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BOOKSHELF

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By Beth Eisendrath

Many people are concerned about the right to choose how and when to die, for themselves and their elders. This book explores our changing attitudes about death throughout U.S. history, and looks to natural law to clarify the contemporary mercy killing debate.

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***A Natural Right to Die: Twenty-Three Centuries Of Debate,* by Raymond Whiting**

"The essence of natural law principles, as in-corporated into the Constitution, is that each American enjoys the right to self-ownership, which may well include the right to die as one sees fit."[1]

"Whether we are reading about the most recent exploits of Dr. Kevorkian or being admitted into a local hospital for surgery, all of us are exhorted to come to grips with our personal opinion about how we wish to be treated should the normal course of our lives be disrupted and we be faced with a life less than what we have been conditioned to believe is complete. Under such conditions, how would we react? Would we want to live, or would we want society to allow us to die?"[2]

The author theorizes that freedom to control the time and manner of dying for the terminally ill is a fundamental right with which humans are born. This idea of fundamental law laid the groundwork for such rights as the right of free speech and religious freedom.

The controversy over euthanasia is a recent phenomenon dating from about the 19th century and paralleling the development of life-extending medical technology. Whiting is informed and passionate as he chronicles the history of the right to die. He points out that part of the problem is that the term "euthanasia" does not distinguish between active and passive euthanasia. Whiting also sees that there is a spectrum between aggressive or proactive pain control, and hastening a person's death. In addition, Whiting is concerned that Americans have allowed the right-to-die debate to draw themselves away from the real issue, which is, in the United

States, euthanasia is an often-used choice.

Whiting defines passive euthanasia as "[w]hether a person facing imminent death has the right to order removal of life-sustaining procedures."[3] He argues that the state may not control life, as long as neither citizens' quality of life nor the state's character is threatened. The right to self-determination is bolstered by the addition of the right to privacy, which preserves personal issues from public or state examination, as long as others' lives are not adversely affected. For Whiting, the issue is one of personal conscience.

He goes on to define the right to active euthanasia as whether a terminally ill person may act to end his or her life. He contends that the government may regulate, but cannot regulate the means out of existence. Whiting defines assisted suicide as whether someone may ask another to end his or her life.

In an introduction that alone makes the book worth picking up, Whiting urges the reader to begin the journey at the end, in the appendix, reading interviews with a formerly comatose patient and with the man who in 1989 won a Georgia Supreme Court battle to be granted the right to turn off his ventilator with a switch connected to his wheelchair.[4] The formerly comatose patient in the other interview was unable to communicate for six months. The two interviews soften and humanize the book, which threatens sometimes to become lost in opaque theory.

Whiting begins with an exploration of changing attitudes toward death through American history. In his view,

> as religion was replaced by the modern paradigm of science, the individual gradually began to recognize increased control over his or her own destiny as well as nature itself....Death was transformed from a social process to a merely biological one. Science took a hold over the role of the family, as medical treatment became the backbone for a terminally ill patient, and the role of the family decreased from loving and sincere care to an almost obligatory support. Death was stripped of its spiritual and social quality, turned into a terminating event that was to be feared, and typhus hidden away in sterile institutions, rather than accepted and experienced within the home and in the company of one's friends and family.[5]

Whiting then moves on to a history of organizations active on both sides of the right-to-die and euthanasia debate, such as the Hemlock Society and the American Medical Association. The book also covers some major cases and events in the right-to-die movement throughout the 20th century.

The book then examines laws affecting the right to die in various states, and profiles different countries' laws having to do with the terminally ill and control over dying. Whiting also looks at the concept of natural law and the historical environment surrounding debate on the right to die. He views natural law theory as key to the development of Western political thought, tracing its origins back to the Greek Stoics, in about 300 B.C. He also notes that Thomas Jefferson relied on natural law as a core principle of the Declaration of Independence and that "natural law theory has served as one of the cornerstones for the development of social contract theory and the evolution of the theory of individual rights that played such an important role in both the American and the French revolutions."[6]

The reader becomes mired in the chapters that simply outline the history of natural law, because the author does not remind the reader that the core subject of the book is the right to die. The right-to-die debate disappears in his history of natural law, like two books on separate topics that have merged. Instead, the author might have shed light on the subject by paralleling other national dilemmas—such as the eighteenth- and nineteenth-century national argument over slavery or our present continuing discussion about abortion—with the current national debate over the right to die and euthanasia.

Near the book's end, Whiting applies his analysis of natural law theory to the contemporary right-to-die debate. He delineates the proper role of the state in limiting individual control

over the time, place, and method of terminating life. Whiting fears that if states do not pass right-to-die statutes that would allow monitoring of euthanasia and assisted suicide, anti-euthanasia laws will become impotent and obsolete, like states' laws against adultery.

The book is dense and packed with wide-ranging information. The reader experiences Whiting's world as landscape viewed through the window of a locomotive during a journey. The adventure starts out slowly, and there is time to note the landscape in detail and contemplate a progression of changing scenery. Before long, the scenes speed up, melding into one another and blurring. The viewer wishes for a slowing of the movement to have more time to contemplate and see detail and context.

Endnotes

1. RAYMOND WHITING, A NATURAL RIGHT TO DIE: TWENTY-THREE CENTURIES OF DEBATE at 10 (Greenwood Press 2002).
2. *Id.* at 171.
3. *Id.* at 155.
4. State v. McAfee, 385 S.E.2d 65 (1989).
5. WHITING, *supra* note 1, at 3.
6. *Id.* at 5.