

The euthanasia debate

No: It would damage societal values and symbols that uphold respect for human life

Margaret Somerville

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The two major reasons against euthanasia and assisted suicide are, first, that it is wrong for one human to intentionally kill another, except in self-defence. And, second, that the harms and risks of legalizing euthanasia and assisted suicide far outweigh any benefits.

(I use the word euthanasia to include assisted suicide.)

When our values were based on a shared religion, the case against euthanasia was simple: God's command was "thou shalt not kill."

In a secular society based on intense individualism, the case for euthanasia is simple: Individuals have the right to choose the manner, time and place of their death. But, in such societies the case against euthanasia is complex.

The case for euthanasia is easily made by focusing on heart-wrenching individual cases of very difficult deaths that make dramatic and compelling TV footage.

The case against euthanasia is much more difficult to present because it depends on harm to some of our most important societal values, to the important institutions of medicine and law, and to present and future generations and societies.

Euthanasia is intentionally killing another person to relieve their suffering. It is not the withdrawal or withholding of treatment that results in death, or necessary pain- and symptom-relief treatment that might shorten life, if that is the only effective treatment.

Euthanasia is not, as euthanasia advocates argue, just another option at the end of a continuum of good palliative care treatment. It is different in kind from them.

To legalize euthanasia would damage important societal values and symbols that uphold respect for human life. If euthanasia is involved, how we die cannot be just a private matter of self-determination and personal beliefs, because it involves other persons and society's approval of their actions.

Medicine and the law are the principal institutions involved in legalizing euthanasia. In a secular, pluralistic society they are responsible for maintaining the value of and respect for human life.

Euthanasia would seriously damage their capacity to do so. Paradoxically, their responsibility is much more important in a secular society than a religious one, because they are the "only game in town."

To legalize euthanasia would fundamentally change the way we understand ourselves, human life and its meaning. We create our values and find meaning in life by buying into a "shared story" -- a societal-cultural paradigm. Humans have always focused that story on the two great events of every person's life, birth and death.

In a secular society -- even more than in a religious one -- that story must encompass and protect the "human spirit." By the human spirit, I do not mean anything religious.

Rather, I mean the intangible, invisible, immeasurable reality that we need to find meaning in life and to make life worth living -- that deeply intuitive sense of relatedness or connectedness to all life, especially other people, the world, and the universe in which we live. There are two views of human life and, as a consequence, of death. One is that we are simply "gene machines." In the words of an Australian politician, when we are past our "best before" or "use by" date, we should be checked out as quickly, cheaply and efficiently as possible. That view favours euthanasia. The other view sees a mystery in human death, because it sees a mystery in human life, a view that does not require any belief in the supernatural.

One objection to legalizing euthanasia is that abuse cannot be prevented, as recent reports from the Netherlands show. And they show that once euthanasia is legalized, its availability expands. Originally, euthanasia was only available to dying adults with unrelievable suffering who were competent to give informed consent and repeatedly requested euthanasia. Recently, the Groningen protocol has extended its availability to include disabled newborn babies.

To assess the impact that legalizing euthanasia might have, in practice, on society, we must look at it in the context in which it would operate: The combination of an aging population, scarce health care resources and euthanasia would, indeed, be a lethal one.

Euthanasia advocates often argue, in support of legalizing it, that physicians are secretly carrying it out anyway. Even if that were true, it does not mean that it is right. Further, if physicians were currently ignoring the law against murder, why would they obey laws governing euthanasia? Physicians' absolute repugnance to killing people is necessary to maintaining people's and society's trust in them.

And how would legalizing euthanasia affect medical and nursing education? What impact would physician role models carrying out euthanasia have on students and young health care professionals? Would we devote time to teaching students how to administer death through lethal injection? It would be very difficult to communicate a repugnance to killing in a context of legalized euthanasia.

Health care professionals need a clear line that powerfully proves to them, their patients, and society that they do not inflict death; both their patients and the public need to know with absolute certainty -- and be able to trust -- that this is the case.

Anything that would blur the line, damage that trust, or make them less sensitive to their primary obligations to protect life is unacceptable. Legalizing euthanasia would do all of these things.

Margaret A. Somerville is the Samuel Gale Professor of Law, and a professor in the faculty of medicine, McGill University Centre for Medicine, Ethics and Law.

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Yes: Our legal system needs some common sense and a bit of humanity

Arthur Schafer

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Tony Jaworski's wife, Sophie, was dying of colon cancer. At the same time, she was suffering from Alzheimer's disease. He killed her -- stabbed her to death with a knife -- to spare her further suffering.

For this crime, the Attorney-General's Office of Manitoba was determined to send Tony Jaworski to jail for life. Neither Jaworski's motive for killing (mercy), nor his age (87) and ill health (cancer, blindness, partial deafness) softened the office's passion for severe punishment.

The Crown could have exercised its discretion to charge Jaworski with manslaughter, which gives the court discretion to tailor the punishment to fit the circumstances of the crime. Instead, it insisted on charging him with the crime of murder, which carries a mandatory sentence of life imprisonment.

Public pressure eventually forced the Crown to reduce the charge to manslaughter, and an enlightened judge recently sentenced Jaworski to time already served.

In an earlier Manitoba case, that of Bert Doerksen, the Manitoba Crown was similarly determined to obtain a criminal conviction and jail term. Bert Doerksen, 79, was charged with assisting his wife to take her own life. Susan Doerksen, 78, had been suffering for years from cancer, heart disease and crippling arthritic pain. She chose death over unremitting pain; her loving husband of 59 years, chose to assist her.

There was great public sympathy for Doerksen and charges against him were eventually dropped, but only after his own cancer advanced so far that he became unfit to stand trial. By that time, the Doerksen family had suffered an unconscionable burden, both emotional and financial.

What accounts for the Manitoba Crown's determination to imprison these two sick old men, both of whom acted from the desire to end the suffering of their beloved spouses?

Some historical background may help. Over the decades, there have been a number of mercy killings and assisted suicides in Canada. Only a dozen or so have come to court. Of this dozen, none has resulted in a jail term -- with the notable and tragic exception of Robert Latimer.

In short, elsewhere in Canada, when the motive for killing or assisted suicide is clearly merciful, juries either ignore the law by voting to acquit or the Crown exercises its discretion to reduce the charge from murder to some lesser offence, such as manslaughter or administering a noxious substance. Conviction on these lesser charges has never led to imprisonment.

In some provinces, the Crown has enough wisdom and humanity not to bring a criminal charge. So, for example, the doctor who bravely assisted Sue Rodriguez to die was never prosecuted. The A-G of British Columbia understood full well that no jury would have convicted this physician, so it would have been foolish to charge him.

Let's explore for a moment the reasons why Manitoba's A-G might be so determined to imprison loving husbands such as Tony Jaworski and Bert Doerksen.

One rationale for stern punishment is individual deterrence: Preventing the criminal from repeating his or her crime. However, in cases such as these it seems absurd to suppose that the public is in need of protection. As Queen's Bench Justice John Scurfield commented, ironically, a sentence is needed which "adequately protects the public from an 87-year-old blind man who is infirm."

Should they have been punished, instead, on retributive grounds? The vicious deserve to suffer, sure enough. But who could fail to understand the love and empathy which motivated these "killers"? Was either truly deserving of a severe punishment?

Alternatively, imprisonment might be justified on grounds of denunciation: The need to express society's abhorrence for heinous crimes. This rationale applies poorly to cases of genuine mercy killing, however, where a majority of Canadians express the view that "if I were ever dying in unrelievable pain I hope that someone would hasten my death."

The most plausible argument for punishing mercy killers would have to be general deterrence. Our old friend the slippery slope argument makes its appearance here: If we don't punish severely the Jaworskis and Doerksens of the world, the floodgates will be opened and the sick and disabled of our society will be vulnerable to lethal assault.

It sounds plausible in theory. In reality, it just isn't true. Canada has almost never punished mercy killers with imprisonment, and yet the predicted flood of merciless killings hasn't materialized. Canadian judges and juries are quite capable of distinguishing those who kill from greed or hatred from those who kill from love or mercy.

Canadian law relating to mercy killing and assisted suicide is in need of reform. Family members clearly cannot be allowed unfettered discretion to kill loved ones who are suffering; but Canadians should now be thinking seriously about the kinds of carefully regulated law reforms that have been introduced in the state of Oregon (physician assisted suicide) and in Holland (euthanasia.)

Meanwhile, until Canadian law is reformed, it makes no legal and even less moral sense for the Crown to exercise its discretion harshly against mercy killers or those who help a loved one to end his or her own life when that life is blighted by unrelievable pain and suffering.

Prof. Arthur Schafer is director of the Centre for Professional and Applied Ethics at the University of Manitoba.

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