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## Philosophy and Theology: Reflections on Euthanasia

Christopher Kaczor

*Loyola Marymount University*, [Christopher.Kaczor@lmu.edu](mailto:Christopher.Kaczor@lmu.edu)

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## PHILOSOPHY AND THEOLOGY

Richard John Neuhaus once said that bioethicists “guide the unthinkable on its passage through the debatable on the way to becoming the justifiable until it is finally established as unexceptionable.”<sup>1</sup> The essays examined in these reflections are cases in point.

In his article “Child Euthanasia: Should We Just Not Talk about It?” Luc Bovens transforms the unthinkable into the debatable by arguing that if euthanasia is morally permissible for adults, euthanasia is also morally permissible for minors. If we accept euthanasia in one case, we should also accept it in the other. Bovens considers a number of objections to extending euthanasia to children and finds these arguments deficient.

First, the *Argument from Weightiness* holds that minors are not permitted to vote, buy cigarettes, or drink alcohol. If minors may not make these less significant choices, *a fortiori* minors should not be allowed to make the more significant choice of ending their own lives.

Bovens responds by arguing that we do already allow minors to be involved in decision making about whether to remove life support, and these decisions may lead to their own death. As he put it, “This involvement is justified on grounds of a right to determine what happens in and to one’s body, which underlies the 2002 Law on Patient Rights in Belgium and in other legislations.”<sup>2</sup> In other words, we already allow minors to kill themselves through acts of omission, so why not also allow lethal choices of commission?

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<sup>1</sup> Richard John Neuhaus, “The Return of Eugenics,” *Commentary Magazine*, April 1, 1988, 19.

<sup>2</sup> Luc Bovens, “Child Euthanasia: Should We Just Not Talk about It?,” *Journal of Medical Ethics*, e-pub March 10, 2015, doi: 10.1136/medethics-2014-102329.

Bovens's response presupposes a false equivalency between declining a treatment viewed as burdensome and killing a patient whose life is viewed as burdensome. To decline a burdensome treatment need not be an act of euthanasia by omission. Moreover, it is one thing to involve a minor patient in deliberative *consultation* about medical options, but it is a different thing to give minors the right of final *determination* of medical options. Moreover, his response does not directly answer the objection to child euthanasia: if children may authorize their own deaths, why can children not also drink vodka or shoot heroin? Drinking alcohol or taking drugs involves relatively minor harms or risk of harm when compared with the certain and more serious harm of death.

A second argument that Bovens considers is the *Argument from Capability of Discernment*. Not everyone can give informed consent, since not everyone is capable of discernment about the relevant factors making up an informed decision. Minor patients, like mentally diminished persons, cannot give informed consent for medical procedures, so they cannot give informed consent for euthanasia.

Bovens finds fault with this reasoning: "I propose that what makes a decision authoritative is (1) that the decision is responsive to reasons and (2) that the agent is the author of her decision, that is, she does not relinquish responsibility and defer the decision to others."<sup>3</sup> If a person can be responsive to reasons and self-determining, this agent can make authoritative decisions, and therefore can give informed consent. Yes, children may sometimes be, or even often be, more impulsive and emotional than adults in their style of decision making, but these decisions may still be self-determined and reason-responsive.

However, surely informed consent is more than just being responsive to reasons. Children as young as five-years-old can understand simple explanations and reasons for doing or not doing human actions. If a young child is told to clean up her toys so that she can get a treat, she may very well respond to this reason. Children are also notoriously proud of being the author of their own decisions: "I want to do it!" Given Bovens's account of what makes for informed consent, children are unjustly denied the other rights and responsibilities that come with being responsible agents, such as being arrested, charged, and punished for crimes, voting in national elections, choosing to marry, having sexual intercourse, and dropping out of school. If children can give informed consent to die, surely they may also consent to not learning how to read.

Bovens considers a third objection to euthanasia for children, the *Argument from Pressure*. Adults, including those who should be acting as guardians, may apply powerful psychological pressure in order to get children to consent to euthanasia. Parents suffer greatly when their child is seriously ill, so parents may seek to relieve their own inner turmoil by pressuring their children into euthanasia.

To this objection to child euthanasia, Bovens replies,

First, parents typically cling more to the lives of their children than adult children to the lives of their parents. Second, if medical care is socialised then a child's illness is typically less of a financial drain on a parent, whereas the cost

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<sup>3</sup> Ibid.

of a parent's care facilities chip away from an inheritance. Third, a third party might reason that the elderly have had their fair innings, whereas a child has seen so preciously little of life. For all these reasons, I would expect pressure on the elderly towards euthanasia to be greater than on minors.<sup>4</sup>

Supposing that adults may choose euthanasia, despite presumably greater pressure, euthanasia for minors is also permissible since they will likely face lesser pressure.

Bovens's reply does not cover many cases. Parent-child social dynamics vary widely. In some cases, children boss around parents. In others, parents boss around children. In many cases, Bovens will be mistaken that children face less pressure than adults. In addition, the illness of a child may or may not cause greater financial hardship than a parent's illness. The illness of an elderly person may be borne by public expense; the illness of a younger person may not. Moreover, if euthanasia is really a benefit, then a child would seem to "need" the benefit more, since *ceteris paribus* children have longer spans than adults and so would have longer to suffer. In many cases, children may face greater pressure than adults.

Bovens treats a fourth objection, the *Argument from Sensitivity*. Children are more sensitive than adults to pressure. So if equal pressure is applied, children will be more likely to comply than adults, especially children who wish to please what they take to be the desires of their parents. For this reason, children need greater protection than adults.

On Bovens's view, the *Argument from Sensitivity* also fails. If we suppose that children will receive less pressure than adults, a difference in sensitivity may not be dispositive. Moreover, this greater sensitivity may lead minors to choose not to get euthanized out of care for parents who may be traumatized by a decision for death.<sup>5</sup>

Even if we suppose that children will be subject to less pressure than adults, Bovens fails to recognize that this pressure will have a greater effect on children who are, in general, more sensitive than adults to pressure. (This presumably is part of the reason that the age of sexual consent is 18 since younger people would have much greater difficulty resisting pressure to have sexual intercourse with an older person.) The fact that this sensitivity may lead some children to choose palliative care over euthanasia does nothing to change the fact that sensitivity of other children may lead them to an otherwise unwanted euthanasia. In all other aspects of life, the greater sensitivity of children merits them greater protection. Why not also in the choice to die?

The final objection Bovens considers is the *Argument from Sufficient Palliative Care*. The sufferings of children may be adequately alleviated by palliative care, so euthanasia is not necessary in order to relieve their suffering. Why kill the patient when you can cure the patient, at least in terms of his or her suffering?

I agree with the response of Bovens on this point, namely that this argument applies to both adults and children and so is not an objection unique to the question

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<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

of euthanasia for minors. However, Bovens's response can be enhanced by noting that palliative care for the young involves special technical challenges.<sup>6</sup>

Bovens then makes a point meriting response: "Legalisation of euthanasia will provide the proper incentive structure for its opponents. They will need to make the kind of palliative care that can alleviate the suffering accessible and affordable to minors, lobby the health sector, and educate palliative care providers in hospitals and hospice care."<sup>7</sup> In other words, the legalization of euthanasia provides a powerful incentive for opponents of euthanasia to make sure that better palliative care is available, so as to reduce the numbers of people who choose euthanasia.

All people of good will agree that we should alleviate suffering. However, it is the legalization of euthanasia, not its criminalization, which hampers this shared goal. In killing patients rather than relieving pain, the practice of euthanasia detracts from the practice of palliative care. The more euthanasia is chosen, the less incentive there is to advance methods of palliative care. The more euthanasia is chosen, the less practice physicians have in relieving pain. The more euthanasia is chosen, the less palliative care is practiced. With less demand for good palliative care, there is less financial incentive for developing new methods of alleviating pain. If euthanasia is legalized, patients, families, and doctors will offer less pressure to improve palliative care because death will be seen as another available option. Most disturbingly, legalized euthanasia undermines compassion for those who suffer. Some people will say to themselves or say out loud, "Even though euthanasia is legal, this person does not choose it. If she is choosing to suffer rather than die, let her suffer. Why should I help her when she is not even helping herself?" Legalizing euthanasia endangers and undermines those at the end of life, especially those who choose not to kill themselves.

Like Bovens's article, Udo Schuklenk and Suzanne van de Vathorst's paper "Treatment-Resistant Major Depressive Disorder and Assisted Dying" seeks to expand the scope of those qualified for euthanasia. They write, "limiting access to assisted dying to people with incurable *physical* illnesses unjustly discriminates against competent people who struggle with *psychiatric* illnesses that render their lives not worth living to them and that motivate them to request assistance in dying."<sup>8</sup> If voluntary euthanasia for adults suffering from physical illness is ethically permissible, voluntary euthanasia is also permissible for adults suffering from mental illness, such as major depressive disorder. Suffering is suffering whether the cause is a physical problem or a mental problem. Persons with mental suffering would seem to have a greater need for euthanasia inasmuch as their suffering will not be ended with a rapidly approaching death (as those suffering in the final stages of illness) but they could continue to suffer for the entire length of their natural lifespan. As Schuklenk and van de Vathorst note, "The fact that they are not afflicted with an illness that will

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<sup>6</sup> Ann Goldman, "ABC of Palliative Care: Special Problems of Children," *BMJ* 316.7124 (January 3, 1998): 49–52.

<sup>7</sup> Bovens, "Child Euthanasia."

<sup>8</sup> Udo Schuklenk and Suzanne van de Vathorst, "Treatment-Resistant Major Depressive Disorder and Assisted Dying," *Journal of Medical Ethics*, e-pub May 2, 2015, doi: 10.1136/medethics-2014-102458, original emphasis.

end their lives in the short term means that they do not have a ‘natural way’ out of their continuing suffering. A patient with late-stage cancer who is denied euthanasia may die not the death she requested, but her suffering will end soon. The same cannot be said of a person suffering treatment-resistant major depressive disorder.”<sup>9</sup> Hence, mental suffering with no end in sight provides perhaps a greater justification than physical suffering in the last stages of life.

Is pain relief alone a sufficient justification for killing? Plainly it is not. No one holds that we should relieve pain against the autonomous decision of the one in pain (involuntary euthanasia). So pain relief of itself is not sufficient for justifying killing. Moreover, it is questionable whether euthanasia is properly described as “relieving suffering.” To be relieved of suffering a person must be in a position to experience the relief of suffering. But if a person is dead, then the person no longer has any bodily experiences. The dead feel neither pain nor the relief of the pain. They feel nothing bodily. Indeed, they no longer exist at all as bodily creatures.

Moreover, the view defended by Schuklenk and van de Vathorst is inherently unstable. They propose including those who endure mental and physical suffering, but they provide no reasoned justification for excluding other competent adults (or mature minors) who want to die. If competent people consider their own lives not worth living, on what basis should we exclude them from having a “right to die” just because they lack physical or mental suffering? People may consider their lives not worth living for a wide variety of reasons, such as the loss of a significant romantic relationship or frustrated life plans. Now you or I may not agree with such reasoning, but that fact is completely irrelevant at least according to a purely subjective justification of euthanasia.

Earlier in their article, Schuklenk and van de Vathorst invoke both subjective considerations like autonomy and objective considerations like irreversibility of condition and suffering. But at the end of their article, Schuklenk and van de Vathorst offer almost purely subjective criteria for justifiable killing. They write,

The following are defensible criteria that could guide those considering to regulate assisted suicide:

- The patients are competent to evaluate their current situation.
- The patients are competent to evaluate their future prospects based on the scientific evidence available at the point in time when they request assistance in dying.
- The patients’ decision is voluntary and informed.
- The patients’ quality of life is such that they do not consider it worth living, and the likelihood of improvement is exceedingly small or non-existent.
- The patients repeat their requests over a reasonable period of time.<sup>10</sup>

What these criteria omit is noteworthy. Gone is any mention of irreversibility of condition, or intractable suffering, or death approaching. Aside from mentioning that the likelihood of improvement is exceedingly small or nonexistent, autonomy and

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<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

autonomy alone does all the work. If patients are competent and informed and no longer consider their lives worth living, that is all that counts. If informed consent is all that really counts, invocations of suffering and irreversibility are diversions that serve to make euthanasia more politically palatable but serve no real role in justifying killing.

Now, perhaps we might argue that to want to kill oneself or to request death in the absence of mental or physical suffering indicates a lack of competence, a mental illness undermining the ability to give informed consent to anything, let alone killing. But to make this move is to leave the realm of the pure subjectivity and to begin to evaluate which objective reasons do justify killing and which do not. To focus on objective reasons rather than subjective preferences may undermine the possibility of informed consent for anyone to get voluntary euthanasia or assisted suicide. If objective reasons include respect for the basic goods—including human life—then we have grounds for John Keown’s new natural law objection to suicide (and by extension assisted killing).<sup>11</sup> If objective reasons include respecting all human beings as ends in themselves and never using them simply as a means, we have grounds for Immanuel Kant’s respect for humanity objection to suicide.<sup>12</sup> If objective reasons include loving self, neighbors, and God, then we have grounds for St. Thomas Aquinas’s classic natural law objection to suicide.<sup>13</sup>

What then does informed consent mean? Is it purely subjective? Or must it be objective in some sense to be truly informed? The understanding of the term described by Schuklenk and van de Vathorst is ambiguous:

Legally, competence is understood as ‘being able to review and decide about the case at hand’. Patients need to demonstrate a reasonable understanding of what it is that they request, they need to provide a persuasive justification for their request and they have to persuade three doctors independent of each other of this. Suffering from a psychiatric disease such as a depression does not automatically preclude patients from being aware of what they are experiencing and of what their future prospects are.<sup>14</sup>

The criterion of legal competence is entirely minimal, excluding all but the most psychotic of persons. On the other hand, if euthanasia is only permitted if those who request it present a “persuasive justification for their request” that convinces three doctors, then some competent people will be excluded. Why should competent people who consider their lives not worth living be excluded just because they cannot find three doctors that share their judgment? If what is decisive are people’s individual choices and views about whether their own lives are worth living in their judgment,

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<sup>11</sup> John Keown, *The Law and Ethics of Medicine: Essays on the Inviolability of Human Life* (Oxford, UK: Oxford University Press, 2012). Rather than engage his arguments, Schuklenk and van de Vathorst patronizingly refer to Keown, who holds three doctorates and an endowed chair at Georgetown University, as an “Anti-euthanasia campaigner.”

<sup>12</sup> See Immanuel Kant, *Groundwork for the Metaphysics of Morals*, 70.

<sup>13</sup> Thomas Aquinas, *Summa theologiae* II-II.64.5.

<sup>14</sup> Schuklenk and van de Vathorst, “Treatment-Resistant Major Depressive Disorder and Assisted Dying.”

why limit this and burden their choices by insisting on three doctors concurring? In any case, such limits are in practice easily evaded by well-publicized public coalitions of Dr. Kevorkian-style physicians.

Opponents of euthanasia point to the slippery slope from legalized killing for a small class of patients eventually leading to a larger and larger class of persons. With proponents of euthanasia arguing for assistance in dying for minors and depressed people, the unthinkable is now the debatable, but we can hope and work so that it never becomes the legal justifiable, let alone the unexceptionable.<sup>15</sup>

CHRISTOPHER KACZOR

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<sup>15</sup> See Neuhaus, "Return of Eugenics," 19.