

The Right to Assisted and Accelerated Dying in Singapore?

By A/Prof Chin Jing Jih



The SMA Lecture is an annual highlight which began in 1963, when a grant from SMA to the Faculty of Medicine helped establish a lectureship on medical ethics and related topics. The recent SMA Lecture 2012, held on 9 March 2013, was actually carried forward from last year due largely to SMA's busy calendar. But it was a special lecture well worth waiting for – one delivered by the Honourable Chief Justice Sundaresh Menon. Previously, we did have, among our shortlist of non-doctors invited to deliver the prestigious lecture, two High Court Justices and a top litigation lawyer. But this was a unique first for a Chief Justice of Singapore to grace the event as the SMA Lecturer.

When the Chief Justice accepted our invitation, we offered him some rather "safe" topics like mediation and arbitration in medico-legal disputes, or legal issues in informed consent, but to our delight and surprise, the Chief Justice endeavoured to tackle a far more challenging and controversial area in medical ethics, and titled his lecture "Euthanasia: A Matter of Life or Death?" I gladly pounced on his counter-proposal.

I have long held the view that despite our profession's apprehension and perhaps intuitive disapproval of euthanasia, we have to brace ourselves for the public debate that will soon heat up in Singapore. It was therefore timely and fitting that the Chief Justice chose this topic, which hitherto has seen very few public commentaries or dialogues in Singapore. To participate competently in any public discussion on euthanasia, the medical profession

and its practitioners must have a working knowledge of the basic definitions and concepts, and be familiar with the arguments related to its key legal, social and ethical considerations. Worryingly, I have personally observed over the last few years some glaring and disturbing misunderstandings towards euthanasia and assisted suicide, among both healthcare professionals and medical laypersons.

One of the most common misperceptions is a failure to appreciate the ethical and legal distinction between a patient's right to refuse treatment and life-sustaining interventions, which is a right of bodily integrity recognised by the common law, versus a right to intentionally inflict fatal harm to oneself, which lacks common law and statutory recognition. In fact, attempted suicide and abetment of suicide are both statutory offences under the Singapore Penal Code. In the case of Tony Bland, who had been in a persistent vegetative state, the UK courts established firmly that the withdrawal of futile life-sustaining interventions from a mentally incapacitated patient, based on his or her best interests is consistent with good medical practice and is therefore not an act of murder by euthanasia. Yet in day-to-day practice, we see many physicians argue vehemently that the two are legally and ethically equivalent. Failure to see this critical difference, or a tendency to confuse and conflate euthanasia with withdrawal of futile medical treatment into one similar entity can potentially result in physicians, in their misguided intent to not practise euthanasia, electing to continue futile and cumbersome

interventions that prolong pain and suffering without serving the patient's best interests.

I have longed suspected that one of the possible source of confusion, especially among the Chinese-speaking community, is the Chinese translation of the term "euthanasia". In Chinese, the term for euthanasia is "*an le si*" (安乐死), which translates literally to "dying in peace and joy". One can hardly blame the patient's relatives who assume that when the doctor is proposing withdrawal of futile and cumbersome interventions for the sake of comfort care, he is proposing a plan to intentionally bring about death for the patient in a peaceful manner. In the mind of these laypersons, intentional, accelerated peaceful death by doctors has always been practised and permitted in Singapore. Over time, it may also lead to an unqualified public perception that euthanasia has long been legalised in the form of withdrawal of life-sustaining intervention from an imminently dying and mentally incapacitated patient. Such an erroneous view is highly disconcerting.

I recalled an ethics consultation case a few years ago, when my colleagues in the intensive care unit (ICU) sought my help urgently to provide clarification to a group of angry and upset relatives who were threatening to sue the ICU doctors if they refused to give a lethal injection to a patient, who remained clinically stable despite the withdrawal of mechanical ventilation. Puzzled, I proceeded to explore their understanding of what was done for the patient. It turned out that they thought the withdrawal of ventilatory support was euthanasia that intended to effect peaceful death, and when that failed, they wanted the doctors to complete their job to prevent the patient from suffering and discomfort, something the doctors emphasised as justification for withdrawing the ventilator. So when they were informed by the ICU doctors that they could not carry out an illegal act such as euthanasia in Singapore, the family became upset. Thankfully, the family were appeased by my explanation and the palliative care team did a great job in ensuring that the patient remained comfortable in his last days.

Another personal experience informs me that the concept and objectives of euthanasia can be significantly misconstrued by members of the public who are vociferous advocates. In the context of my work in medical ethics, I was tasked to speak to a vivacious and energetic lady in her early 60s, because she has been writing numerous letters to people of political importance and government agencies, strongly advocating for the legalisation of euthanasia. When I politely asked her about the motivation for her personal crusade, she replied in a matter-of-fact way that all she wanted to do was to help this group of senior citizens she met daily at her HDB void deck. According to the lady, these seniors all looked extremely bored with life, dull and unhappy. Some even verbalised their frustration at living to such an old age. In her view, those senior citizens wanted "a

way out" as soon as possible, and if euthanasia were legal and possible, it would be doing these older persons a great favour! I was stunned, wondering if she was a psychopathic ageist or a well-meaning auntie on her own misguided social crusade. Intuitively, I thought the latter was more likely.

As a geriatrician, I have worked with numerous old people suffering from chronic pain and illnesses, and my experience assures me that making existential statements, like wondering about the purpose of life or how long more they will live, are in no way equivalent to feeling depressed with a strong desire for accelerated or assisted death! I was not sure if the conversation with the abovementioned auntie then managed to rectify some of the glaring errors in her assumptions fuelling her crusade, but that encounter instructed me that before any substantive discussion on euthanasia, there is certainly a need to cross-check underlying assumptions and understanding by those who claim to be ardent proponents of euthanasia.

This backdrop of confusion about euthanasia that precedes any public discourse is worrying. This discourse on euthanasia by a highly respected legal scholar and thought leader was indeed timely. The Chief Justice's lecture was informative and profoundly thought-provoking, to say the least. The material was meticulously researched, and objectively analysed with admirable scholarship and academic rigour. In spite of the complexity, depth and breadth of the materials, the lecture was delivered with admirable eloquence and finesse, capturing the attention of the 200 people who filled the event hall to standing room capacity.

I leave you to read the full text of this excellent lecture (and you must) published in this issue of *SMA News* (see page 7) and in this month's *Singapore Medical Journal* as well. But I would like to highlight a few points that were especially illuminating to me in this absorbing one-hour lecture.

Firstly, I found myself agreeing when the Chief Justice opined that the experience of common law courts abroad suggest that decisions on end-of-life, assisted suicide and euthanasia "are best not left to the courts" in view of the "deeply dividing, even ideological differences" that lie beneath these choices. He opined that incremental changes based on well-established principles and via legislation by Parliament, is a more appropriate and correct approach.

One of the increasingly audible questions asked by the lay community is this: "If the Dutch and Swiss can do it, why can't we in Singapore?" A second point about the SMA Lecture which struck me arose from the Chief Justice's cogent arguments that the universalism of discourses about human rights, especially the right to assisted dying, is limited and should remain a matter of national interests dealt with by national courts and parliaments. He reiterated this point when he surveyed the present state of the law related to euthanasia and assisted dying in several notable countries, adding that the impetus driving change on such profound ideological matters should ideally come from "within the

very own political community of those directly affected”.

No discussion on assisted dying is complete without an analysis of the slippery slope argument which reflects society's response towards establishing a right to assisted and accelerated dying. The Chief Justice presented an elegant review of the arguments from a wide spectrum of commentaries, highlighting the presence of a genuine anxiety towards changes in social attitudes towards issues such as life and death, disability, which may potentially impact allocation of scarce economic resources. He also warned against the consequences of losing a well-established line on the slope as it may be difficult to find a new stopping point that is coherent and sensitive. Of particular importance to the doctors is the concern that the inclusion of euthanasia and assisted dying as legitimate “medical treatment” is likely to fundamentally alter the role of doctors and the nature of their relationship with patients.

At the end of his lecture, the Chief Justice helpfully framed the issues he discussed into six broad questions, which are useful tools to initiate and guide productive discussion. The six broad questions, which I paraphrase and summarise, are:

1. Do we continue to hold fast to the common law distinction between the right to refuse treatment from the right to decide on the timing and means of one's death by actively ending one's own life?
2. If euthanasia were recognised as medical treatment, will it fundamentally alter the role of doctors or affect the nature of the doctor-patient relationship?
3. For those who do not possess the mental capacity to

express a preference, who decides and on what basis?

4. To what extent can or should the experience of other countries in legalising assisted suicide or voluntary euthanasia be relevant to our own choices in Singapore?
5. To what extent should the limits of knowledge about science constrain the decisions we might make that are irreversible in nature?
6. How slippery and steep might be the slope that starts with a narrow exception permitting assisted suicide in limited circumstances?

The right to assisted and accelerated dying is a public discourse which critically requires the participation of doctors. In a profession where life and death choices and decisions are part of the daily working experience, doctors need to be adequately prepared to participate objectively and coherently in the impending national discussion. On behalf of SMA and the profession, I am extremely grateful to our Chief Justice Sundaresh Menon, for his well-timed and enlightening lecture, which, as he said in the closing paragraph of his speech, should facilitate further “public debate, private conversations with our loved ones, and personal reflection”. **SMA**



A/Prof Chin is President of the 53rd SMA Council. Like most doctors, he too has bills to pay and mouths to feed, and wrestles daily with materialistic desires that are beyond his humble salary. He, however, believes that a peaceful sleep at night is even more essential.

A/Prof Chin presenting Chief Justice Sundaresh Menon with a token of appreciation at the SMA Lecture 2012

