New Mexico: Life, Liberty and the Pursuit of....Death

Bucking what is now a growing trend in the West for parliaments and legislatures to debate--and sometimes approve--assisted suicide laws, a court in New Mexico has issued a ruling that there is no constitutional right to aid in dying and that assisted suicide can and will lead to involuntary euthanasia.

The 5-0 ruling by the New Mexico Supreme Court overturned a lower court decision that doctors in New Mexico could assist people in terminating their lives.

The New Mexico ruling highlights the controversy sparked by these laws. Several European countries now affirm the legality of assisted suicide and/or voluntary euthanasia, including Switzerland, Belgium, Netherlands and Luxembourg. Canada recently passed an assisted suicide law and five US states--Oregon, Washington, Vermont, California and Montana--have all approved assisted suicide.

The proponents of AS state that these laws are compassionate towards those who are in the end stages of life and that AS will provide relief from terrible suffering. According to Dr. Balfour Mount, who has been dubbed the "father of palliative care," this ignores certain medical realities.

In a 2014 interview, Mount stated, "There’s no need [to legalize euthanasia] because of pain and symptom control. We’re able to control the suffering, and through palliative care with a skilled team able to minimize suffering that’s physical, psychological, social, spiritual, existential."

In his opinion, New Mexico Supreme Court Justice Edward Chavez wrote: "...end of life decisions are inherently fraught with the potential for abuse." The court’s decision highlighted three specific areas of such potential abuse. First, according to the opinion, "the State has legitimate interests in...protecting the integrity and ethics of the medical profession."

In other words, giving physicians the license to prescribe life-ending substances is a departure from the impetus of the profession and its two thousand year old caveat: "First, do no harm." Incidentally, following the passage of the California law, a non-practicing physician decided to re-enter his profession solely for the purpose of providing assisted suicide services to Californians.

Second, the New Mexico opinion asserts that the State has an interest in "protecting vulnerable groups—including the poor, the elderly, and disabled persons—from the risk of subtle coercion and undue influence in end-of-life situations, including pressures associated with the substantial financial burden of end-of-life health care costs."

According to the disability rights advocacy group, Not Dead Yet, "The disability experience is that people who are labeled "terminal," predicted to die within six months, are – or will become – disabled. It is well documented that the six month prediction called for in the Oregon and Washington laws is unreliable."

Not Dead Yet points out that disability, rather than physical pain, appears to be the deciding factor in whether or not an individual chooses assisted suicide.

"Although intractable pain has been emphasized as the primary reason for enacting assisted suicide laws, the top
five reasons Oregon doctors actually report for issuing lethal prescriptions are the “loss of autonomy” (89.9%), “less able to engage in activities” (87.4%), “loss of dignity” (83.8%), “loss of control of bodily functions” (58.7%) and “feelings of being a burden” (38.3%).” (Death With Dignity Act Annual Reports, PDF download)

The New Mexico ruling also referenced the "slippery slope" that such physician-assisted suicide laws may subtly enable. The decision asserted that the State had an interest in "protecting against voluntary or involuntary euthanasia because if physician aid in dying is a constitutional right, it must be made available to everyone, even when a duly appointed surrogate makes the decision, and even when the patient is unable to self-administer the life-ending medication."

Indeed, assisted suicide is already being utilized by those merely afflicted with ennui. Recently, a retired English schoolteacher reportedly flew to Switzerland to end her life because she could not "adjust to the modern world." An Italian woman was also reported as going to Switzerland to drink the kool aid because she was depressed about "losing her looks."

And ratcheting up concerns about the slippery slope potential, a recent article in a bioethics journal bore the headline, "Should Happy Demented People be Euthanized? The article, published in the Journal of Medical Ethics, made a serious stab at considering the legal and ethical implications of whether someone who had signed a medical directive, asking to be euthanized should he end up with dementia, should have his wishes honored if the dementia had resulted in a state of happy forgetfulness of his prior wish.

In an ironic twist, the case before the New Mexico Supreme Court was initially filed in 2012 by a woman who was suffering from uterine cancer. Aja Riggs, who has since gone into remission, has vowed to continue the legal battle for the "right to die."

As quoted in the Taos Journal, Riggs stated that: "I absolutely still believe it’s something that people should have a right to... Although I have managed to survive to see this decision, which was not necessarily expected, all of my time learning about this has only increased by feelings about how important it is for people who are terminally ill to have this option available, in addition to other options that are now legal and available."

Suicide, however, is not illegal and some believe that the codification of a "right to die" will have unforeseen culture-changing ramifications. In a recent interview with Bioedge, author and attorney Wesley J. Smith stated, "I have observed in the 15 years since the first edition of Culture of Death, that throughout the developed world and the West we see a terrible and increasing disrespect for the intrinsic value of the most weak and vulnerable among us. Euthanasia has spread like a stain and grown increasingly toxic. For example, in Belgium medicalized killing is now coupled with organ harvesting—including of the mentally ill. Health care rationing, which is blatant and invidious medical discrimination, is a growing threat. Advocacy continues to discard the dead donor rule in organ transplant medicine, even proposals for the live-harvesting of patients with profound cognitive disabilities."

Not everyone agrees. The American Civil Liberties Union of New Mexico has called the decision "tragic news" for terminally ill New Mexicans and has stated it will now devote its efforts towards changing this law.

It should be noted that while the ACLU is apparently diligently serving those who wish to die, it remains curiously silent about those who wish to live. The ACLU has been repeatedly contacted concerning the involuntary euthanasias now regularly being executed against those under adult guardianships, also elderly or disabled. To date, the ACLU has declined to involve itself in a single case involving an individual who wished to escape from a guardianship.

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