

■ by Shefalee VASUDEV

**T**HE LINES OF APPREHENSION on Dr Deepak Talwar's forehead reflect a dilemma. He is in the intensive care unit, standing by the bed of a frail, 96-year-old woman suffering from an incurable respiratory illness. On the other side of the bed is the patient's 58-year-old son. Both are debating an unnerving option: mercy killing. If they extend the life of the woman they would only prolong her death. "I can't ask you to pull out her life-support systems but do not give her any further treatment. Let her pass away peacefully," says the son, taking a decision on his mother's rights.

Talwar, the chief critical care physician at Metro Heart Institute at Noida near Delhi, says this is a routine predicament. "We frequently have relatives of patients with terminal illnesses asking us to minimise life support and hasten deaths. How can a doctor decide in the absence of legal guidelines?" he asks.

Euthanasia or physician-assisted suicide is not legal in India. The debate on giving patients the option is an old one, but there has been recent support for it worldwide. Last week, the Netherlands became the first country to legalise mercy killing. The Dutch Parliament voted to make legal this long-tolerated practice given the popular support for it. Also, a fortnight ago, a UK family court granted the right to die to a 43-year-old woman, paralysed from the neck downwards, who wanted to have her ventilator switched off. Will this surge towards death with dignity have a ripple effect in India?

In the past, Indian courts have refused petitioners the right to die. In March 2001, the Patna High Court dismissed Tarkeshwar Chandravanshi's plea seeking mercy killing for his 25-year-old wife Kanchan, who had been comatose for 16 months. Hospital expenses had reduced Chandravanshi and his family to penury. Similarly, on December 13 last year,



# THE LAST RIGHT

Recent landmark judgements on euthanasia in Europe open up an Indian debate on the right to die

the Kerala High Court refused to give B.K. Pillai, 75, permission to end his life. Pillai, who had a disabling illness, argued that he could not live with dignity. But the court turned down his petition saying that there were no legal guidelines to evaluate his appeal. It said there could be reasons other than his terminal illness that were driving Pillai to ask for euthanasia.

Though most countries do not have specific laws on the "active" right to die, its "passive" version is practised worldwide as a quiet, private routine agreed upon by families and physicians. In Talwar's words, it is "masterly inactivity" where ventilators, hi-tech

medicines and surgery are ruled out and treatment is continued only for relief from pain. It is an option to help people die without killing them. Dr Rajesh Ahlawat, senior urologist at Delhi's Apollo Hospital, who too is faced with similar requests from patients' families, agrees that passive euthanasia is prevalent. "When the chances of recovery are nil, we advise the family to look at the option of minimising medical support," he says. "In the case of brain dead patients, organs which are functional can be donated to save other lives."

However, some argue that switching off a life-support machine is as effi-

cient a killer as a lethal injection and should be discouraged.

But prolonged and agonising treatment can disintegrate the dignity of patients, forcing them to seek solace in death. For instance, 59-year-old Neena Bonarji, an international bridge player based in Dehradun, chose to die rather than continue on life-support systems. Bonarji, who was suffering from a progressive lung disease for three years and was being treated at Delhi's Ganga Ram Hospital, had instructed her daughter Nisha Bhambhani to put her off the ventilator when the time came. "When my mother slipped to 100 per cent supplementary support, we did what

debated issue. Most countries have not legalised it because playing God is a theological grey area. The debate continues even if the decision is made by the patient himself. Dr Sudhir Khandelwal, additional professor of psychiatry at the AIIMS in Delhi, says, "Before allowing euthanasia, the death wish of a patient has to be evaluated. It may indicate a suicidal tendency that needs treatment."

The anti-euthanasia lobby has often argued that if mercy killing was legalised, it would be difficult to distinguish between patients who choose death because of terminal illness and those wishing to end their lives for other

**AGONY:** A terminally ill patient in a Delhi hospital

she had wished for," says Bhambhani. Within an hour, Bonarji passed away.

So far, the right to die is justified in a strictly limited context: incurable illness. But without the safety net of a legislation, what may be a compassionate act could be held against the doctor. The charges can be murder, punishable under Section 302 of the IPC. Similar to the case of American doctor Jack Kevorkian, aptly called Dr Death, who is known to have helped more than 100 terminally ill people to commit suicide. Convicted of second degree murder in 1999, Kevorkian is currently serving a 25-year prison sentence.

The grey area between omission and commission has made euthanasia a hotly

psychological or emotional reasons. The ethical issues relating to euthanasia are equally contentious. In a country like India, the underlying factors of the death wish can often be financial. "Most of the time, families choose death of their loved ones because of financial reasons," says Ahlawat. In the absence of adequate medical insurance, specialised treatments like ventilator support, kidney dialysis and expensive life saving drugs administered in private hospitals can turn middle-class families into virtual paupers. In government hospitals, it is a no-win choice anyway. There aren't enough life-support machines compared to the number of patients who need them. Besides, even passive "masterly inactivity" is never considered an option in such hospitals. "Even if the relatives insist, we never opt for it," says AIIMS Director Dr P.K. Dave. "A team of doctors should be constituted to take this decision backed by legal provisions. Euthanasia cannot be an arbitrary, on-the-spot decision," he adds.

**F**EARS of misuse add to the complexities of the right to die. Doctors, relatives, even a patient bent upon committing suicide could abuse the right. A wrong diagnosis or a distortion of the truth could make a patient opt for death. Ethically, mercy killing would be unforgivable if the patient did not want to die but his relatives or doctors chose to let him.

Most pro-euthanasia Indian doctors say that a team with a primary physician, a critical care doctor, a mental health expert and a neurologist should be constituted in every hospital to take decisions on euthanasia. Dave, who favours this idea, also suggests a public debate that involves the opinions of legal experts, sociologists, psychologists, doctors and ordinary people. Bonarji's son-in-law Anup Bhambhani, who is a lawyer, agrees, saying that to make it crime-proof, a mercy killing decision taken by a team of doctors should also have the imprimatur (seal of approval) of a judicial authority.

Following the landmark decisions by the Dutch and British courts, there is bound to be an increase in appeals to Indian courts on euthanasia. The country's legal circles will have to prepare themselves to vigorously debate the issue. Till then, however, the absence of the last right may not allow doctors to rest in peace. ■

## WHERE THE WORLD STANDS ON THE RIGHT TO DIE

### INDIA

Euthanasia is illegal. Though it is prevalent, passive mercy killing by turning off life-support systems can attract charges of murder and is punishable under Section 302 of the Indian Penal Code.

### NETHERLANDS

The Dutch Parliament legalised euthanasia on April 1, making the Netherlands the only country in the world with such a law. However, euthanasia has been practised in the country for almost two decades.

### UNITED STATES

Oregon is the only US state and the first in the world to legalise euthanasia. Passed in 1997, the Death with Dignity Act enables patients to administer lethal injections themselves. 43 US states deem euthanasia illegal, six others have no laws on it.

### AUSTRALIA

A bill legalising euthanasia was approved in the Northern Territory in 1995. It came into effect in 1996 as the Rights of the Terminally Ill. The law was, however, overturned by the Australian Parliament in 1997.

### SWITZERLAND

Euthanasia is illegal. But if suicide is assisted without any motives, the deed is not punishable. EXIT, the Society for Humane Dying, aids people who want to die in accordance with the law and the group's own preconditions.

### COLOMBIA

In 1997, Colombia's Constitutional Court reaffirmed that doctors would not be held criminally responsible if they followed a terminally ill patient's request for euthanasia.

### BRITAIN

Euthanasia is illegal. But recently, a landmark high court ruling granted a 43-year-old woman, who was paralysed from the neck downwards, the right to ask for her ventilator support to be taken off.