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Physician-assisted Suicide and Euthanasia in Indian Context: Sooner or Later the Need to Ponder!

Farooq Khan, George Tadros[1]

ABSTRACT

Physician-assisted suicide (PAS) is a controversial subject which has recently captured the interest of media, public, politicians, and medical profession. Although active euthanasia and PAS are illegal in most parts of the world, with the exception of Switzerland and the Netherlands, there is pressure from some politicians and patient support groups to legalize this practice in and around Europe that could possibly affect many parts of the world. The legal status of PAS and euthanasia in India lies in the Indian Penal Code, which deals with the issues of euthanasia, both active and passive, and also PAS. According to Penal Code 1860, active euthanasia is an offence under Section 302 (punishment for murder) or at least under Section 304 (punishment for culpable homicide not amounting to murder). The difference between euthanasia and physician assisted death lies in who administers the lethal dose; in euthanasia, this is done by a doctor or by a third person, whereas in physician-assisted death, this is done by the patient himself. Various religions and their aspects on suicide, PAS, and euthanasia are discussed. People argue that hospitals do not pay attention to patients' wishes, especially when they are suffering from terminally ill, crippling, and non-responding medical conditions. This is bound to change with the new laws, which might be implemented if PAS is legalized. This issue is becoming relevant to psychiatrists as they need to deal with mental capacity issues all the time.

Key words: *Culture, euthanasia, India, physician-assisted suicide, religion*

INTRODUCTION

Physician-assisted suicide (PAS) is a controversial subject that has recently captured the interest of media, public, politicians, and medical profession. Although active euthanasia and PAS are illegal in most parts of the world, with the exception of Switzerland and the Netherlands, there is pressure from some politicians and patient support groups to legalize this practice in and around Europe that could possibly affect many parts of the world. As we live in a multicultural and multireligious society, it is essential to understand the effects of culture and religion in decision-making processes, especially in the area of PAS.

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Definition of euthanasia is slightly different in different countries; however, it is generally defined as "a deliberate intervention undertaken with the express intention of ending a life, to relieve intractable suffering."[1] PAS is the practice of providing a competent patient with a prescription for medication for the patient to use with the primary intention of ending his or her own life;[2] the patient would have to self-administer the medication, directly or through a machine.

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Inadequate attention has been given to the cultural, religious, and socioeconomic backgrounds underlying the different views on assisted suicide held by various sections of the society. Current literature shows that cultural differences may account for some inequalities related to assisted suicide.[3]

Although there are very few studies carried out in India on PAS, a survey quotes that 60/100 (28 men, 32 women) Indian doctors answered a questionnaire. Of these doctors, 26 were Hindus, 23 Christians, and 10 Muslims, with a mean age of 35.4 years and a mean experience of 10.2 years. In all, 26.6% of them agreed that euthanasia could be an option for patients with motor neuron disease, whereas 25% agreed with the idea of using euthanasia for patients with cancer. Four Christian and 16 Hindu (8 male and 8 female) doctors supported the concept of euthanasia.[4] To our knowledge, there is no study done to assess the attitude of public in general and professionals in specific who might be involved in caring for some sections of society who might consider discussion around the topic of PAS or euthanasia.

Jain leaders, a powerful group in India, say the constitution protects the fasts and people have the right to decide to die with dignity. This argument has led to a debate over the right-to-die issue in India, where euthanasia is banned and suicide is a crime resulting in people attempting for suicide being imprisoned.[5]

Some people's fear of potential abuse of PAS if it is legalized is real. But when such legislations are made, "systems" must be in place to properly check that the law is not abused. This is where the role of professional judgment will come into play, and psychiatrists might be involved for mental capacity assessment, mental health assessment, and to check the eligibility of the person for PAS if in the future the courts of law decide to legalize it in India. Other professional bodies such as social services, palliative care specialists, and psychologists may also be involved when making such decisions.

Current Indian position on physician-assisted suicide and euthanasia

Ward number four of Mumbai's King Edward Memorial (KEM) Hospital has been in the news lately for the heart-breaking ordeal of Aruna Shanbaug, a nurse who is living in a vegetative state for the past 37 years after being brutally assaulted by a hospital worker. When the news broke that the Indian Supreme court has turned down a mercy killing petition for Aruna, the nurses caring her at the KEM were joyous to the extent of hugging each other and distributing sweets among other staff members.[6] The Life Site News[7] in 2008 reported the following: *"India's press agencies report that Seema Sood, 37, is now walking again for the first time since 1993, when advanced rheumatoid arthritis left her completely debilitated and horribly deformed all her joints. Two years ago, she petitioned the President of India for 'mercy killing,' a plea she is now thankful went unanswered."*

The legal status of PAS and euthanasia in India lies in the Indian Penal Code (IPC), which deals with the issues of euthanasia, both active and passive, and also PAS. According to Penal Code 1860, active euthanasia is an offence under Section 302 (punishment for murder) or at least under Section 304 (punishment for culpable homicide not amounting to murder). The difference between euthanasia and physician-assisted death lies in who administers the lethal dose; in euthanasia, this is done by a doctor or by a third person, whereas in physician-assisted death, this is done by the patient himself. The legal position of PAS in India would be abetment of suicide falling under Section 306 (abetment of suicide) of IPC.[8] So, technically speaking, anybody willing to consider euthanasia or PAS needs to go through the courts of law in India and on no account have the courts considered a clear judgment on this issue allowing a PAS to go ahead.

India is not alone on this issue and most countries have been trying to get judgments on this very topic. A study of 3733 UK doctors on the legalization of medically assisted dying (euthanasia and PAS), contrasting with the UK general public, found that majority of the doctors opposed the legalization of PAS and that a strong religious belief was independently associated with opposition to assisted dying.[9]

There also has been a longer deliberation on the issue of attempted suicide in India, and the IPC Section 309 recognizes it to be a punishable act. The law goes on to define its principle as *"Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both."*[8] Section 309 of the IPC had been on a number of occasions challenged in the courts of law in India as in the case of P. Rathinam v. Union of India,[10] where the Supreme Court held that the right to live of which Article 21 speaks of can be said to bring in its trail the right not to live a forced life, and therefore, section 309 violates Article 21. But then this decision was consequently overruled in Gian Kaur v. State of Punjab case[11] by a Constitution Bench of the Supreme Court, which held that Article 21 could not be construed to include within it the "right to die" as a part of the fundamental right guaranteed therein; therefore, it was ruled that it could not be validly stated that section 309 violates Article 21.[12]

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What Indian medical professionals think about physician-assisted suicide?

India is a healthy example of a number of varied cultures, customs, and religions which all have preserved their identities and also mingled with the historic Indian philosophies and rituals. Disentangling religion and culture, customs and rituals, and beliefs and attitudes is a Herculean task in the Indian context. A discussion on PAS at a professional and public level will face a number of complexities such as the moral values of people, how religion and culture will play in the minds of people, whether the intensity of religiosity will overpower type of religion, and so on. A recent survey in Egypt has shown that religiosity rather than specific religion was responsible for doctors to decide whether PAS must be considered. More religious doctors felt that PAS must not be considered and it would be against their belief system irrespective of whether they were Christians or Muslims.[13] There has been limited data published on the perceptions of Indian doctors about euthanasia and PAS. The study mentioned earlier[4] does give some clues, but the limited sample size for that study prohibits generalizations. There is a real need to further study the attitudes of Indian doctors, especially psychiatrists, oncologists, palliative care physicians, and geriatricians, toward the concepts of euthanasia and PAS.

The issue of religious diversity and concepts of suicide in major religions in India

Hinduism

According to Hinduism, if a person commits suicide, he or she neither goes to hell nor heaven but remains in the earth as a bad spirit and wanders aimlessly until he or she completes the allotted lifespan. The person then goes to hell only to return back on earth to complete the left *"karma."*[14]

Committing suicide is considered a violation of the code of Ahimsa (non-violence) and is therefore as sinful as committing murder. *"For him who commits suicide becomes Abhisasta (man accused of mortal sin), his blood relations (sapinda) shall not perform the funeral rites."*[15]

Shiskhapatri – The teachings of Swaminarayan has 212 sanskrit verses and talks about do's and don'ts and it says not to commit suicide even in the holy place.[16]

Islam

According to Prof Yusuf Al-Qardhawi (Islamic scholar), "Euthanasia or mercy killing is forbidden in Islam for it encompasses a positive role on the part of the physician to end the life of the patient and hasten his death via lethal injection, electric shock, a sharp weapon or any other way. This is an act of killing, and, killing is a major sin and thus forbidden in Islam."[17]

"Do not kill yourselves, for verily Allah has been to you most merciful."[18] *"…and (Allah) is the one who gave you life, then shall He ordain you to die, then shall He give you, your life again, truly mankind is ungrateful."*[19]

According to these Quranic verses, most Muslims believe that suicide, attempted suicide, assisted suicide, and euthanasia are all prohibited in Islam.

Christianity

According to the theology of the Catholic Church, death by suicide is considered as a grave or serious sin and this belief is based on another belief that life is God's property and a gift to this world, and nobody else has the right to destroy it. But the Catechism of Catholic Church says, *"We should not despair of the eternal salvation of persons who have taken their own lives. By ways known to him alone, God can provide the opportunity for salutary repentance. The Church prays for persons who have taken their own lives."*[20]

The view of scripture on the topic is that *once a person comes to faith in Jesus Christ, every sin they will ever commit is paid for*,[21] and it is also stated that *"there is now no condemnation for those who are in Christ Jesus."*[22] The Christians believe suicide to be a sin, but do not believe it is impossible to find salvation.[23]

Sikhism

The Sikhs believe that the Gurus rejected suicide as nobody has the right to give or take life. Birth and death are the mercy of the creator and thus the belief that there is no place for mercy killing or PAS in Sikhism. The Gurus tackled the problem of sickness and suffering by providing medical relief and alleviation of pain.[24]

Buddhism

For Buddhists, as the first precept is to refrain from the destruction of life, including oneself, suicide is clearly seen as a negative form of action. Buddhism in its various forms affirms that while suicide as self-sacrifice may be appropriate for the person who is an Arhat (spiritual practitioner who has realized certain high stages of attainment), one who has attained enlightenment, it is still very much the exception to the rule.[25]

"Intentionally bringing about the untimely death of a human being, even if it is still a foetus, is (an offence of Defeat.)."[26]

"It is noteworthy that even praising death or assisting death out of compassion, that is, euthanasia, is still considered a Defeat for a bhikku"[27] (Bhikku – a Buddhist monk or a layperson who has taken vow to lead a life of virtue, a Buddhist religious devotee).

Jainism

Jainism is one religion that permits suicide with

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restrictions. Jain Munis and other elderly people have been known to starve themselves to death, although there is no record of application of any other violent means due to heavy insistence on non-violence.

Jain scriptures talk about ending life in a dignified way in *Sutra krtraanga* and say *"When a wise man, in whatever way, comes to know that the apportioned space of his life draws towards its end, he should in the meantime quickly learn the method of dying a religious death."* The scriptures of *Sutra krtraanga* identifies a holy fast unto death, which through inaction rids the soul of negative *karma* and brings about death with dignity and dispassion (*sallekhanaa*), but within the Jain religion and traditions, this method of ending life is not regarded as an act of suicide.[28]

Judaism

One who is in a dying condition is regarded as a living person in all respects.[29] *One may not close the eyes of a dying person … Rabbi Meir would say: "It is to be compared to a sputtering candle which is extinguished as soon a person touches it-so too, whoever closes the eyes of a dying person is compared to have taken the soul."*[30]

Assisting and requesting suicide assistance are forbidden among Jews. Leviticus 19:14 says, *"Do not put a stumbling block before the blind,"* and the Rabbis interpreted that verse to prohibit any type of physical, theological, economic, or moral stumbling block, and assisting suicide is one such stumbling block.[31]

The potential role of psychiatrists in the decision-making process

A survey conducted by the Association for Palliative Medicine, United Kingdom, supports that the majority of palliative medicine specialists oppose a change in the law on assisted dying. They argue that people who work with dying patients must be taken onboard as they have a wealth of information regarding the matter at hand.[32]

A qualitative observational study done in The Netherlands, which is one of the countries where assisted suicide is legal, suggests that euthanasia practice involves extensive deliberations, the majority of which do not lead to death. Euthanasia discussions lead to two consequences:

i. The talk puts the onus on patients to continue discussions toward a euthanasia death.
ii. There is a socio-therapeutic component, which tends to affirm social bonds and social life.[33]

Another study in The Netherlands that looked into the reasons for proposing euthanasia reported that the unbearable suffering was often substantiated with physical symptoms (62%), function loss (33%), dependency (28%), or deterioration (15%). As many as 35% physicians reported that there had been alternatives to relieve patients' suffering which the majority refused.[34]

An empirical research carried out in the United States on oncology patients, oncologists, and the public suggests that among their sample, about two-thirds of oncology patients and the public found euthanasia and PAS acceptable for patients with unremitting pain. This has been the case in studies focused on people who are suffering. Oncology patients and the public found euthanasia and PAS least acceptable in the vignettes involving "burden on the family" and "life viewed as meaningless."[35] Majority of oncologists found euthanasia or PAS ethically acceptable among patient having unremitting pain. More than a quarter of oncology patients had seriously thought about euthanasia or PAS, and nearly 12% had seriously discussed these interventions with physicians or others.[35] The authors of this study have also concluded that oncology patients experiencing pain are unlikely to desire PAS, but patients with depression are more likely to request assistance in committing suicide,[35] which is an important implication for the role of psychiatrists to get involved early in the process of depression and assist in decision making. Appropriate interventions and evaluations are needed to treat such patients for depression before euthanasia can be discussed seriously.[35]

A Swedish study carried out among physicians working with adult dying patients reported that about half of the physicians had discussed palliative care with all their dying patients, and more than half of the physicians had heard their patients expressing a wish to die. About one-third of the physicians had given analgesics or other drugs in doses such that some of their patients' deaths were hastened. One-third had also been asked for active euthanasia, whereas 10% had been asked to assist suicide.[36]

LIMITATION

This is a brief communication on this huge topic and in no way draws conclusions of legalizing euthanasia and PAS in India or elsewhere.

CONCLUSION

There has always been and will always be arguments among people who will support and be against the idea of euthanasia and PAS. People argue that hospitals do not pay attention to patients' wishes, especially when they are suffering from terminally ill, crippling, and non-responding medical conditions. This medical culture is bound to change with the new laws, which might be implemented if the PAS is legalized. This issue is becoming more and more relevant to the psychiatrists

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as they need to deal with mental capacity issues all the time. There is a need for empirical research on the topics of perceptions and attitudes concerning euthanasia and PAS in India among large numbers of professionals and general public to draw meaningful conclusions on the need to legalize euthanasia and PAS or not.

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