RECOGNIZING THE RIGHT TO DIE WITH DIGNITY IN SRI LANKA: THE DILEMMA BETWEEN MORALITY AND LAW

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Introduction

Terminally ill patients sometimes prefer to die peacefully instead of battling with the illness by artificial extension of life, which threatens their dignity. Although no major human rights document has specifically recognized the right to die with dignity, it could be derived from certain rights acknowledged in those, i.e. the right to a dignified life. Every human is entitled to live a dignified life, as we are born free and equal. Preventing a person from deciding to die when that person's dignified life is at threat is an infringement of human rights and of the freedom from inhuman and degrading treatment.

Physican Assisted Suicide (PAS) could be either active or passive. "Euthanasia" is the act of taking life to relieve suffering. Lethal substances are used in active euthanasia. Passive euthanasia is deliberately withholding treatment (WLT) when it is clear that the patient's life cannot be recovered. The demand for death with dignity gives rise to a dilemma between rights of human beings and morality.
PAS is legal in countries such as Netherlands, Germany, Switzerland, India and some States of USA, but the form of recognition may differ. As per the section 299 of the Penal Code of Sri Lanka, abetment to commit suicide is a crime. Accordingly, PAS is prohibited in Sri Lanka regardless of the circumstances.

This study focuses on passive PAS with the main objective of exploring the need for legal reform by recognizing the right to die with dignity; the basic argument being the extension provided by life support systems or other machinery is a mere artificial extension of life. It was explored if PAS should be legalized in Sri Lanka to give effect to the right to die with dignity. The hypothesis that "the passive form of PAS under special circumstances should be legalized in Sri Lanka in order to preserve the dignity of persons when they are terminally ill and their life involves severe suffering" was adopted.

Methodology

Philosophical approaches were studied and a comparative analysis of the laws in other countries was conducted under library research. Spiritual texts of each religion were used in viewing religious perspectives. The Penal Code of Sri Lanka and the Death with Dignity Acts and the case law of other countries such as the Netherlands, the States of Oregon and Washington in the USA were used in the comparative analysis. Under field research, primary data was gathered under the qualitative method via personal interviews with health care professionals and religious leaders. A case study was also conducted to understand the attitude and experience of the patients and their families. Under the quantitative method, a quota-sample that comprises of 43 cases that represented each Province of Sri Lanka, was used to gather primary data through internet based questionnaires. Secondary data from previous researches were used as well.

Results & Discussion

According to most healthcare professionals, people may have the right to die with dignity even as a majority of the sample believed; but a policy should be implemented, providing patients the liberty to choose to die or not, but leaving the liberty of performing it with the physician. Their view is compatible with the notion of death with dignity because the right to die with dignity does not suggest all patients suffering from chronic illnesses wish to die, but if prefer to terminate their lives, the opportunity to do so should be given.

Suicide or active PAS were noted to be rejected by all religions. However, Buddhism and Hinduism do not have a rigid position towards PAS by WLT, while Christianity and Islam reject all forms of PAS. The majority of participants believe that their religious beliefs are strong. 85.7% of Islam followers strongly agreed with the statement that their religious beliefs strongly affect their decisions, although followers of other religions were mostly in a neutral position. Therefore, a strong religious opposition should be expected if the right is to be recognized in Sri Lanka depending on the form of PAS.

Although participants did not have a strong opinion regarding the situations PAS should be recognized, 55.8% agreed upon termination of

life support in a situation of permanent vegetative state. It was apparent that there was a slight reluctance in deciding the method of PAS in the previous instances. It was assumed through these responses that the Sri Lankan public might prefer passive PAS over active PAS.

58.1% of participants believed that doctors should respect the will of a terminally ill patient's loved ones when such persons are unable to communicate their will on whether to end the life or not, while only 18.7% disagreed to it. Perhaps this is due to the close connection that individuals in Sri Lanka share with their families. However, even if such authority was given to the loved ones, there is the threat of misuse.

Conclusion

It was discovered that the Sri Lankan public is reluctant to openly discuss such controversial matters, probably because of culture; shaped by religious beliefs. It seems that the public is inadequately aware of the difference between the two forms of PAS, because they did not seem to have a clear understanding regarding the form of PAS that suits Sri Lanka. However, both public and health-care professionals agreed upon legal recognition of passive PAS as hypothesized; possibly also influenced by religious beliefs. It was interesting to note the conflict of opinion between the public and healthcare professionals regarding the authority to determine end-of-life decisions when patients are unable to convey their will. Although physicians were reluctant to grant the right to act as the health-care surrogate when patients are not in a situation to communicate their will, the public decided otherwise. Due to ambiguity regarding the authority on who should decide on the WLT, families also experience immense pain by seeing patients suffer. Although there is a threat of abuse if families were given the opportunity to decide, the danger still remains even if the authority vests in physicians because they could abuse it too for monetary purposes.

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