

THE ETHICS OF SIDE EFFECTS: SANCTITY OF LIFE AND DOCTRINE OF DOUBLE EFFECT AS POLITICAL RHETORIC

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ABSTRACT

This paper provides a critical theoretical examination of the moral and legal problems and possibilities associated with euthanasia and assisted suicide. The paper accepts that there are compelling moral objections to legalising intentional killing of patients by doctors, because this involves a judgment that the patient's life is no longer worth living. However, it also argues that euthanasia and assisted suicide may be nevertheless justified on the basis that it need not necessarily involve intentional killing in a moral or legal sense. The paper argues that intention is not merely a common sense concept referring to a doctor's purpose, but is rather a more complex moral concept. In many legal jurisdictions where a person commits an act knowing that it will also have fatal consequences, these are sometimes treated as intended and culpable. On the other hand, sometimes the foreseen fatal consequences of an act are treated as merely foreseen and the person is not punished. The difference between the two situations is that in the first, the actor's purpose is deemed to be unworthy of justification (e.g. where a doctor gives an elderly patient a lethal morphine overdose in order to inherit her wealth), where-as in the second it warrants justification (the morphine dose was necessary to manage the patient's pain). This paper argues that the medical care at the end of life should also be approached in this manner:

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i.e. if the doctor's primary purpose is moral in itself (i.e. he wants to alleviate the patient's suffering, to respect the patient's dignity and autonomy) then the fatal consequences of that purpose should be treated as justified, even if this means prescribing a lethal drug or administering a lethal injection. By adopting such an approach, it is possible to build a moral defence of assisted dying.

KEYWORDS: *assisted dying; euthanasia; sanctity of life; intention; autonomy; double effect.*

“Whether or not you believe that God enters into consideration, it remains true that to specify, even in the fairly broad terms of the Bill, conditions under which it would be both reasonable and legal to end your life, is to say that certain kinds of human life are not worth living.”¹

I. INTRODUCTION: THE ROLE OF POLITICS IN AN ETHICAL AND LEGAL DEBATE

Where an attempt to legalise a form of assisted dying such as euthanasia and assisted suicide fails, this failure is often attributed to a gulf between religious and humanist attitudes.² My view, however, is that it is due instead to the unwillingness of those in favour of reform to adopt an argument that can effectively stand up to the religious position. The United Kingdom, whose non-secular legislative process formally incorporates religious (Anglican Christian) views, provides an example. Lord Joffe's most recent failure in the House of Lords in May 2006 was assured when the bishops of the Church of England argued decisively against legalisation from the perspective of the sanctity of life. The above extract from the speech of the Archbishop of Canterbury in the House of Lords represents a so-far insurmountable objection to the legalisation of euthanasia in countries such as the U.K., where legalisation attempts have failed. The argument from this moral premise – that to end life intentionally violates

¹ See *Lords Hansard Text for 12 May 2006 (60512-04)*, http://www.publications.parliament.uk/pa/ld199697/ldhansrd/pdvn/lds06/text/60512-04.htm#60512-04_time0 (last visited Feb 3, 2007).

² See *Lords block Assisted Dying Bill*, BBC NEWS, <http://news.bbc.co.uk/1/hi/health/4763067.stm> (last visited Jan 23, 2007). The House of Lords voted by a majority of 48 votes to delay the Assisted Dying for the Terminally Ill Bill (to legalise assisted suicide but not euthanasia), effectively defeating it.