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Killing us softly: the dangers of legalizing assisted suicide

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Abstract

This article is an overview of the problems with the legalization of assisted suicide as public policy. The disability community's opposition to assisted suicide stems in part from factors that directly impact the disability community as well as all of society. These factors include the secrecy in which assisted suicide operates today, in states where it is legal; the lack of robust oversight and the absence of investigation of abuse; the reality of who uses it; the dangerous potential of legalization to further erode the quality of the U.S. health care system; and its potential for other significant harms. Legalizing assisted suicide would augment real dangers that negate genuine choice and self-determination. In view of this reality, we explore many of the disability-related effects of assisted suicide, while also addressing the larger social context that inseparably impacts people with disabilities and the broader public. First, after addressing common misunderstandings, we examine fear and bias toward disability, and the deadly interaction of assisted suicide and our profit-driven health care system. Second, we review the practice of assisted suicide in Oregon, the first U.S. state to legalize it, and debunk the merits of the so-called Oregon model. Third and finally, we explore the ways that so-called ''narrow'' assisted suicide proposals threaten inevitable expansion.

Keywords: Assisted suicide; Physician assisted suicide; Doctor assisted suicide; Death with dignity; Aid in dying; People with disabilities; Disability; Disability rights; Terminal illness; Chronic illness; Chronic conditions

The legalization of assisted suicide[1] strikes many people, initially, as a cause to support. But upon closer inspection, there are many reasons why legalization is a serious mistake. Supporters focus on superficial issues of choice and self-determination. It is crucial to look deeper. Legalizing assisted suicide would not increase choice and self-determination, despite the assertions of its proponents. It would actually augment real dangers that negate genuine choice and control.

Because of these dangers, approximately half the states in the United States have either defeated bills to legalize assisted suicide or have passed laws explicitly banning it [1]. In many cases, the bills or referenda were defeated by an opposition coalition spanning the political spectrum from left to right.[2]

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[1] A note about terminology: The words used in this policy debate are controversial. We use the term ''assisted suicide'' because it is understood by the public and is used in the legal and medical literature. A clear, specific term is needed. ''Aid in dying'' could mean anything done to help a dying person, while ''death with dignity'' has many meanings. The politicization of this terminology is discussed below.

[2] Coalitions opposing the legalization of assisted suicide typically represent disability rights organizations, physicians and other health care workers, hospice organizations, and Catholics and other right-to-life organizations. In some cases, they also include organizations representing the Latino community, poor people, and workers. Notable opponents include the World Health Organization, American Medical Association and its state affiliates, American College of Physicians–American Society of Internal Medicine, National Hospice and Palliative Care Organization, American Cancer Society, American Geriatrics Society, many other medical organizations, and League of United Latin American Citizens (LULAC). Many prominent Democrats and liberals also oppose legalization, including Bill Clinton, Ralph Nader, and noted civil liberties journalist Nat Hentoff.

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Throughout the world, disability rights advocates and organizations are important voices in the opposition to assisted suicide.[3] The disability community's opposition is based on the dangers to people with disabilities and the devaluation of disabled peoples' lives that results from assisted suicide. Further, this opposition stems from factors that directly impact the disability community as well as all of society. These factors include the secrecy in which assisted suicide operates today, in states where it is legal; the lack of robust oversight and the absence of investigation of abuse; the reality of who uses it; the dangerous potential of legalization to further erode the quality of the U.S. health care system; and its potential for other significant harms.

In view of this reality, we address many of the disability-related effects of assisted suicide, while also encompassing the larger social context of assisted suicide that inseparably impacts people with disabilities as well as the broader public. First, after addressing common misunderstandings, we examine fear and bias toward disability, and the deadly interaction of assisted suicide and our profit-driven health care system. Second, we review the practice of assisted suicide in Oregon, the first U.S. state to legalize it, and debunk the merits of the so-called Oregon model. We examine Oregon because its law is copied in proposals through the country, including Washington State, which legalized assisted suicide last year. By detailing significant problems with Oregon's supposed safeguards, we raise some of the dangers of assisted suicide, particularly for people with depression and other psychiatric disabilities. Finally, we explore the ways that so-called ''narrow'' assisted suicide proposals threaten easy expansion. This article focuses primarily on conditions in the United States, although much of it also applies in other countries.

Few helped, many harmed: disability prejudice and the damage to society

Legal alternatives available today

The movement for the legalization of assisted suicide is driven by anecdotes of people who suffer greatly in the period before they die. But the overwhelming majority of these anecdotes describe either situations for which legal alternatives exist today or situations in which the individual would not be legally eligible for assisted suicide.

It is legal in every U.S. state for an individual to create an advance directive that requires the withdrawal of treatment under any conditions the person wishes and for a patient to refuse any treatment or to require any treatment to be withdrawn. It is legal to receive sufficient painkillers to be comfortable, and we now know this will not hasten death [3].[4] And perhaps least understood, for anyone who is dying in discomfort, it is legal in any U.S. state to receive palliative sedation, wherein the dying person is sedated so discomfort is relieved during the dying process. Thus, there is already recourse for painful deaths. These alternatives do not raise the serious difficulties of legalizing assisted suicide.

Moreover, anyone with a chronic but nonterminal illness is not eligible for assisted suicide in either Oregon or Washington State. Anyone with depression that affects his or her judgment is also ineligible. Thus, the number of people whose situations would actually be eligible for assisted suicide is extremely low, yet its harmful consequences would be significant.

Fear, bias, and prejudice against disability

Fear, bias, and prejudice against disability play a significant role in assisted suicide. Who ends up using assisted suicide? Supporters advocate its legalization by suggesting that it is needed for unrelievable pain and discomfort at the end of life. But the overwhelming majority of the people in Oregon who have reportedly used that state's assisted suicide law wanted to die not because of pain, but for reasons associated with disability, including the loss of dignity and the loss of

[3] The opposition to the legalization of assisted suicide is often mischaracterized as driven exclusively by religious conservatives, but most current opposition coalitions include many persons and organizations whose opposition is based on their progressive politics. Among those are disability rights groups. These 12 nationally prominent disability organizations have stated their opposition to the legalization of assisted suicide: American Disabled for Attendant Programs Today (ADAPT); American Association of People with Disabilities (AAPD); Association of Programs for Rural Independent Living (APRIL); Disability Rights Education and Defense Fund (DREDF); Justice For All (JFA); National Council on Disability (NCD); National Council on Independent Living (NCIL); National Spinal Cord Injury Association; Not Dead Yet (NDY); TASH; the World Association of Persons with Disabilities (WAPD); and the World Institute on Disability (WID) (updates from NDY staff in personal interview, March 26, 2003) [2]. The Disability Section of the American Public Health Association has also declared its opposition. Many state and local disability community leaders and organizations have further declared their opposition in states where assisted suicide proposals have been introduced. For example, the list for Washington State is available at http://dredf.org/assisted_suicide/Washington_Orgs_Indivs_List.pdf.

[4] According to Herbert Hendin and Kathleen Foley, "We now know that that proper use of pain medications in patients with chronic pain, as well as patients at the end of life, does not hasten death. Studies have demonstrated that dying patients who received morphine lived longer than those who did not receive morphine." Herbert Hendin is chief executive officer and medical director, Suicide Prevention International, and *Professor of Psychiatry*, New York Medical College. Kathleen Foley is *Attending Neurologist,* Memorial Sloan-Kettering Cancer Center; Professor of Neurology, Neuroscience, and Clinical Pharmacology, Weill Medical College of Cornell University; and *Medical Director*, International Palliative Care Initiative of the Open Society Institute.