

Mary Warnock

A duty to die?

Summary

Most objectors to liberalization of the law of murder to make assisted dying, in certain circumstances, lawful rely on a *slippery slope argument*: if the law is changed, with however many safeguards, it is certain to be abused. One form of the argument is examined: if people know that death on request is permissible, they will come to think that they have not only a right but a *duty to die*, and this would be an intolerable outcome. It is argued, however, that to request death and receive assistance to die from a sense of duty is not something to be abhorred. It may be a genuinely desired *good death* for someone who has lived his life, partly at least, seeking *the interest of others*.

Key words: euthanasia, assisted suicide, legalization, other-regarding motive

There are those who regard the legalization of voluntary euthanasia or assisted suicide with abhorrence, even when someone is in extreme pain or misery and repeatedly and rationally asks for help to end his life. Some base their opposition on the supposedly absolute principle that human life is sacred. This may be either a religious or a secular principle. But it is difficult to do more than simply assert it, for there are cases where it is generally held to be permissible to take human life (for instance in self-defence or in war), and allowing any exception fatally weakens the principle of absolute sanctity. So most of those who claim to rely on the principle move on to reinforce it with an empirical argument, that legalized assisted dying would inevitably be subject to abuse. Once assisted dying became lawful, so the argument goes, however narrowly the permission was circumscribed, the scope of the law would gradually become wider, and we would embark on a descent down a ‘slippery slope’ down which we would slide until people who had expressed no wish to die were being killed, because we, not they, thought their lives of no worth. Such arguments are empirical in that they rely not on a principle (though they assume the value of human life) but on the supposed consequences of introducing an enabling law. The consequences cannot be proved to follow, since they refer to a hypothetical future, but they are often said to be ‘inevitable’. However, it should be remembered that such enabling laws have been passed,



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in differing forms, in the Netherlands, in Belgium, in Switzerland, in the American state of Oregon and its neighbouring State of Washington, apparently without disastrous consequences. It should not be impossible to draft a Bill with safeguards and penalties attached to prevent its scope being widened and to block the slippery slope. In the UK, however, all attempts have so far failed and the slippery slope argument has prevailed in Parliament.

There are many different accounts of the bad consequences that would follow from an enabling law. It is argued that people will no longer trust their doctors if they know they are permitted to end their lives; it is said that if doctors are allowed to kill those they judge to live lives of no value, they will end those lives whether or not the person whose life it is has asked to be helped to die, and so the disabled will have their lives ended as well as those who have begged to be helped to die. The version of the argument that I want to examine is that if people who are ill and dependent realize that they may lawfully be helped to die they will come to believe that it is their duty to ask for death.

First, however, I want to make a preliminary point: though the four failed attempts in the UK to change the law would have permitted assisted suicide only for the terminally ill, most legislatures that permit assisted death do not insist on this condition; and it seems to me that if mercy-killing is to be permitted at all it should be allowed also for those whose illness is severe and incurable, though not terminal, and who are competent to make a request for death. After all, part of the cause of their distress is that they foresee becoming more and more helpless, and it is the slow ineluctable progress of their disease that makes them, reasonably enough, prefer death; they would commit suicide if they had means or power to do so. Patients suffering from Motor Neuron Disease, for example, foresee a time when they will no longer be able to swallow, or finally to breathe, and this they want at all costs to avoid. (1) There are other patients whose condition is not progressive but is nevertheless irreversible, and the prospect of total helplessness for the rest of their lives may determine them to ask for death. At present in the UK such cases have to come individually to court, where a decision may be taken to allow them to die. (2) In the Netherlands, though most who ask for euthanasia are terminally ill, this is not a necessary criterion for the granting of their request. The over-riding consideration is their 'unbearable suffering'. (3) In this spirit, everything I say about euthanasia or

assisted suicide should be taken to apply not only to the terminally ill, but to other competent people who meet the joint criteria of there being no cure for their condition and their suffering being acute (and not necessarily only physical but psychological suffering should be taken into account).

But we may ask why this should be. Is it not a gross oversimplification, at the very least? Let us consider various motives. The simplest case, it is true, is of a dying patient so totally taken up with excruciating pain that she can think of nothing else. She may ask to be relieved of this agony, especially if she is receiving palliative care, but the pain is still not controlled. Her motive is simply to bring the pain to an end. If those who care for her cannot lawfully accede to her request to be helped to die or killed, she may ask instead to be given terminal sedation, a drug, usually midazolam, so strong that it will grant her unconsciousness from which she will not recover. (4) This is the kind of case which in the Netherlands may lawfully lead to euthanasia, and which before the permissive law was passed in 2002 used to be morally justified on grounds of 'necessity', where the need to relieve suffering trumps the doctor's usual duty to preserve life.

However, this case may be distinguished (though not absolutely) from a case where the patient is psychologically unable to put up with the degree of dependence and with what is usually referred to as the lack of dignity to which her illness has brought her. There is a horrible intimacy about extreme illness which is itself unbearable, especially for those who all their lives have been independent and in some respects private people. They may experience pain as well, but this alone would not necessarily make them ask for assistance to die.

Thirdly, and certainly overlapping with the second motive, is that of distress for the patient's family. She may hate to see them sucked in to her suffering, their own lives disrupted and torn apart by the need to care for her, or pay for someone else to do so. This is an other-regarding motive, compared with the first two motives. But this does not entail that it is actually a desire for 'self-sacrifice'. This patient genuinely cannot bear to see the damage to the life of her family, whom she has always hitherto looked after and protected as far as possible from harm. The reversal of roles may be something she genuinely wants to bring to an end, and therefore she wants death.

Finally, and barely, if at all, distinguishable from our third motive is the strong feeling that remaining

alive in a perhaps painful and certainly pleasureless and purposeless life is an appalling waste of resources, whether her own, her family's or those of the State. Here again we have an example of an other-regarding wish, which might well be described as a wish to do what is right, or as arising out of a sense of what is fitting, in other words a sense of duty.

I would argue that in most cases a patient who repeatedly asks for assistance to die does so out of a mixture of these four motives. And if the patient is religious, there may be added the motive of longing for death as the promised union with God, or, as Socrates argued when about to drink the hemlock, as the culmination of the true philosopher's life, that has been the preparation for the release of the soul from the body. (5)

Motives, then, may be mixed; indeed I believe they usually are. But I do not understand why it should be thought wrong to seek assistance to die for other-regarding reasons, or why such reasons should entail that the patient who is motivated by them does not 'really want' to die. After all, up to this point, a person will have been admired if he really wanted to do his duty, or what he regarded as in the best interests of his family, his colleagues, his community or his country. He will have been thought well of for not always preferring his own interests to those of others. Why, then, when he has reached the end of what he may regard as his useful life may he not be allowed to do what he thinks is in the best interests of those he loves, or indeed, impersonally, of those who are expensively compelling him to stay alive? Why may not someone who has always really wanted to behave well be recognized and honoured for continuing that desire in asking for death? It is only the patient himself who can know whether or not his life is of a value to him so great that it outweighs all the other considerations. And if he has decided that life as he now lives it has no such huge value, then it seems to me totally unwarranted to argue that he cannot really want to die. It is as if, when it comes to the end of life (or the end of useful life) suddenly other-regarding or unselfish motives cannot really exist, their expression a pretence or the result of coercion. This seems to me a derogatory belief, diminishing both the rationality and the virtue of the person whose death is in question. For someone who has lived all his life valuing what contribution he has been able to make to the welfare of his family or the wider community, valuing equally the efforts he has made not to be a burden to others, demanding as little as possible

for himself, it is the negation of the whole tenor of his life if at the end of it he is denied the right to put others before himself. This is what he really wants. It is not hypocrisy, but consistency with his own values.

Euthanasia, a good death in the literal sense, should be the rounding off of a whole life, the last chapter of the story a rational agent tells of himself. Ronald Dworkin, in his book *Life's Dominion*, argues that it is in his biographical rather than his merely biological life that one has a 'critical interest'. It may be in a man's best interest to allow him to complete his biographical life in a way that is consistent with his values. He writes "There is no doubt that most people treat the manner of their deaths as of special symbolic importance: they want their deaths to express and in that way vividly confirm the values they believe most important to their lives". (6) For a sincerely dutiful man, a good man, a dutiful death may be the proper end to his story. The duty to die, then, should not be thought of as something dire and horrible, lying in wait at the bottom of a slippery slope down which we shall descend if we liberalize the laws of murder. It may rather regain the place of honour it held in ancient Rome. To fall on one's sword may, in some circumstances, be what one most desires; but these days one may need help to do it.

References

- (1) *Pretty v. United Kingdom* (application 2346/02) [2FLR45]. See also Hazel McHaffie *Right to Die* (a novel), Luath Press Ltd Edinburgh 2008.
- (2) *Ms. B. v. NHS Hospital Trust* [2002]2 All ER.
- (3) Select Committee of the House of Lords on Assisted Dying for the Terminally Ill Bill (House of Lords Paper no 86, 2 vols HM Stationery Office 2005, vol ii question 1285, p. 611).
- (4) For a distinction between palliative and terminal sedation see Warnock M. and MacDonald E. *Easeful Death. Is there a Case for Assisted Dying?* Oxford University Press 2008, pp. 208–212.
- (5) Plato *Phaedo*. Oxford World's Classics. Oxford University Press 1999, 65 c–d.
- (6) Dworkin R. *Life's Dominion. An Argument about Abortion, Euthanasia, and Individual Freedom*. Harper Collins 1993, pp. 208–213.