

SOME THOUGHTS ON EUTHANASIA

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The dictionary meaning of euthanasia given in the Chambers Twenty-first Century Dictionary is, “euthanasia—the act or practice of ending the life of a person who suffers from an incurable and often painful or distressing illness”. Euthanasia can be active in that some positive action is taken to terminate life. This could include the administration of a drug which causes death. Euthanasia can also be passive in that life support systems such as a heart-lung machine can be withdrawn, by whose artificial aid the patient’s vital systems were made to function. The condition of such a patient would be that without such support system the patient would not remain alive. Throughout the world the number of such support systems as compared to the number of patients is limited and at least in the Indian context there are thousands of people who do not have access to such hospital facilities and whose life ends as a result of illness. Would one define such cases as euthanasia, death by negligence, a compulsion of physical availability of necessary equipment or a fact of economic life of limited resources which limit available medical facilities?

The very first commandment that God gave man through Moses was “Thou shall not kill”. The Hippocratic oath to which every doctor prescribes amounts to saying “Thou shall endeavour o keep alive”. The scheme of Chapter XVI of the Indian Penal Code is that whosoever by positive action, inducement or negligence causes death commits the offence of culpable homicide in varying degrees. Causing death can be justified only through execution of a capital sentence pronounced by a competent court, by the police and citizens in protecting life and maintaining order and by the armed forces in defence of the country. All other forms of causing death amount to an offence. The ethics of the issue apart the law is very clear in stating that causing death is an offence. Euthanasia through positive action, therefore, amounts to culpable homicide and I think it would be rash on our part to try and question this moral, religious and legislative wisdom.

Any system of laws has to be designed to serve the common good of the largest number of people. There is no law which can please every one, cover every contingency, provide an answer to every question. That is why laws evolve by judicial pronouncement which either circumscribe law, interpret it, or expand it. Our courts have always held that where the law is silent it is the duty of the court to lay down the law. They are not legislating thereby and certainly Article 141 of the Constitution does not convert the Supreme Court into Parliament. But the courts do, will and must state what the law is or what the law means and it is this judge made law which keeps the rule of law alive and vibrant. However, the Constitution does not permit anyone, even a judge, to play God and decide whether a person whom others consider to have lost the characteristics of a normal life should be allowed to live or not. Please remember that Hitler used his gas chambers for mass ethnic killing, giving euthanasia as an excuse for ridding the world of those whom he considered untermenschen or sub-human. In a way Pinki Virani considers Aruna Shanbaug as an untermenschen because she is not as lively and mobile as Pinki. By this standard should we consider parties which subscribe to a political philosophy other than our own as being suitable for euthanasia because their unfortunate political views are unacceptable?

Generally life support systems are withdrawn from a patient with the approval of the patient’s close relatives only after the treating doctors are convinced that all vital systems have failed and that it is only the support systems which are keeping the blood circulating or lungs being filled with air and then exhaling. Withdrawing or retaining the life support system makes no difference because life in the ordinary sense already ceased to exist. This is not a case of euthanasia but rather of a medical decision

to discontinue support which is the only sign of the body still being alive. In Aruna Shanbaug's case the petitioner wants the stoppage of any nutrition to Aruna because of her bodily functions are performed on the bed itself. Does that mean that a patient who is temporarily immobile and has to use a bedpan should be denied food? So long as those treating Aruna Shabaug are satisfied that she is in effect alive in the communally understood sense of the world no one has a right to take action which would terminate her life. This is not euthanasia – it is culpable homicide which just stops short of murder and the advocate of killing in this case would be liable to action under section 304 Indian Penal Code.

I would end by stating that our Hon'ble Supreme Court has no business to waste its time on petitions such as that's filed by Pinki Virani, which should have been thrown out of court summarily. The Hon'ble Judges of the Supreme Court who heard the case have gained a little brief publicity, the media has been able to increase its sale through sensation mongering and the valuable time of a number of medical personnel has been spent in fighting the case rather than in attending to their patients. My respectful submission to the Supreme Court would be that its Hon'ble Judges start acting as judges and not lend the apex court for promoting the social ambitions of people such as Pinki Virani. What she did is not social activism, it is social ladder climbing.
