

ISSUE BRIEF

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Physician-Assisted Suicide Betrays Human Dignity and Violates Equality Before the Law

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Allowing physician-assisted suicide (PAS) would be a grave mistake for four reasons, as explained in a Heritage Foundation *Backgrounder*, “Always Care, Never Kill.”¹ First, it would endanger the weak and vulnerable. Second, it would corrupt the practice of medicine and the doctor–patient relationship. Third, it would compromise the family and intergenerational commitments. And fourth, it would betray human dignity and equality before the law. Instead of helping people to kill themselves, we should offer them appropriate medical care and human presence.

This *Issue Brief* focuses on how physician-assisted suicide violates human dignity and denies equality before the law. Every human being has intrinsic dignity and worth. For our legal system to be coherent and just, the law must respect this dignity by taking all reasonable steps to prevent the taking of innocent lives. Classifying a subgroup of people as legally eligible to be killed violates our nation’s commitment to equality before the law and shows profound disrespect for the elderly and disabled.

No natural right to physician-assisted suicide exists, and arguments for such a right are indeed incoherent. A legal system that permits assisted suicide undermines the natural right to life for all of its citizens.

Every Human Being Has Intrinsic Human Dignity and Worth

The American Creed, best articulated in the Declaration of Independence, holds it to be a self-evident truth “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” Philosophers Patrick Lee and Robert P. George explain that “every human being, of whatever age, size, or degree of development, has inherent and equal fundamental dignity and basic rights.”²

This dignity does not depend on subjective evaluations of worth, even of self-worth, or on the ability to “contribute” to society. Rather, the dignity is *intrinsic*. Human dignity is not based on an instrumental account of what a person *can do*, but on recognition of what a human being *is*: a person made for reason, freedom, and love. Lee and George explain that “a human being is valuable as a subject of rights in virtue of what he or she is.... And so a human being remains a subject of rights, someone who has a right not to be intentionally killed, for as long as he or she exists.”³

A belief in human dignity is not unique to the United States. The Universal Declaration of Human Rights begins by noting that the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”⁴ The European Convention on Human Rights also emphasizes the inalienable right to life: “Everyone’s right to life shall be protected by law. This right is one of the most important of the Convention since without the right to life it is impossible to enjoy the other rights.”⁵

This paper, in its entirety, can be found at <http://report.heritage.org/ib4405>

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The Law Must Respect Human Dignity and Equality Before the Law

Laws allowing physician-assisted suicide define which lives are unworthy of legal protection and thus eligible for physician assistance in killing.⁶ That definition is unavoidably a statement of *who is unworthy of legal protection*. There is no way around it. The attempt to define which lives are eligible for suicide is a grave injustice: It violates human dignity and equality before the law. It declares that some lives matter less than others.

That the law should protect all lives does not require that every medical procedure to extend life must be accepted. As the Supreme Court held in a unanimous decision upholding New York's prohibition on PAS, there is a significant difference between allowing someone to die of natural causes and killing him.⁷

Disability-rights groups are particularly concerned about the ways in which assisted suicide deprives disabled people of the law's equal protection. In 2009, for example, Not Dead Yet, ADAPT, the Disability Rights Education and Defense Fund, the National Council on Independent Living, and the National Spinal Cord Injury Association filed a joint amicus brief in the Montana court system in a case reviewing Montana's law on assisted suicide.

Diane Coleman, president of Not Dead Yet, summarized these arguments in an article for the *Disability and Health Journal*.⁸ Coleman explains that

the push for assisted suicide undermines the value of the lives of people with disabilities:

The primary underlying practical basis for the physician's determination that the individual is eligible for assisted suicide is the individual's disabilities and physical dependence on others for everyday needs, which is viewed as depriving them of what nondisabled people often associate with "autonomy" and "dignity," and may also lead them to feel like a "burden." This establishes grounds for physicians to treat these individuals completely differently than they would treat a physically able-bodied suicidal person.⁹

In addition to denying the intrinsic human dignity of the disabled, PAS laws violate the equal protection of the law. The law and government officials would treat suicidal disabled citizens differently from able-bodied citizens:

Not Dead Yet's central argument is that legalized assisted suicide sets up a double standard for how health care providers, government authorities, and others respond to an individual's stated wish to die. Some people get suicide prevention while others get suicide assistance, and the difference between the two groups is the health status of the individual.¹⁰

1. See Ryan T. Anderson, "Always Care, Never Kill: How Physician-Assisted Suicide Endangers the Weak, Corrupts Medicine, Compromises the Family, and Violates Human Dignity and Equality," Heritage Foundation *Backgrounder* No. 3004, March 24, 2015, <http://www.heritage.org/research/reports/2015/03/always-care-never-kill-how-physician-assisted-suicide-endangers-the-weak-corrupts-medicine-compromises-the-family-and-violates-human-dignity-and-equality>.
2. Patrick Lee and Robert P. George, *Body-Self Dualism in Contemporary Ethics and Politics* (Cambridge, U.K.: Cambridge University Press, 2008), p. 93.
3. *Ibid.*, p. 155.
4. The Universal Declaration of Human Rights, <http://www.un.org/en/documents/udhr/> (accessed February 24, 2015).
5. Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol, http://www.echr.coe.int/Documents/Collection_Convention_1950_ENG.pdf (accessed February 27, 2015).
6. See Anderson, "Always Care, Never Kill," and Ryan T. Anderson, "Purported Safeguards in Physician-Assisted Suicide Are Ripe for Abuse," Heritage Foundation *Issue Brief* No. 4374, April 7, 2015, <http://www.heritage.org/research/reports/2015/04/purported-safeguards-in-physician-assisted-suicide-are-ripe-for-abuse>.
7. *Vacco v. Quill*, 521 U.S. 793 (1997). The Supreme Court overturned a ruling of the 2nd Circuit Court that, among other things, argued that because patients could deny care resulting in their death, they should be able to have assistance in killing.
8. Diane Coleman, "Assisted Suicide Laws Create Discriminatory Double Standard for Who Gets Suicide Prevention and Who Gets Suicide Assistance: Not Dead Yet Responds to Autonomy, Inc.," *Disability and Health Journal*, Vol. 3, No. 1 (January 2010), pp. 40 and 48, [http://www.disabilityandhealthjnl.com/article/S1936-6574\(09\)00089-2/fulltext](http://www.disabilityandhealthjnl.com/article/S1936-6574(09)00089-2/fulltext) (accessed March 5, 2015).
9. *Ibid.*, p. 41.
10. *Ibid.*, p. 43.

As the joint amicus brief notes, “Assisted suicide singles out some people with disabilities, those labeled ‘terminal’ or very severely impaired, for different treatment than other suicidal people receive.”¹¹ Government policy should seek to respect the innate dignity of the disabled by eliminating every form of unjust discrimination against them, not by expressly approving the worst form of discrimination of all.

A “Right” to Physician-Assisted Suicide Is Incoherent, Grounded in Neither Nature Nor Reason

Not only does PAS violate human dignity and equality, but any supposed right to assisted suicide is incoherent, grounded neither in nature nor in reason. Dr. Kass highlights the absurdity of a “right to die”: “As the ultimate new right, grounded neither in nature nor in reason, it demonstrates the nihilistic implication of the new (‘postliberal’) doctrine of rights, rooted in the self-creating will.” Dr. Kass later adds: “If we start at the beginning, with the great philosophical teachers of natural rights, the very notion of a right to die is nonsensical.” This is partly because “the right to life is a matter of nature, not will.”¹²

Dr. Kass notes that:

We Americans hold as a self-evident truth that governments exist to secure inalienable rights, first of all, the right to self-preservation; now we are being encouraged to use government to secure a putative right of self-destruction. A “right to die” is surely strange and unprecedented, and hardly innocent.¹³

If there is a right to the pursuit of happiness, how could one argue that the pursuit of happiness could entail the elimination of the person with that right?¹⁴

The American Founders would agree with Drs. Kass, Lee, and George. They distinguished liberty from license. Liberty, they rightly understood, is self-directed action in accord with the moral law; license is self-destructive action that debases one’s community. The Founders would have little patience for an argument based on “autonomy” (what they would view as license) to commit PAS, especially as the legal allowance of such a practice would threaten other people’s right to life. Dr. Kass highlights the absurdity in terms of the philosophy of Kant:

For Kant, autonomy, which literally means “self-legislation,” requires acting in accordance with one’s true self—that is, with one’s rational will determined by a universalizable, that is, rational maxim. Being autonomous means not being a slave to instinct, impulse or whim, but rather doing as one ought, as a rational being. But “autonomy” has now come to mean “doing as you please,” compatible no less with self-indulgence than with self-control.¹⁵

Any purported right to assisted suicide is both incoherent and impossible to specify. To highlight this incoherence and lack of specificity, John Finnis reflected on the phrase “right to die”:

Where is the proposition specifying *who* has the right, to *what* acts, by *which* persons? Is it the right of terminally ill patients? (And what is terminal illness?) Or only of those who are suffering? (And what sort and degree of sufferings?) Or of all who are suffering whether or not their illness is terminal? Is it a right only to be assisted in killing oneself...? Or also that others be permitted (or perhaps under a duty) to kill me? (When I cannot do so myself? Or also when I choose?)¹⁶

11. Ibid. The brief continues: “Central to the civil rights of people with disabilities is the idea that a disabling condition does not inherently diminish one’s life; rather, surrounding barriers and prejudices do so. In contrast, assisted suicide gives official sanction to the idea that life with a disabling condition is not worth living.” Ibid., p. 44.

12. Leon R. Kass, *Life, Liberty and the Defense of Dignity: The Challenge for Bioethics* (San Francisco: Encounter Books, 2002), pp. 203, 212, and 214.

13. Ibid., p. 203.

14. Lee and George argue that “it makes no sense to hold that the fulfillment of entity is intrinsically valuable, and yet the entity itself is not.” Lee and George, *Body-Self Dualism in Contemporary Ethics and Politics*, pp. 160-161.

15. Kass, *Life, Liberty and the Defense of Dignity*, p. 216.

16. John Finnis, *The Collected Essays of John Finnis*, Vol. 3, *Human Rights and Common Good* (Oxford: Oxford University Press, 2011), p. 257.

In truth, the entire concept of a right to assisted suicide will be applied only to certain people whom government officials have classified as “eligible.” Finnis explains:

Even when you fall seriously ill, or become clinically depressed, you will find (if the reformers [i.e., those proposing bills to allow assisted suicide] are to be believed) that your right to autonomy does not give you the right to be assisted in suicide unless you are ill *enough* or suffering *enough*, or depressed severally and incurably *enough*—in each case “enough” in the view of somebody else, *other people*.¹⁷

Rather than allow the government to decide whose life is unworthy of life, it is much better to have the government respect the intrinsic dignity of every human life and thus provide for the equal protection in law of all human beings.

Conclusion: The Legal System as a Whole Must Protect Rights

Physician-assisted suicide would transform our nation’s legal system. A society that creates a right to assisted suicide will seriously compromise the natural right not to be killed. Given the various ways in which PAS will change the practice of medicine, law, and the culture, Finnis asks “which legal framework will *take...rights most seriously*.” He answers:

[T]he secular, highly experienced, and sophisticated members of the Walton Committee [House of Lords Select Committee on Medical Ethics, chaired by Lord Walton] and the New York Task Force judge that if euthanasia were legalized at all, the right *not* to be killed would be catastrophically nullified for very many more people than the few whose supposed right to die is compromised by present law.¹⁸

The right not to be killed cannot be protected effectively in a nation that allows physician-assisted suicide.

Instead of helping people to kill themselves, we should offer them appropriate medical care and human presence. We should respond to suffering with true compassion and solidarity. Doctors should help their patients to die a dignified death of natural causes, not assist in killing. Physicians are always to care, never to kill.¹⁹

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17. Ibid., p. 258. Emphasis in original.

18. Ibid., pp. 262 and 264. Emphasis in original.

19. Anderson, “Always Care, Never Kill.”