Individuals Should Have a Legal Right to Choose Death

Assisted Suicide, 2009

Thomas A. Bowden, "After Ten Years, States Still Resist Assisted Suicide," Ayn Rand Institute, October 30, 2007. Copyright © 2007 Ayn Rand® Institute. (ARI) All rights reserved. Reproduced by permission.

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This month [October 2007] marks the tenth anniversary of Oregon's pathbreaking assisted suicide law. But despite legislative proposals in California and elsewhere, Oregon remains the only state to have provided clear procedures by which doctors can help end their dying patients' pain and suffering while protecting themselves from criminal prosecution.

For a decade now, Oregon doctors have been permitted to prescribe a lethal dose of drugs to a mentally competent, terminally ill patient who makes written and oral requests, consults two physicians, and endures a mandatory waiting period. The patient's free choice is paramount throughout this process. Neither relatives nor doctors can apply on the patient's behalf, and the patient himself administers the lethal dose.

Elsewhere in America, however, the political influence of religious conservatism has thwarted passage of similar legislation, leaving terminal patients with nothing but a macabre menu of frightening, painful, and often violent end-of-life techniques universally regarded as too inhumane for use on sick dogs or mass murderers.

Society Should Permit Assisted Suicide

Consider Percy Bridgman, the Nobel Prize-winning physicist who, at 79, was entering the final stages of terminal cancer. Wracked with pain and bereft of hope, he got a gun and somehow found courage to pull the trigger, knowing he was condemning others to the agony of discovering his bloody remains. His final note said simply: "It is not decent for society to make a man do this to himself. Probably this is the last day I will be able to do it myself."

What lawmakers must grasp is that there is no rational basis upon which the government can properly prevent any individual from choosing to end his own life. When religious conservatives enact laws to enforce the idea that their God abhors suicide, they threaten the central principle on which America was founded.

The Declaration of Independence proclaimed, for the first time in the history of nations, that each person exists as an end in himself. This basic truth—which finds political expression in the right to life, liberty, and the pursuit of happiness—means, in practical terms, that you need no one's permission to live, and that no one may forcibly obstruct your efforts to achieve your own personal happiness.

But what if happiness becomes impossible to attain? What if a dread disease, or some other calamity, drains all joy from life, leaving only misery and suffering? The right to life includes and implies the right to commit suicide. To hold otherwise—to declare that society must give you permission to kill yourself—is to contradict the right to
life at its root. If you have a duty to go on living, despite your better judgment, then your life does not belong to you, and you exist by permission, not by right.

The Right to Life Implies the Right to Death

For these reasons, each individual has the right to decide the hour of his death and to implement that solemn decision as best he can. The choice is his because the life is his. And if a doctor is willing (not forced) to assist in the suicide, based on an objective assessment of his patient's mental and physical state, the law should not stand in his way.

Religious conservatives' opposition to the Oregon approach stems from the belief that human life is a gift from the Lord, who puts us here on earth to carry out His will. Thus, the very idea of suicide is anathema, because one who "plays God" by causing his own death, or assisting in the death of another, insults his Maker and invites eternal damnation, not to mention divine retribution against the decadent society that permits such sinful behavior.

If a religious conservative contracts a terminal disease, he has a legal right to regard his own God's will as paramount, and to instruct his doctor to stand by and let him suffer, just as long as his body and mind can endure the agony, until the last bitter paroxysm carries him to the grave. But conservatives have no right to force such mindless, medieval misery upon doctors and patients who refuse to regard their precious lives as playthings of a cruel God.

Rational state legislators should regard the Oregon law's anniversary as a stinging reminder that 49 of the 50 states have failed to take meaningful steps toward recognizing and protecting an individual's unconditional right to commit suicide.

Further Readings

Books


**Periodicals**

- Jacob M. Appel "A Suicide Right for the Mentally Ill? A Swiss Case Opens a New Debate," *Hastings Center*
\begin{itemize}
  \item Carol Davis "Live and Let Go," \textit{Nursing Standard}, October 26, 2005.
  \item Mary A. Fischer "To Live or to Die," \textit{Reader's Digest}, May 2003.
  \item Nancy Harvey "Dying Like a Dog," \textit{Human Life Review}, Winter 2005.
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  \item Rita L. Marker "Suicide by Any Other Name," \textit{Human Life Review}, Winter 2007.
  \item Marc Mazgon-Fernandes "Death over the Counter," \textit{National Catholic Reporter}, September 23, 2005.
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Legalized Assisted Suicide May Lead to Legalized Euthanasia

Assisted Suicide, 2009


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In 1994, Oregon voters approved the Death with Dignity Act (DWDA) by a vote of 51% to 49%. It became effective in 1998, surviving court challenges and a repeal effort, to make Oregon the first state in the country to legalize physician-assisted suicide (PAS). The law allows physicians to prescribe life-ending drugs that are requested by terminally ill patients with six months or less to live. In the nine years since then, DWDA records show that 455 people have requested lethal drugs from their physician and 292 people have died from using them. The yearly numbers continue to rise, beginning with 16 deaths in 1997, increasing to 38 in 2005, and reaching 46 deaths in 2006. Although these records show that relatively few Oregonians choose to use this option, the lack of accountability and safeguards in the process have many people concerned that the numbers are not telling the whole story. In addition to that, disturbing trends appear to be developing.

For example, only 17 complications have been reported in the 292 deaths, and 16 of these were regurgitation. However, in the Netherlands, where they have had many years to work on overcoming complications in assisted suicide, serious complications are still reported. In fact, a study found that Dutch doctors feel the need to intervene (by giving lethal injections) in 18% of cases because of complications or problems. The lack of reported complications in Oregon has caused even pro-assisted suicide physicians to question the credibility of Oregon's reported data.

One of the reasons to suspect the accuracy of the data is that the prescribing physician is not required by law to be present when the drugs are taken. Since 2001, when this data was first collected, prescribing physicians had only been present at 29% of the deaths. The recording of complications is therefore dependent upon the self-report of a physician who, in most cases, was not even present, and who must rely on second-hand information or guesswork to file a report. The Oregon Department of Human Services (DHS), which collects the information, must depend on the word of the doctors for the reliability of their data and "it has no authority to investigate individual Death with Dignity cases."

What Happens to Unused Lethal Drugs?

Even more chilling is the fact that the Death with Dignity Act applies no penalties to doctors who do not report that they have prescribed lethal drugs for the purpose of suicide. This means that there is no way to know for sure how many assisted-suicide deaths may actually be occurring in Oregon. Nor is there any way to know whether the prescribed drugs are being made available to people other than the patient who requested them. Only 64% of patients who have received the prescriptions are known to have died from taking them. What becomes of all the other deadly drugs? It is possible the prescriptions have never been filled, or maybe the lethal drugs are sitting in medicine cabinets unused, but clearly there is the potential for accidents, and the law
provides very little safeguard from abuse. So far, no one has been disciplined for disregarding the safeguards that the law does provide. Complications are not investigated and likely not reported in many cases, and the reality is DHS "has no regulatory authority or resources to ensure compliance with the law."

According to the Oregon data, the majority of patients who choose assisted suicide have some type of cancer, have a median age of about 70 years, are overwhelmingly white (98-), somewhat more likely to be male (57-), have had at least a partial college education (63-), are enrolled in hospice care (86-), and die at home (93-). The most common concerns given for choosing assisted suicide are "losing autonomy" (87-), being "less able to engage in activities making life enjoyable" (87-), and "loss of dignity" (80-). (The last category was added in 2003.) No category is provided to indicate whether or not the patient might be depressed, yet all of these concerns have much to do with a patient's gloomy appraisal of life, a possible indicator of treatable depression. Still only 4-5% of patients were referred for psychiatric evaluation from 2003 to 2006, having dropped from 37% in 1999, to 13% in 2002 and reaching its lowest point of 4% in 2006. This indicates a weakening response on the part of prescribing doctors to ensure that the patient is truly capable of making such a decision.

Prescriptions from Unfamiliar Doctors

There may be a reason for this trend. One of the safeguards touted by the promoters of assisted suicide was that this decision would be made between the patient and his long-time trusted doctor. This familiar doctor would discuss all other options with the patient and would be able to evaluate the patient's true physical and psychological state. To prevent hasty decisions, the law requires a patient to make two oral requests for the lethal drugs, at least two weeks apart, before the physician can prescribe them. Yet for the past 6 years, the minimum recorded duration for a patient-physician relationship has been 1 week or less. Not only does this indicate that at least some doctors are not following the law's requirements, but with a median duration of about 12 weeks, it means that most patients are not receiving these prescriptions from a trusted doctor who knows them well.

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In fact, many physicians are unwilling to write lethal prescriptions, causing at least one HMO [health maintenance organization] to make an email plea to enlist doctors who would be willing to act as the "attending physician" for patients requesting assisted suicide. And nurses' organizations admit to sending patients to an assisted-suicide advocacy group when their own doctor does not want to participate. These patients then find a doctor through the advocacy group Compassion and Choices (formerly called Compassion in Dying, until it merged with the Hemlock Society in 2005), which sees "almost 90% of requesting Oregonians."

Not only are assisted-suicide patients becoming disengaged from their trusted doctors and relying heavily upon the aid of an assisted-suicide advocacy group, but HMO's are becoming involved in administering assisted suicide, a much cheaper option for them than paying for longer-term palliative care that would focus on alleviating a patient's pain.

It is much more cost effective and easier to let people kill themselves, and it can be rationalized as a compassionate approach. One of the primary arguments for assisted suicide is the ending of unbearable physical pain. Experience in The Netherlands, where euthanasia is legal, is revealing. Concern that pain will become unbearable is common, this being a worry in one-third or more of such patients. However, the Dutch experience is that of those actually requesting euthanasia, only 5% list physical pain as their major reason, and
typically when pain is controlled they change their mind. As noted above, loss of autonomy and other psychologically "painful" concerns are the overwhelming majority of reasons given.

Acceptance of assisted suicide can lead to involuntary euthanasia of the disabled and dying, which can lead to legal euthanasia.

All in all, there are many troubling aspects of Oregon's assisted suicide law, and yet several states have tried to follow suit with nearly identical bills. California, Hawaii, Arizona, Vermont and Wisconsin have all faced assisted-suicide bills in their legislatures this year [2007], and for some of these states it has been an ongoing attempt for several years. As assisted-suit (proponents continue to lobby for this legislation, their language has evolved into less threatening-sounding terms. Rather than "physician assisted suicide," the phrase is "physician aid in dying" or PAD, so physicians now "induce PAD." In fact, the DHS has been threatened with litigation if the state continues to use the word "suicide." Other euphemisms include "patient choice," "control at end of life," "assisted death" and "death with dignity." This is all part of a program to help people think of it as a compassionate approach to death.

From Assisted Suicide to Euthanasia

Where will the Oregon experiment go from here? The Netherlands' experience has shown that acceptance of assisted suicide can lead to involuntary euthanasia of the disabled and dying, which can lead to legal euthanasia. This melds easily into illegal but accepted euthanasia of disabled and dying babies. It is then just a small baby step to legalize the infanticide of such "suffering" little ones. This is where the thinking in The Netherlands has gone in the past 30 years. As Wesley J. Smith, an anti-euthanasia advocate, author, and an attorney for the International Task Force on Euthanasia and Assisted Suicide, says about the euthanasia movement: "euthanasia and assisted suicide have gone ... from the unthinkable, to the debatable, to the justifiable, on its way to unexceptional."

We would be wise to keep a very close eye on Oregon.

Further Readings

Books


• Elizabeth Atwood Gailey *Write to Death: News Framing the Right to Die Conflict from Quinlan’s Coma to Kevorkian’s Conviction*. Westport, CT: Praeger, 2003.


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- Carol Davis "Live and Let Go," Nursing Standard, October 26, 2005.
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