

Review of: "Conscientious objection to enforcing living wills: A conflict between beneficence and autonomy and a solution from Indian philosophy"

Dorothee Lulé¹

¹ Universität Ulm

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The authors provide a fascinating manuscript on the dilemma in medicine of balancing autonomy and non-maleficence in the face of living wills. They use a case from the COVID pandemic to exemplify the specificities of Indian culture regarding this potential conflict. Overall, it is a highly important issue, and the authors provide a wonderful insight into Indian philosophy. However, I would like to suggest some modifications to facilitate a better understanding for the international reader of the text.

Firstly, it is important to understand that some issues the authors address, are general considerations in medical care, and some issues are specific to Indian culture. For example, finding a balance between autonomy, non-maleficence, beneficence, and justice should be the universal code for medical practice worldwide. However, in some cultures, e.g., in the Netherlands and Germany, the living will is legally binding, and to not fulfill the living will means that the doctor is potentially sued for forcing a patient into any kind of treatment. So the question of swadharma is not to be primarily considered in these countries. Further, the authors state that "the principles of beneficence and non-maleficence weigh higher than the principle of autonomy", which is also not universally true. Finally, the Hippocratic oath is not universally accepted, and there is more than one interpretation. Most doctors don't do the Hippocratic oath anymore. There are different versions of the oath available, some of them providing different pathways for the non-maleficent aspect: "Practice two things in your dealings with disease: either help or do not harm the patient", which would also command the implementation of the living will.

With this respect, as the medical case is embedded in Indian philosophy, it might be suggested to start the text with general issues that are universal, e.g. autonomy, non-maleficence, beneficence and first autonomy vs. non-maleficence, then present the medical case and explain the specificity in India due to religious beliefs and how this puts the scale of autonomy vs. non-maleficence in one or the other direction, and then finally state that these issues might be regarded differently in other countries (e.g., that the case would be treated differently in other countries in Europe).

Further, I would suggest changing some of the phrasing as some sentences are stated in a very generalized way, e.g., “Beneficence and non-maleficence have underpinned traditional medical practice, tracing back to the Hippocratic oath; giving them primacy over autonomy results in paternalism, which is prevalent in medical practice.”

“These directives are to be written by the patient after consultation with their family and physician”, should be clearly phrased as a suggestion and may also be done differently, e.g., without consultation by others.

The authors state that “the advance care directive is called the living will in India“, which is not only true for India but is a synonym.

The authors state that “giving them primacy over autonomy results in paternalism, which is prevalent in medical practice”, which is true in India and many other countries but not in others.

The authors state that “Nevertheless, there has been a recent shift towards patient-centred care”. Could the authors specify when this shift started in India?

The authors also state that “a move towards this shift has started to occur in India only recently, with the advent of digital health where patients are able to publicly rate their doctors on the internet”, which is true, but there might be many more factors that interfere with the traditional Indian philosophy, e.g., growing influence on people's beliefs in India from other, less paternalistic countries and philosophies.

It might be helpful for the reader if there is already a mention of the medical case in the abstract.

Very minor issues: It might be interesting to visualize the contradiction between Common Cause vs. Union of India with respect to this medical case in a figure.

Some sentences are too long: “In its landmark 2018 judgement in Common Cause v. Union of India, the Supreme Court of India deemed the right to die with dignity— which includes the right to a dignified life up to the end of natural life, the right to refuse medical treatment, and the right to make an advance directive or living will, and excludes the right to die

arbitrarily or at the hands of another person, and euthanasia and assisted suicide—an inalienable part of Article 21 of the Indian Constitution, and legalised advance care directives in India (Common cause vs. Union of India, 2019).”