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ON THE LEGALITY AND MORALITY OF PHYSICIAN-ASSISTED SUICIDE

DAVID J. BAGGETT

There is but one truly serious philosophical problem, and that is suicide. Judging whether life is or is not worth living amounts to answering the fundamental question of philosophy. — Albert Camus

In the state of Michigan, a battle is raging over the activity of Dr. Jack Kevorkian. A former pathologist, he began medically assisting suicides in 1990 to enable suffering, terminally ill patients to end their lives. In March 1993, the Michigan state legislature banned assisted suicides, a law specifically aimed at Kevorkian. What is happening in Michigan, largely inspired by the furor surrounding "Dr. Death," is a microcosm of things to come in the United States. The scenario in Michigan concerning physician-assisted suicide (PAS) or medicide is not new, but has been fanning the flames of the debate elsewhere over this practice, a debate that will undoubtedly in time take on national and international proportions. The Hemlock Society, which promotes the legalization of PAS for the terminally ill, has upwards of 50,000 members, and recently two states voted down "right to die" initiatives by only narrow margins.¹

More and more people are coming to believe that it is their right to end their lives when they wish by this intentional means. If assistance from a doctor is required, the doctor should not be punished. PAS, so the argument goes, should not be legally banned. Those who oppose the legalization of PAS and thereby support the banning of it, on the other hand, claim that the state would make a

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mistake if it does not take a stand against it, and inaction would establish a dangerous precedent by essentially sanctioning the deliberate taking of life.

PAS obviously transcends the scope of Kevorkian and his lawyer, Geoffrey Fieger. A more thorough treatment would engage the more thoughtful Dr. Timothy Quill, author of *Death and Dignity: Making Choices and Taking Charge*. However, since Kevorkian and Fieger represent such central figures in this emerging debate, it is instructive to take them as somewhat paradigmatic of this movement. Kevorkian sees himself as the leading proponent of an important historical revolution, in which the taboo surrounding death will finally be removed.

He has apparently received numerous requests for assistance. He screens out many of them, ostensibly considering only those which meet the following criteria: the patient must be suffering from a fatal or irremediable condition from which he or she will never recover, the patient's family must entirely agree, the patient's medical condition must be verifiable by Kevorkian, a psychological consultation when appropriate and the patient must never waver.

In an effort to explore a few of the relevant issues involved in this admittedly morally ambiguous question, let us critically examine a representative argument in favor of PAS, which typically goes something like this: People have the right to end their own lives, and to enlist medical professionals to help, when pain becomes too great to bear and life's quality is thereby reduced to an unconscionable level. Those, myself included, who would deny this right are, according to Fieger, religiously motivated fanatics who simply wish to impose their provincial views on others. Three important issues raised by this stance of PAS supporters are the following: What should be thought of those religiously motivated opponents of PAS? Is it truly people's right to end their lives when they wish with a doctor's assistance? And is the rationale of reducing pain sufficient basis on which to risk legalization of PAS?

RELIGIOUS BIAS

What should be thought of religiously motivated opponents of PAS? A large number of the most vocal opponents of PAS are, at some level, religiously motivated. Among supporters of PAS there has been a concerted effort to capitalize on the religious nature of this resistance. Among the likes of Fieger is a conscious and deliberate attempt to portray the opponents of PAS as zealous religionists far to the political right of mainstream America. These fanatical reactionaries, the argument goes, though unwilling themselves to change, are exceedingly willing to impose their narrow views on others. At the most elementary and obvious level, this effort is an example of the logical fallacy *argumentum ad hominem*, which assumes that discrediting a person thereby discredits his or her arguments.

A more legitimate critique of religious motives questions their value in a pluralistic society. In an age when the wall of separation between church and state is assiduously maintained, and when the need for tolerance and openness to a broad spectrum of ideas is emphasized, religion has taken on a pejorative tone in public discourse. The trend is toward increasingly permissive legislation, including the legalization of PAS, and personal choice seems to be the dictated conclusion of any social issue involving

religious conviction. All it takes for an issue to be decided on the basis of personal choice is the characterization of the debate as religious in character, at which point it is automatically assumed that nothing more needs to be said. If classical theism or traditional religion is involved, then the question is answered: personal choice has priority.²

Certainly this debate entails more than religious considerations alone. Relevant to this debate, for instance, are agreed upon nonreligious standards to test consequences. But this debate remains in need of being informed by religion. An issue like PAS or euthanasia requires societies to decide on a collective moral vision. Christians in this society have always been passionate players in that process, and those of every creed must continue to be involved and included. Unfortunately, this culture is quickly forfeiting its intellectual capacity to acknowledge the relevance of transcendent and religiously based normative moral codes to public discourse. Richard John Neuhaus, one of today's foremost authorities on religion in contemporary society, stresses that laws, to retain legitimacy, must be seen to be coherently connected with basic presuppositions about right and wrong, good and evil.³ He warns that morality becomes mere sentimentality when its religious foundations and theological underpinnings are lost, but recently we have too often uncritically assumed that religiously based moral concerns can no longer be binding on our public ethic.⁴ While that has taken place, the resultant moral void has simply been dogmatically filled in with other moral postulates as greedy for transcendence as anything religion can muster. The public square detests a moral vacuum.

Society's uncritical relegation of religion to a place of irrelevance is having numerous harmful consequences, and those who argue that religious conviction ought to be a disqualification from the public debate are laboring under fundamental misunderstandings. This bias against religion will not only sustain the dichotomy between the institutions of church and state, but will drive a wedge between the laws of the land and religiously rooted moral values. Whenever this happens, potentially positive legislation and constructive influence can be lost simply because they are construed as too suggestive of religion. Imagine the result if Dietrich Bonhoeffer's opposition to Hitler, Martin Luther King's battle for equal rights or William Wilberforce's fight against slavery had been silenced and consigned to irrelevance just because they were in part spurred by religious conviction.

If the attempt to portray PAS as a *legal* debate with no room for religion is one attempt to silence religious resistance to PAS, another attempt is to portray the debate as a *scientific* and *medical* matter. Dr. Kevorkian has said that he will "do what a doctor should do: alleviate the suffering of the human being in front of me if it's justified medically." Notice that the alleged basis for his actions is *medical*, not *moral*. His lawyer has similarly asserted that it is inappropriate to "inject a matter of faith with a purely medical and scientific issue." The clear implication is that this debate is a medical and scientific debate alone with no room for religion, faith claims or traditional morality.

This is confused thinking. By its nature, science alone is not equipped to handle moral, philosophical or metaphysical inquiry. The debate over PAS involves these very questions. The insistence that science alone answer the moral questions about

PAS assumes a mistaken view of what science does. Science deals with the empirically verifiable and quantifiably measurable, not normative and prescriptive questions of ethics. Whether anything exists outside science's necessarily truncated vision is not a question it can answer, nor one it should be expected to answer. The evidence that science offers concerning our ultimate questions, such as detectable patterns of regularity or the auspicious conditions for human life, is necessarily ambiguous and inconclusive.

Arguing that theological considerations be bracketed out of this debate is simply naive at best, patently dishonest at worst. Doctors should not be the only ones doing medical ethics. Their insights and facts are crucial, but without religious convictions, logical distinctions and ethical discussions, the prior philosophical and theological assumptions of doctors may be advanced dogmatically in the name of science and uncritically accepted. That includes Dr. Kevorkian, who hastens to give primacy to his own "scientific" moral ideals and expects the laws to live up to those standards, while those with a "religious" moral vision are supposed to keep quiet and, preferably, out of the public debate.

Likewise, Howard Simon, executive director of the American Civil Liberties Union, concurs with Kevorkian when he claims that opposition to legalizing PAS on theological grounds is illegitimate. Certainly, however, Simon must be aware of his own guiding truth claims and ideological biases, such as when he claims, echoing Kevorkian's sentiments, that "the right to control our own lives...belongs to each of us" and "it is my life and the decision should be mine." These are ambitious theological assertions in their own right, as are any fundamental presuppositions which incline us toward one side of this debate or the other. Simply because his propositions reflect a "secularistic theology," as it were, does not exempt them from scrutiny. And just because the assumptions of some are fueled by religious conviction and tempered by traditional morality does not mean they ought to be decried.

As a society we are fast losing our language for moral discourse. And by ruling out of court as irrelevant any religious morality, a great historical source of our public ethos in this country, we are now more and more refusing to contend with the complexities of ethical conundrums. The probable basis on which an issue like PAS will eventually be decided will be very narrow, and it will likely be this: PAS safeguards our rights, while a law against it would reduce our freedoms. Is that the extent of collective moral imagination and discussion of which this culture is capable?

RIGHT TO DIE

In the fall of 1993, my father suffered and died from an acute case of lymphoblastic leukemia. In his final weeks, his condition deteriorated daily. The final two weeks rendered him unconscious much of the time, delirious and disoriented from the cumulative effect of chemotherapy, internal hemorrhaging, the cancer itself and the several medications being administered. When his time of death arrived, the family had already done much of their mourning. Seeing him dying like that seemed worse than the actual death itself.

My father's suffering could have been worse. It certainly could have been better,

but it could have been substantially worse in terms of intensity and duration. As my father suffered and my family suffered along with him, I thought about physician-assisted suicide at times. I was not giving it serious consideration in this case, but was attempting to understand its appeal in the lives of those who have had to endure prolonged periods of suffering. It is not difficult to see why a relatively painless and immediate death can seem so much better than continuing in horrendous pain (though modern palliatives make such cases rare).

But I hesitate affirming a legislative sanction of physician-assisted suicide. Among my reservations is a serious concern over the way rights language has been employed in this debate, sometimes clouding the issues considerably and avoiding important questions altogether. In this section I would like to discuss this rights language in moral discourse generally and in the PAS debate particularly, pointing out a few of the limitations, assumptions, and implications of its common usage.

Supporters of PAS submit that it protects the "right to die" of human beings. The point they are stressing is people's right to die when they *choose* to die. Expressed less euphemistically, those like Kevorkian and Fieger are asserting people's right to kill themselves and to enlist others' help when required. It is not simply the negative right of refusing life-preserving treatment, but the positive, legislatively sanctioned right of officially assisted suicide. That people have the right to commit suicide, even with the help of a licensed health care professional, is becoming an accepted moral postulate, increasingly treated as a self-evident proposition, within the conventional wisdom and reigning "plausibility structures" of this culture. It is usually stated dogmatically, thereby begging a most important question of this debate: Is suicide our right, and does it include the right to enlist the assistance of others?

The assumption that moral debates can be reduced to the level of rights is widespread, a trend concerning which I hold some reservations. I should therefore quickly preface this discussion by stressing that I am not yet convinced of the validity and soundness of the arguments in favor of conducting moral dialogue exclusively (or even primarily) in rights language. Such discourse typically assumes that the world is constituted under adversarial power structures and attempts to construct an individualistic approach to ethics, while yielding conclusions far-reaching and communal in scope. Rights do not exist in a vacuum, not even private rights, for to assert a right is also to impose an obligation on our society to provide means for the exercise of that right. Rather than reinforcing individualism when a private right is societally affirmed, that society incurs upon itself at the moment of legislation the obligation to provide the suitable means for its citizens to enjoy that right.

That the question of rights has generally come to be seen as the legitimate focus of the PAS debate is undeniable, however. Interestingly, both sides of the debate often employ rights language. The Hemlock Society, which promotes the legalization of PAS for the terminally ill, speaks of a "right to die," while their strongest opponents are typically self-avowed "right to life" proponents. The present ban against PAS in my home state of Michigan was temporarily repealed when Judge Cynthia Stephens decided that "the right of self-determination includes the right to choose to cease living." By some estimates, about eighty percent of the population of the state of

Michigan believe that human beings possess a "right to die" and that legislation sanctioning PAS ought to be adopted. This figure is usually reflected among my philosophy students at the university where I teach, with about four out of five initially affirming PAS because "that's our right."

An important reason why one's right to die is often uncritically accepted today is this society's cultural climate. It is a culture averse to imposition. Since anything that smacks of imposition is anathema, the banning of PAS has an inherent strike against it from the outset. By its nature, it is a nonpermissive law and is thus characterized by its opponents as an imposition of religious values and an infringement of rights. Within our contemporary moral context, where primacy is often given to individual and private rights, it is small wonder that PAS is finding an increasingly receptive audience. Considered carefully, this cultural climate offers little reason to assume that suicide is indeed our right. It certainly helps explain why rhetoric appealing to rights language in the PAS debate is effective persuasion for so many, but the prior question of whether suicide is indeed a right has still not been answered.

The swelling popular conviction that suicide is a right has usually resulted less from good reasons and logical arguments than from a brute assumption being absorbed into the working mentality of our culture. When pressed, one reason that may be offered for such a right is that suicide as an option is an implication of human freedom. We possess a free will with which we can justifiably make our own decisions about our lives, it is argued. This rationale, though, is clearly inadequate, confusing free will with other types of freedom, and assuming that what we can freely choose of our own volition should necessarily be politically, ethically, and legally permissible. Quite obviously that is not the case. Something which we possess the capability of doing is not thereby a right. Libertarian freedom, if it exists in the face of the challenge of determinism, implies neither political freedom nor moral license necessarily.

It may be suggested that a right to die can be gleaned from the *Karen Ann Quinlan* case and subsequent rulings which have established the right under certain circumstances to be disconnected from artificial life support systems. This procedure has come to be known as passive euthanasia, allowing death to take place naturally. Justice Scalia, in the *Nancy Beth Cruzan* decision, equated the termination of life support with ordinary suicide, collapsing any distinction between passive euthanasia and PAS. However, it does good to recall that Scalia was the only justice to do so. The assertion that denial of life-saving medical treatment by a competent patient constitutes suicide has been largely rejected logically and legally, and for good reason. Suicide involves active steps taken to induce death, while passive euthanasia affirms the causality of the underlying disease as the agency of a person's death. The Michigan ban on PAS that has been alternately legislated and struck down specifically distinguishes PAS from "withholding or withdrawing medical treatment."

Some opponents of PAS strongly support passive euthanasia for similar reasons they oppose PAS. As my father's condition worsened, the family had to make a decision regarding his "code status." As an opponent of PAS, I was also a strong voice in support of declaring my father's status "no code." That meant, in case of cardiac arrest, for instance, he would not be resuscitated. Doctors and nurses would have

made pain management and comfort care their priority, *not* the prolonging of his life at any cost. With everything else my father had experienced in recent years medically, and now with him suffering from a fatal disease, I and my family decided that it was time to draw the line in terms of how much we could reasonably expect medicine to do. PAS supporters neglect doing this, it seems, believing that a doctor's obligation is not only to prolong life and minimize pain, but to help in the taking of life when all else fails. The lesson to learn from vexing moral dilemmas introduced by too great a faith in medicine is to draw the line earlier, placing *less* trust in medicine, not to expect medicine to solve the problem that it has helped create (usually at the insistence of patients' families).

Some suggest that a right to die is presupposed in ongoing medical techniques. Such a challenge attempts to blunt distinctions between PAS and what is already accepted medical practice. In attempting to alleviate pain, doctors often administer substantial doses of analgesics and, in doing so, sometimes hasten death. One of the points of resistance to laws against PAS in the medical profession is concern that such laws may impede current medical procedures. However, a traditionally honored distinction can be upheld by means of the doctrine of *double effect*, traceable to Aquinas. This distinction points out the difference between primary and secondary effects, arguing that culpability not be extended to secondary effects unintended by our actions. Substantial doses of palliative therapies requested by patients may occasionally hasten death, but death in such cases is an inadvertent effect of the primary goal of pain relief. PAS *intentionally* induces death rather than secondarily and inadvertently effecting it, distinguishing PAS from ambitious palliative therapy.³

Suppose this suggestion: suicide is at least our *legal* right since so many states have struck down legislation making it illegal. In response, I would ask this question: Does the absence of legislation against suicide make it our right? Perhaps another important reason for not making suicide illegal other than the desire to provide its sanction is that criminal punishment is virtually ineffectual as a deterrent to suicide. In this case, another reason is obvious: there is no way to punish a successful victim of suicide! The fact that a law against suicide cannot be enforced does little to confirm suicide as our right, particularly given this culture's formal efforts to avoid suicide. If suicide has been given our blessing, why have state legislatures found it in the public interest to dissuade such behavior by funding ambitious suicide prevention programs and forbidding assisting in a suicide?

To call our presumed right to die into question almost seems a waste of time, but it happens to be that little piece of question-begging with which many opponents of PAS have to differ. This alleged right usually functions as the crucial unquestioned premise in the argument for PAS, without which the argument fails. To say "I have a right to end my life when I wish" is easy, while testing the legitimacy of such a claim becomes more involved. We are driven to foundational questions about communal responsibilities, limitations on personal rights, the significance of death and the appropriateness of suicide.

What exactly is meant by saying that we have this moral right to choose when to die? A right is something one is entitled to, that to which one has a just and proper

claim, and implies a principle of congruity and appropriateness. It is something apposite to us. The rights a society argues for thereby reveal its anthropology; the basic human, moral, legal rights a society *believes* it possesses reflect what it *thinks* of humanity. The rights people *actually* possess are dictated by the *true nature* of humanity, which may or may not be accurately reflected in what a society believes. The discussion of anthropology concerning human nature is prior to the decision about human rights, and has to take place at the level of worldview.

Representatives from a broad array of worldviews are encouraged to enter the public debate over PAS and voice their convictions and concerns. They are at liberty to convince the populace of the wisdom or compassion of PAS, or lack thereof, by the power of their ideas and cogency of their arguments. This courtesy should be extended to the spectrum of worldviews, from theists and atheists to existentialists, Kantians and humanists. The debate over PAS features an appeal to our ultimate commitments, our most basic ethical convictions and most deeply cherished values. Satisfactorily answering whether or not we as a culture wish to affirm that suicide is a basic and fundamental right requires the participation of everyone, the formation of a consensus and the clearest and best of arguments all around.

The dogma that people have the right to end their lives when they so choose presupposes a humanistic understanding, according to which human beings are the masters of their own destiny, entirely autonomous and independent. This approach should not be exempt in the public arena from the same critical scrutiny rightly aimed at all other possible worldviews. In contrast to humanists, theists often question those Homo sapien-centered assumptions, positing instead that humankind is God's *creation*, and as created beings, essentially dependent on God, they are subject to God's sovereignty. According to most theistic conceptions of humanity, no such right to commit suicide exists. Such a right would usurp God's authority, exceed the prerogatives of human freedom and violate the prohibition against murder that the Judeo-Christian ethic, for instance, teaches—an ethic that has long served to inform public discourse in this culture.

This culture *can* discard such theistic perspectives as archaic and outdated if it will; the question is whether it *should*. To assume that all traditional moral convictions are necessarily inferior to the "liberated" ethics of today is potentially the apex of arrogance, an instance of what has been called "chronological snobbery."

Unlike life, liberty and the pursuit of happiness in the Declaration of Independence, suicide is usually not touted as an unalienable right with which we have been endowed by our Creator. Kevorkian certainly would not attribute such a right to God; his worldview is succinctly put in his answer to the question of what happens to us after we die: "You rot." Assuming human rights are either intrinsic or conferred, then, that would leave the so-called right to die as a necessary part of humanity or personhood. Those who are inclined to deny such a right, on the other hand, see PAS as contrary to human nature. Theists generally assume that the wisdom of God's moral laws is evident in the way they accord with both nature in general and human nature in particular.

Those truly individualistic impulses and instincts not to be denied within us usually do not have to do with our rights so much as with our natural desire as human beings to survive. J. Gay-Williams, reflecting on euthanasia, has argued that

Every human being has a natural inclination to continue living. Our reflexes and responses fit us to fight attackers, flee wild animals, and dodge out of the way of trucks. In our daily lives we exercise the caution and care necessary to protect ourselves. Our bodies are similarly structured for survival right down to the molecular level. When we are cut, our capillaries seal shut, our blood clots, and fibrogen is produced to start the process of healing the wound. When we are invaded by bacteria, antibodies are produced to fight against the alien organisms, and their remains are swept out of the body by special cells designed for clean up work.

It is enough, I believe, to recognize that the organization of the human body and our patterns of behavioral responses make the continuation of life a natural goal. By reason alone, then, we can recognize that euthanasia sets us against our own nature.... Euthanasia involves acting as if this dual nature—inclination towards survival and awareness of this as an end—did not exist. Thus, euthanasia denies our basic human character and requires that we regard ourselves or others as something less than fully human. Euthanasia does violence to this natural goal of survival.⁶

This innate desire we have to preserve and sustain life has long been encapsulated in the Hippocratic Oath doctors take. Euthanasia and PAS violate the natural inclination people have to preserve life and safeguard society. Deep within us are a desire and sense of responsibility to heed our will to live and thereby cultivate the fabric of society rather than to militate against and undercut that through an individualistic warrant for suicide. How do proponents of PAS justify their exclusively individualistic orientation when faced with the inherent sense of social responsibility that we all feel and that most all cultures have cherished?

It suffices to say that the right to die, a crucial premise in the case for PAS, does not deserve its status as an unapproachable, unassailable verity. In fact it is but one dubious tenet among others in a worldview that claims an exalted view of humankind, but which actually leaves an ever decreasing set of safeguards in place for the innocent and most helpless of the species. Opponents of PAS seriously question whether the arena of death is one in which finite human beings exercise legitimate and exclusive autonomy. The words of Gloucester from *King Lear* still ring clear: "We must endure our going hence even as our coming hither."

SLIPPERY SLOPE

If this society decides to legalize PAS, it will institutionalize a certain rejection of the prohibition against murder by sanctioning assistance in self-murder. Such a decision will largely be based on an *act-utilitarian* ethic contending that the elements that make an act right or wrong are not the intrinsic features of the act, but the consequences of the act. Assisted self-murder will be legalized in certain cases because in those cases the ends will have been deemed to justify the means. Rather than a rule-based orientation, utilitarianism will have become the dominant ethical approach of the legislators, at least in the case of PAS. The opinion of many people is that it is

high time for this transition to take place, and for utilitarianism to be accorded its special place of honor in the formation of our public ethic.

Act-utilitarianism remains a problematic method of formulating a public ethic, however, because an exclusive regard for each action's consequences, over against general *prima facie* rights and wrongs, makes today's legislative decisions a major, not to mention laborious, guessing game. Decisions which are made to minimize suffering, given the limited knowledge and perspective we have, may turn out tomorrow to have been entirely mistaken, a notorious epistemological difficulty of utilitarianism. What goes especially unquestioned is whether the utilitarian denial of ethical norms is a prudent way in which to achieve the best of consequences.

Often overlooked is the fact that adherents of traditional rule-based ethics are usually at least as concerned with the consequences of actions as utilitarians are, sometimes more so. Although traditionalists believe in the existence of objective moral standards, they also happen to be convinced that it is the faithful following of those ethical norms, in general, by which the overall best consequences are finally secured for all concerned.⁷ According to this understanding, the deleterious consequences of an immoral action are not merely an incidental effect but a manifestation of the action's ethically deficient nature, a function or an internal component of evil, if you will. An intimate relationship thus operates between an action's intrinsic moral features and its ultimate consequences, so that certain behavior is not wrong simply because it results in hurt, but rather it often results in harm because it is actually bad. A society which institutionalizes the rejection of an inherently right moral precept or principle, or embraces a wrong one, places itself at a grave risk to reap the destructive whirlwind of consequences which will invariably flow out of that decision.⁸

This analysis can be applied to PAS in a most socially relevant fashion. On *rule-utilitarian* grounds alone, if it could be effectively argued that the legalization of PAS could and most probably would have devastating results, that alone should be a sufficient reason to ban it. Alleged rights, such as suicide, have been denied to exist in the past when they were perceived to be inherently wrong and such restrictive legislation was deemed to serve the public interest. Certain rights are also denied to exist when their probable result would be the fundamental undermining of a culture. Government has the responsibility to impose legitimate limitations on personal freedoms when necessary to safeguard the welfare of a society.

Many attempts have been made to delineate the potential harmful effects of euthanasia and PAS. These are arguments which appeal to what is called a "slippery slope." The idea behind such arguments is that once we have started down an incline, by legalizing PAS for instance, there is no putting a stop to the momentum of the resultant downward motion. Some would call such reasoning fallacious, as some appeals to slippery slope arguments against PAS undoubtedly are, some being mere "scare tactics." However, not all of them are, and the fact is that legitimate concerns exist over the kind of precedent the legalization of PAS would set.

It is far from my intention to provide an exhaustive catalogue of all the possible negative consequences of legalizing PAS. A few that others have elaborated on include the possible decline in overall medical care, the corruption of medical practice, dam-

age to patients' confidence in physicians, the prospect of PAS becoming the only feasible medical "treatment" for the poor, the making of killing increasingly acceptable and routine and the extension of PAS to include the chronically depressed or those who simply feel useless or like a burden (note the dehumanizing connotations in such labels as "useless" or "burden").

Such speculations and conjectures about worst-case scenarios after the legalization of PAS are often dismissed categorically by avid PAS supporters. However, it is they themselves who have chosen consequentialism as the most reliable route for finding the right public policy. If they are true to their principles, they should be as concerned with the potentially damaging results of legalizing PAS as anyone. Their natural rejoinder is that they endorse legalization only under clear restrictions and guidelines which would regulate the practice and minimize harmful effects or abuses.

The logic of PAS itself defies such regulation, however. For if suicide is a right intrinsic to human nature, with what substantive justification can we discourage suicide for any reason whatsoever? When human autonomy justifies PAS, as a growing portion of this society believes, then any competent person is accorded the "privilege." The lesson will be conveyed through the legalization of PAS that suicide is the proper, or at least a legitimate, response to a life subjectively and individually deemed below an acceptable quality level. Suicide could well become the epidemic result of this implicit societal teaching, and it would not be long before the integrity of the whole culture could be seriously violated. Teenagers, among whom suicide is already rampant, would essentially be issued a societal sanction to opt for suicide rather than enduring their temporal troubles. The suicide rate today among the elderly has already surpassed that of teenagers, a tragedy that would be only exacerbated by PAS.

Another portion of this culture's population considers mercy, not autonomy, to be the salient rationale for PAS, the more utilitarian oriented basis. But once we have formally substituted the importance of the quality of life as we judge it for the importance and dignity of life itself, how can we impose a limit on the logical implications and practical ramifications of such a decision? On what nonarbitrary grounds can we continue to uphold even those screening criteria of Kevorkian's? How can we withhold death from those most in need of it just because they are no longer competent to assert their wishes? Once we lift up the immediate reduction of pain or, even better, its total elimination as the supreme virtue and sublimest goal of our public ethos, does PAS become not only the privilege but the mandate? Do we not confer upon ourselves an ever-increasing responsibility to resolve pain by bringing about death? Pain is not only part of dying, it is part of living.

If PAS by nature is beyond regulation, *now* is the time for us to realize that. After medicide is characterized as a right, no reversal of course is realistic, no matter how painful the path we traverse. Any attempt to do so would simply produce an outcry of protest, just the way prohibition did or a repeal of abortion rights would today. Once legislatively affirmed and societally appropriated, rights become entrenched in our mindset and practically impossible to remove.

Precedent, the crucible of experience, shows the ease with which PAS leads to voluntary active euthanasia and, eventually, to involuntary active euthanasia, including

the physically disabled, the mentally incompetent and those too expensive to treat. In Holland, where PAS has been officially tolerated, three percent of all deaths are now directly caused by doctors. That percentage would translate into over 60,000 deaths caused annually by doctors in this country.⁹ What is more, Dutch physicians are now performing more than two times more involuntary euthanasia than voluntary, an unpalatable statistic for the empirically minded utilitarian to swallow.¹⁰ A 1991 study found that in one year more than 1,000 Dutch patients incapable of giving consent died at the hands of their doctors, demonstrating that PAS resides at the threshold of euthanasia, another terrifying slippery slope.¹¹

Former Surgeon General C. Everett Koop writes

I am convinced that in the 1930s the German medical sentiment favoring euthanasia (even before Hitler came to power) made it easier for the Nazi government to move society along that slippery slope that led to the Holocaust. The German euthanasia movement started with defective babies, then reached out to eliminate the insane, then to those suffering from senile dementia, then to patients with advanced tuberculoses, to amputees deemed of no further service to the Reich, to Gypsies, to Poles, and finally to Jews. The Holocaust was upon us.¹²

PAS essentially involves a contract between a patient and his doctor for a service to be rendered that will culminate in one party in the contract dying. Even though this may be a contract between only two people, it has become a public, communal agreement, not merely a private decision expressive of individual autonomy. It is a form of social action, asserts Daniel Callahan, the director and co-founder of the Hastings Center and author, most recently, of *The Troubled Dream of Life*. It thus functions at the heart of this culture's social ethic, the glue which holds this diverse country and democratic experiment together. If PAS is legalized, it will dramatically alter the content of our public ethos, becoming part of the social framework of the citizens left behind.

In my father's final weeks, the family pitched in to be with him around the clock, attending to his needs, changing his sheets, feeding him ice. Undoubtedly he was experiencing pain at times, sometimes severely, though usually only temporarily. My father was also forced to endure some humiliation, being utterly dependent on either family or nurses to help with uncontrolled bodily discharges, for instance. During that time, echoing through my mind was the rhetoric I had heard in favor of PAS, usually wrapped in rights language: "We have a right to die with dignity." Such language seems to imply that pain or dependence on others robs us of dignity. In contrast, though, looking at my father, I did not feel that way. Yes, my dad experienced pain, so we tried desperately to find the right pain medication to help. And he was dependent on us, even to the point of being a burden on us. But the family would not have had it any other way. We genuinely felt and believed that mutual burden-sharing was part of what being a family was all about, and part of what being communal beings was about. Our respect for our father only increased through the difficult episode; at least in *our* minds he never lacked any dignity. On the contrary, his willingness to lean on our strength and compassion demonstrated a profound depth of character and inner grace.

Did my father lack dignity in his own mind? It is difficult to say, since he was rather noncommunicative in his final weeks. This much is clear, though: suicide for him simply was not a living option. It was not a category he thought in terms of, nor was it part of his intellectual furniture. At least one reason for that was this society's social ethic, which has not yet formally projected suicide as a legitimate response to a life deemed below an acceptable quality level. I could not help but watch my dad and wonder how it might have been different had suicide already become part of the intellectual framework and moral mentality of this society. When the pain was intense and his care increased, would he have considered himself obligated to request an earlier assisted death after seeing the strain that his dying put on the family? Would he have felt so burdensome that he felt obliged to hasten his own death?

CONCLUDING THOUGHTS

Being witness to such a heartwrenching, anguishing experience as my father's death, I am reminded that to speak of issues of death, dying, and human suffering is a task that requires tremendous sensitivity and compassion. This is no mere academic exercise alone, but something vitally at the heart of the human condition, rife with human emotion and practical import. Though I sometimes fail, I attempt to tread this ground gingerly, hoping that my comments may resonate with both the intellectually honest and the emotionally sensitive, even if my readers do not entirely concur with my tentative conclusions or sympathize with my concerns.

This essay has attempted to carve out an important niche in the public debate for religiously motivated opponents of the practice of PAS, to call into question the widely assumed "right to die" of human beings and to make mention of some potential negative results of legalizing PAS. It has been my guiding premise that PAS and euthanasia are morally bankrupt and legally imprudent, and now I will offer a few additional reflections and provisional conclusions.

Rights language introduces many questions. Does such individualistic language underestimate the scope of its communal implications? Has such language extinguished categories like responsibility and virtue? Is it adequate to handle morally ambiguous cases like PAS? Does it often beg important prior questions like the prerogatives of human freedom and the essence of human nature? Does such language, as compelling as it may seem, merely skate on the surface of deeply philosophical, metaphysical, and moral issues?

The legalization of PAS would ensure that a significant shift takes place in the public attitude toward suicide. Logically, legally, and ethically, that would be the inevitable result. The ACLU, the organization fighting for PAS only with procedural safeguards in place, will be the same organization arguing tomorrow for the unconstitutionality of any safeguards they help institute today. If anyone doubts that, think for a moment how often the ACLU has helped the cause of any thoughtful regulation on abortion laws. Slippery slope arguments only constitute fallacies when the relationship between alleged causes and dramatic results is not clearly enough established. Concern over the consequences of legalizing PAS is well warranted, given the nature and content of such legislation. Regulatory guidelines would soon be seen as arbi-

trary, inviting covert evasion or blatant rejection, as the logic of PAS inexorably comes to fruition. As Christians we are being remiss when we do not express our strongest reservations about such an unwise and far-reaching law as PAS, which would be based on a relatively few truly "hard cases" that remind us that our best energies as a community are spent supporting the hospice movement, loving and supporting suffering patients and working toward even better pain control.

The laws of our democracy invariably reflect the moral convictions of the majority, whether the majority is right or wrong. If the echoes of public support for PAS reverberate into a mighty shout, the legislators are sure to hear and heed. PAS could very well become a salient feature of the social, economic, and political landscape of this society entering the twenty-first century: an expansive, decreasingly discriminatory, profit-driven enterprise offering suicide as one more "service" to be sought at a bargain. What might enhance the likelihood of this happening is Kevorkian's promise not to eat as long as he is imprisoned for breaking the new law. In effect, he argues, the state will then be assisting *his* suicide, and in that scenario he may well become something of a martyr and catalyst for the cause.

Meanwhile, the Christian Church should use its freedom to voice its concerns in a winsome and compelling manner, credibly and intelligently finding ways to influence the outcome of the public debate. Without claiming perfect discernment of God's will, we should willingly participate in discussing this dilemma, listening sensitively to those who disagree with us, becoming informed about the relevant issues to be addressed and questions to be asked and playing our own special part in the whole process. Lovers of God and humankind, committed to objective truth and normative morality, should not remain silent and uninvolved when they see their culture buy into the fleeting and misguided values of humanistic philosophy.

As the Church stresses its views on PAS, Christians should also remain insightfully aware of the need for harmony and integrity within and among all of their own various beliefs. Can Christians continue reconciling consistent opposition to PAS and euthanasia with inconsistent opposition to abortion or war? Can Christians justify opposing PAS if they support capital punishment? The earliest Christian communities were consistently "pro-life." They were pacifists who were firmly opposed to capital punishment, abortion, and suicide of any kind. Philosopher James Rachels's contention sounds reasonable that Christianity's eventual concession on issues like war and capital punishment, tempering its earlier radical stand, was but a politically expedient compromise, not something theologically and exegetically derived. Today Christians must be willing to think through their opposition to PAS, and to follow again their logic and convictions to their natural conclusions. I am convinced that the most logically and theologically consistent view for Christians opposed to the legalization of PAS is to be additionally opposed to war, capital punishment and abortion, though I know thoughtful Christians who disagree with me.

Assuming PAS is officially sanctioned here one day, then the Church will be faced with having to work on this issue more from the bottom up than from the top down, not unlike what has happened with abortion. What makes this appropriate is that being a Christian means not only that we believe rightly as individuals, but that we

have been baptized into a community with a certain set of beliefs, practices, and morals, offering an alternative ethos to that of the world. It is relatively easy to stand against the legalization of abortion or euthanasia, and even to extol the virtues of the necessary sacrifices of bringing an unwanted pregnancy to term or of living until nature takes its course. But it is much more challenging, yet arguably closer to the heart of Christ, for the Church to reach out in love to the unwed mother or the suffering patient and provide for their needs to help them cope with their situations, so in desperation they do not resort to abortion or PAS. It is not the duty of the Church simply to engage in ethical debate and to battle laws against PAS, but to reach out to the suffering and needy, offering a cup of cold water and lending a sympathetic ear, to help convey a sense of meaning and impart a will to persevere to those who feel most like giving up.¹³

Notes

1. In May 1993 the Michigan ban on assisted suicide was declared unconstitutional, largely for procedural reasons. In June 1993 that decision was reversed, restoring the ban, then subsequently reversed again. In December 1994 the Michigan State Supreme Court ruled that the ban was constitutional, and now that decision will likely be appealed to the United States Supreme Court. The state of Oregon recently became the first state to sanction a version of physician-assisted suicide, in the form of allowing doctors to give lethal prescriptions to terminally ill patients who fulfill certain criteria, such as coherently requesting such a prescription on numerous occasions.
2. In *After Christendom?* (Nashville: Abingdon Press, 1991), Stanley Hauerwas contends that the reduction of religion to the realm of the personal is a politically motivated attempt to silence the Church.
3. Richard John Neuhaus, *The Naked Public Square* (Grand Rapids: Eerdmans Publishing Co., 1984), p. 80.
4. *Ibid.*, p. 110.
5. This is why the Michigan ban distinguished PAS from pain relief. The ban does not apply to "prescribing, dispensing, or administering medications or procedures if the intent is to relieve pain or discomfort and not to cause death even if the medication or procedure may hasten or increase the risk of death." One Michigan jury untrained in medical ethics and susceptible to the emotionally manipulative techniques used by Kevorkian's lawyer rendered a heretofore unprecedented decision in this regard, in essence, to apply the doctrine of double effect to PAS. They concluded that Kevorkian's assistance was primarily not meant to induce death but provide pain relief. What this seemingly innocuous decision implies is the bizarre conclusion that a lethal poison ought to be seen as a legitimate medical palliative.
6. Thomas A. Mappes and Jane S. Zembaty, eds., *Social Ethics* (New York: McGraw-Hill Book Co., 1982), p. 50.
7. Why I say it is only *generally* the case that following the moral rule results in the best consequences and is the right thing to do is because of the undeniable existence of exceptions to the rule. After all, Rahab lied about protecting Jewish spies and was rewarded for her faith, for example. But merely acknowledging occasional exceptional or extenuating circumstances does not deny the rule. That we feel obliged to legitimate an exception—and at times categorically reject certain forms of legitimation—goes to show our commitment to the rule. But it is not a Kantian form of commitment to a rule for its own sake, allowing for no possible exceptions. As Christians, though we affirm moral absolutes, we are convinced that they somehow flow out of

God's relational nature expressed throughout His creation. We worship a personal Christ and not merely abstract Reason, and we strive to be led by the Spirit of the Lawgiver, not just the letter of the law.

8. Jerry Walls, *Hell: The Logic of Damnation* (Notre Dame: University of Notre Dame Press, 1992), p. 155. Walls argues for the moral connection between sin and human misery, writing that "to choose evil is to choose misery" and referring to the traditional Christian conviction that "it is impossible to further one's ultimate best interest by doing what is wrong, just as it is impossible to act against one's ultimate best interest by loving God and doing right."
9. C. Everett Koop and Timothy Johnson, *Let's Talk: An Honest Conversation on Critical Issues* (Grand Rapids: Zondervan, 1992), p. 54.
10. "A Reason to Die: Euthanasia Comes to Washington State," *Crisis* magazine, October 1991, p. 21.
11. "The Return of Dr. Death," *Time* magazine, May 31, 1993, p. 38.
12. Koop, *Let's Talk*, p. 46.
13. My thanks to Neil Cowling, Elton Higgs, Stuart Noell, and Jerry Walls for their invaluable help with an earlier draft of this paper.