

Legalizing Euthanasia: If you love them, let them go

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The legalization of euthanasia or “mercy killing” to end suffering painlessly, has been one of the favourite topics for heated discussions in many countries around the world especially in India. Many terminally-ill patients do not have a possibility to recover, but the strict and stringent laws do not allow doctors to help them in ending their lives. In this paper, I will argue why euthanasia should be legalized in India.

Not much light had been shed on the concept of Euthanasia in India until the famous Aruna Shanbhaug Judgement in 2011. In 1973, Aruna Shanbhaug, a nurse working at the KEM Hospital in Bombay was brutally raped, which rendered her in a vegetative state. This judgement sparked a range of debates across the country, on the topic of legalization of euthanasia. However, even after remaining in a vegetative state for thirty seven years, Aruna’s lawyer was not able to convince the Indian government to take any firm action for legalizing euthanasia.

It was only in 2010 when the Supreme Court of India responded to the plea for euthanasia filed by Aruna's friend journalist Pinki Virani, by setting up a medical panel to examine her. In 2011, the Supreme Court finally passed a judgment that clarified that “Passive Euthanasia” was not illegal. It was a momentous step forward but one that ironically kept Aruna outside its pale because her erstwhile colleagues, the nurses in KEM Hospital who cared for her, refused to let go. And so Aruna lives on — unable to see, talk, move or emote, and fed through a tube in her nose.

Euthanasia is divided into two categories, namely passive and active euthanasia. Passive Euthanasia is the gradual withdrawal of life support or the withholding of common treatments such as antibiotics, necessary for the continuation of life. In Aruna Shanbhaug’s case, the doctors at the KEM hospital would gradually have to stop force-feeding her through the tube (because that is the only thing that is keeping her alive, as the doctors had already stopped administering her other essential medicines many years ago). The concept of Passive

Euthanasia is more preferred in general because there is no administration of lethal injections or any other harmful substances in order to help the patient terminate his/her life. The patient is allowed to die in a peaceful manner, but over a certain period of time. This view is however opposed by those who believe that active euthanasia (e.g. administering a lethal injection to kill) is a better choice, since it helps to relieve the patient of his/her pain and misery within a very short period of time.

The right to life and the right to die with dignity must be granted to every citizen, irrespective of their caste, creed, religion, sex etc. This must also be kept in mind when debating against the legalization of euthanasia in India. Every individual is born with the right to his/her body. Individuals can make important decisions about their bodies. For example, when they are young, they can decide to participate in dangerous sporting activities or women can choose to have an abortion. Similarly, an individual must also have the freedom to let go of their bodies when they feel that their pain has become unbearable.¹ A person's right to die with dignity holds the same importance as the person's right to live. In case of a terminally ill patient or a patient suffering immense pain from an incurable disease, that person must be given the choice to continue to live or to end his/her life via euthanasia, be it "Active" or "Passive".

Pro-Euthanasia or the "Right-to-die" activists not only in India, but across the world claim that the elderly and those with disabilities fear becoming a financial burden on their loved ones and would rather choose death. They state that next to pain and suffering this is the second most important reason people want to die by euthanasia. Most of the underprivileged patients, who are diagnosed with terminal or both incurable and painful diseases are very often abandoned by their families since they simply cannot bear the hospital/medical costs of keeping their relative (the patient) alive through artificial means. Also it is argued that the same facilities should be used for the benefit of other patients who have a better chance of recovery and to whom the said facilities would be of greater value. Thus, the argument runs, when one has to choose between a patient beyond recovery and one who may be saved, the latter should be preferred as the former will die in any case.²

¹ David Swanton - Appendix 1. The right to die with dignity - euthanasia

² Should Euthanasia be Legalised in India? by Shreyans Kasliwal (2003) PL WebJour 16

The problem of prolonged pain and suffering is one of the main reasons that urge a terminally or incurably ill patient to ask for euthanasia. In India, there are thousands of patients who are living below the poverty line. These patients can barely afford bare means of living, let alone huge medical/hospital bills to keep themselves alive artificially and so they keep on suffering and bearing pain right till the time of their death. For example in Aruna Shanbhaug's case, after her being raped and rendered into a vegetative state, her family members abandoned her. A permanently vegetative state does not permit patients to know of, least of all enjoy, favourite foods, music, people. It also doesn't allow for them to smile in response to an external influence. Aruna has become a permanent resident of the KEM Hospital in Bombay for the last forty-one years, being cared only by the hospital's other nurses and staff. Aruna has mush tipped into a nasal-feed pipe going directly into the stomach to keep her alive. A permanently vegetative state does not permit patients like her to know off, least of all enjoy, favourite foods, music, people. It also doesn't allow for them to smile in response to an external influence. Aruna has mush tipped into a nasal-feed pipe going directly into the stomach to keep her alive.³ And all this will continue right till her death, since the Indian Government has not yet legalized euthanasia. This is the case for all patients in India who are waiting for years in order to be finally granted the right to die with dignity.

Many people in India and abroad, who are against euthanasia, argue that the concept of euthanasia can be counter-reacted by the introduction of "Palliative Care" while treating the patients who are demanding euthanasia. The key to effective palliative care is to provide a safe way for the individual to address their physical and psychological distress, that is to say their total suffering. Dealing with total suffering involves a broad range of concerns, starting with treating physical symptoms such as pain, nausea and breathlessness. The palliative care teams have become very skilful in prescribing drugs for physical symptoms, and have been instrumental in showing how drugs such as morphine can be used safely while maintaining a patient's full faculties and function. However, when a patient exhibits a physiological symptom, there are often psychological, social or spiritual symptoms as well. The interdisciplinary team, which often includes a registered nurse, a licensed mental health professional, a licensed social worker or a counsellor and spiritual support such as a chaplain, can play a role in helping the patient and family cope globally with these symptoms, rather than depending on the medical/pharmacological interventions alone. Usually, a palliative care patient's concerns are pain, fears about the future, loss of independence, worries about their

³ "The unbearable agony of being Aruna Shanbaug: A great injustice" by Pinki Virani

family and feeling like a burden. While some patients will want to discuss psychological or spiritual concerns and some will not, it is fundamentally important to assess each individual and their partners' and families' need for this type of support.⁴ However, due to the maximum number of patients in India being below the poverty line, these patients are unable to afford good hospital care and are also unable to bear the enormous medical bills. Consequently, euthanasia is sought after as a better option to alleviate the pain of such patients in India.

In general, apart from India, other countries around the world, attempt to draw a line between passive euthanasia (generally associated with allowing a person to die) and active euthanasia (generally associated with killing a person). While laws commonly permit passive euthanasia, active euthanasia is generally prohibited. Here, I have made references to countries where euthanasia has been legalized.

In 2002, the Netherlands passed a law legalizing euthanasia including physician assisted suicide. This law codifies the twenty-year-old convention of not prosecuting doctors who have committed euthanasia in very specific cases, under very specific circumstances. The Ministry of Public Health, Wellbeing and Sports claims that this practice "allows a person to end their life in dignity after having received every available type of palliative care." The United Nations has reviewed and commented on the Netherlands euthanasia law. In September 2004 the Groningen Protocol was developed, which sets out criteria to be met for carrying out child euthanasia without the physician being prosecuted

In Belgium, the Belgian parliament legalised euthanasia on 28 May 2002. In December 2013, the Belgian Senate voted in favour of extending its euthanasia law to terminally-ill children. Conditions imposed on children seeking euthanasia are "the patient must be conscious of their decision and understand the meaning of euthanasia", "the request must have been approved by the child's parents and medical team", "their illness must be terminal and they must be in great pain, with no available treatment to alleviate their distress".⁵

In England, following a series of decisions of the House of Lords it is now settled that a person has the right to refuse life-sustaining treatment as part of his rights of autonomy and self-determination. The House of Lords has also permitted non-voluntary euthanasia in case of patients in a persistent vegetative state. Moreover, in a recent decision in 2011, a British

⁴ Strang P, Strang S, Hultborn R, Arnér S (March 2004). "Existential pain—an entity, a provocation, or a challenge?" *J Pain Symptom Manage* 27 (3): 241–50.

⁵ "Belgian Senate votes to extend euthanasia to children". *BBC News*. 13 December 2013.

High Court has granted a woman paralysed from the neck, the right to die by having her life support system switched off.

Switzerland has legislatively permitted assisted suicide (euthanasia) since 1942. For example, lethal drugs may be prescribed as long as the recipient takes an active role in the drug administration.⁶ The legality of assisted suicide is a result of article 115 of the Swiss Criminal Code, in effect since 1942. When an assisted suicide is declared, a police inquiry may be started. Since no crime has been committed in the absence of a selfish motive, these are mostly open and shut cases. Prosecution can occur if doubts are raised about the patient's competence to make an autonomous choice, or about the motivation of anyone involved in assisting the suicide. Article 115 was interpreted as legal permission to set up organizations administering life-ending medicine only in the 1980s, 40 years after its coming into effect.

After analysing the current situation in India and after comparing the legality of euthanasia in India with that in other countries of the world, I feel that India needs to legalize euthanasia, both active and passive, without further delay. After many years of heated debate, India has still not been able to make progress on this topic, even though it managed to legalize passive euthanasia in 2011. This denies ill-fated people like Aruna Shanbaug the right to die painlessly and with dignity. There are many patients in our country, who cannot afford to remain alive on life support because of poor financial conditions (especially patients living below the poverty line). These patients too have a right to die painlessly and with dignity but are not allowed to do so by the laws of our country.

In spite of repeated public demand for legalizing euthanasia, the Government of India has not made any good effort to try and legalize euthanasia. People in favour of euthanasia have tried to draw the Government's attention to the fact that other countries of the world have legalized euthanasia (without it being misused), but to no avail. The Government is still against the complete legalization of euthanasia. The Government is formed and run by the human representatives of the people. Hence, I believe that during times like these, these people must appeal to their inner humanity (if they really have any left) and then decide whether or not to legalize euthanasia. Even the preamble to the constitution of our country says that our government is of the people, by the people and for the people. Thus, I believe that ultimately

⁶ Hurst SA, Mauron A (February 2003). "Assisted suicide and euthanasia in Switzerland: allowing a role for non-physicians". *BMJ* **326** (7383): 271–3.

the government must give in to our demands for legalization of euthanasia without further delay and let these deserving patients die painlessly and with dignity.

