

Non Voluntary Passive Euthanasia: The Ethical, Moral and Legal Arguments

Hannah Mary Varghese

Student, Department of Law, Christ University, Bangalore, India

Abstract—This paper presents the Non Voluntary Passive Euthanasia: The Ethical, Moral and Legal Arguments

Index Terms— Euthanasia

I. INTRODUCTION

“Whatever is used can be misused, but that doesn’t justify barring something that’s right and in the interest of the society,” opined Dr. Surendra Dhelia, the Joint Secretary of the Society for the Right to Die with Dignity (a Mumbai based civic group) while commenting on the persistently debated and tirelessly discussed matter of passive euthanasia. After scrutiny into the Aruna Shanbaug case, he revealed, “In cases where it’s this bad, you’re not prolonging life you’re prolonging agony and suffering.”

Death due to termination of natural life is inevitable, and the process of natural death has already commenced for a patient suffering from terminal illness or comatose. Euthanasia in such cases does not curtail the natural lifespan since it is not an instance of extinguishing life but of accelerating the process of natural death that has already commenced. Moreover, Dr.

Dhelia further discloses that decisions on denying care are already made discreetly. Definite laws and guidelines are necessary to allow qualified medical professionals to make these crucial choices legitimately. Furthermore, he said, in reality, most of the hospitals turn away cases like Aruna Shanbaug.

Historical analysis exposes many philosophic scholars in support of euthanasia. John Stuart Mill articulated utilitarianism on the premise that any action that increases the overall good is right. The society would be forced to bear the financial burden of a terminally ill individual utilizing expensive medical care, and such resources would be better allocated if they were used on patients with a chance of recovery. Stoics believed that if the opportunity to live a naturally flourishing life had become redundant, termination of one’s life is justifiable. According to Cicero, if a man’s circumstances do not contain a preponderance of things in accordance with nature, it is appropriate for him to depart from life. To them quality of life is more important than the value of life itself, and a life is said to have value only if it is worth living. Mere continuing existence without any scope for enjoyable or worthwhile

experience is a life without any value.

Seemingly, Mahatma Gandhi was in favour of euthanasia as well. According to him, just as a surgeon does not commit violence when he wields his knife on his patient’s body for the latter’s benefit, one may find it necessary under certain circumstances to go a step further and sever life from the body in the interest of the sufferer.

A practice oriented approach insisted that treating the terminally ill patients is nothing but wasting the medical facilities available, which can be better utilized by those patients who have a hope of life. Besides, birth, development and disappearance are the universal laws of the nature. Once death has commenced, it is the law of nature that it shall consume the organism; if not today, then tomorrow.

However, a few members of the Indian Medical Establishment suggest that India isn’t ready for euthanasia, given the weak legal enforcement and a large rich-poor gap. The Director of the Bangalore-based Narayana Hrudayalaya Hospital, Dr. Devi Prasad Shetty pointed out that a prosperous senior citizen in a vegetative state will be certainly exploited by his family, and thus every elderly person’s life will be in danger. Moreover, there are other debates such as to permit one person to kill another is a violation of a crucial moral principle; the sanctity of life. They believe that to legalize euthanasia is to undermine the principle that all lives are of equal value since the support for euthanasia is premised on the assumption that there are some lives inferior to others.

Some claim that survival is the sole objective of human existence and that all clinical practices must be in compliance with this objective. Others oppose it on the grounds that life is a gift of God and no one, except the God himself, has the right to take it away. Another fear is that legalized euthanasia would pose greater risk to the people in vulnerable groups, i.e., infants, mentally challenged persons and women. In the traditional Christian belief, euthanasia is classified as a form of prohibited category of murder under the Sixth Commandment.

Speaking of State intervention in such affairs of the citizens, the rights theory advocate that the right of the State to interfere is limited to when there is a threat to the society. It points out that in the case of passive euthanasia, there exist no such threat and that State intervention is uncalled for.

Dr. Bhat has brought about another crucial yet an undiscovered view of permitting euthanasia; the medical

practitioner's dilemma of contravening the Hippocratic Oath to save a dying man from further suffering. Medical practitioners have often been equated to a healer and he is expected to preserve life rather than take it away. Hence, there is a common notion that practice of euthanasia would severely damage the ethical image of the medical profession. Moreover, in his paper, Dr. Bhat brings out that while an attempt to prolong life violates the promise to relieve pain, relief of pain by killing violates the promise to protect life. Furthermore, many doctors fail to ensure that the requests for euthanasia are genuine, free and considered, and that there are no alternatives. The possibility of wrong diagnosis of patients and inaccurately telling that their condition is terminal cannot be ruled out either.

In addition, the pace with which the medical science is advancing at present gives an impression that there is no human condition, which is not curable. Even if a person is diagnosed to be in persistent vegetative state and there is no hope for recovery on the basis of currently available medical technology, there is always a scope for further development of medical science in the future, providing a cure for the same condition.

The most argued point is that of the risk of slippery slope in permitting euthanasia. If euthanasia is allowed in certain circumstances, it would ultimately end up in allowing it in almost all the cases. They argue that recognition of euthanasia may contribute to an increasingly casual attitude towards private killing in the society.

As such, there are equally strong arguments for and against euthanasia based on individual perceptions. The crux of the debate remains in making a right choice between the value of life and the quality of life.

II. PRESENTLY IN INDIA

India has settled this ethical debate over the practice of passive euthanasia very recently, through the profound judgment of the Aruna Shanbaug where the apex court sanctioned passive euthanasia and living will on one condition: its application shall be confined to exceptional cases of terminal illness where recovery is not merely unforeseeable, but impossible. The next of kin could plead for the same, or the patient himself has the autonomy to deny further treatment to sustain him. The five judge Bench did not forget to mandate a sanction from the High Court for passive euthanasia to be

permitted on a patient.

Undeniably, the court has appeared with an exceptional work. However, the guidelines given for the execution of passive euthanasia are not foolproof, according to the author, the first mistake being the lack of elaboration. Although India has overcome the hurdle of the ethical and moral debates over the practice of passive euthanasia, the procedures and circumstances where it should be followed have been overlooked. This cannot be afforded, for long for death can be delayed, but not at the cost of another's quality of life.

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