laid down certain guidelines for passive euthanasia in exceptional cases. The Court left it to the Parliament to frame a comprehensive law on the subject.

The present Bill seeks to regulate euthanasia by making the following provisions—

- (i) defining 'active euthanasia' and 'passive euthanasia';
- (ii) allowing active euthanasia for terminally ill individuals who are facing acute suffering due to such illness;
- (iii) allowing passive euthanasia for individuals in permanent vegetative state;
- (iv) providing for constitution of an Evaluation and Review Board to examine patients requiring active or passive euthanasia;
- (v) providing for constitution of a Committee of three physicians to decide whether a patient actually requires passive euthanasia; and
- (vi) providing that application of euthanasia involving a child shall be decided by the Evaluation and Review Board in consultation with a paediatrician to prevent misuse of law in such case.

Hence this Bill.

NEW DELHI;
June 17, 2019.

BHARTRUHARI MAHTAB

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of an Evaluation and Review Board. Clause 4 provides for appointment of officers and employees of the Board. The Bill, therefore, if enacted, would involve expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of four crore per annum will be involved.

A non-recurring expenditure of rupees ten crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Shri Bhartruhari Mahtab, M.P.)