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## **Book Reviews**

*Euthanasia, Ethics and Public Policy: An Argument Against Legalisation.*  
by John Keown, Cambridge: Cambridge University Press, 2002.xx+318  
pp. Index.

John Keown, currently Rose Fitzgerald Kennedy Professor at the Kennedy Institute of Bioethics at Georgetown University, offers a compelling, comprehensive, and clearly written argument against the legalization of euthanasia.

The work includes an Introduction, six Parts subdivided into 21 Chapters, an important Afterword, bibliography, and index. In Part I Keown gives reasons for rejecting definitions of euthanasia advocated by its champions. One limits euthanasia to the active intentional termination of life when death is judged beneficial, ignoring euthanasia by intentionally killing people by acts of omission; another conflates and regards as morally equivalent treatment omissions *intended* to bring death about and treatment omissions *foreseen* but not intended to be life-shortening. Keown properly defines euthanasia as the intentional termination of life by act or omission (a definition in harmony with the *Vatican Declaration on Euthanasia*).

Keown devotes one chapter of Part I to a defense, philosophical and jurisprudential, of the crucial moral difference between *intending* evil and merely *foreseeing* evil, a distinction crucial to the principle of double effect.

In Part II Keown first takes up three arguments for VAE and PAS and three counter-arguments. The arguments in favor are: (1) that life is not always a benefit and that it is thus justifiable to kill a patient at his request when he would be better off dead; (2) that respect for patient autonomy requires VAE and PAS; (3) that present law is hypocritical in allowing passive VAE and PAS while prohibiting active VAE and PAS.

Keown challenges these arguments by pointing out that the first is not only inconsistent with the principle of the inviolability of life but is also arbitrary and unjust in holding that only patients with arbitrarily defined abilities have a right not to be killed intentionally, that the second fails to recognize that many requests for euthanasia are not really autonomous and, more importantly, that autonomy's value lies not in making just *any* choice but choices in accord with sound moral values, and that the third clearly

leads to nonvoluntary active euthanasia (NVAE) and thus undercuts the claim that its proponents support only VAE.

The final chapter of Part II is crucial to Keown's case against legalizing VAE and PAS. He himself regards it as the centerpiece of his study, for in it he develops two forms of the "slippery slope" argument which holds that even if VAE and PAS were morally justifiable in certain hard cases (which, as he makes clear, they are not) the killing of patients could not be effectively controlled and limited to those cases.

Consequently, Keown argues, many who see nothing wrong with VAE and PAS *in principle* do not want the law to permit it *in practice* because it would likely lead to justifying NVAE. The slippery slope argument holds that if a proposal is made to accept A (e.g., VAE), which is not agreed to be morally objectionable, it would lead to B (e.g., NVAE), which is agreed to be morally objectionable.

Keown develops two forms of the argument, the empirical and the logical. The empirical holds that one will slip from VAE to NVAE because of the grave difficulty, if not impossibility, of enforcing safeguards to prevent the slide (e.g., to make sure that consent to euthanasia is truly autonomous). The logical version holds that the slide will occur because the arguments for accepting VAE and PAS logically provide arguments for accepting NVAE.

Part IV provides massive evidence, based on Keown's own research over ten years, to show that efforts in The Netherlands to restrict the killing of terminal patients to VAE have failed miserably. Keown carefully reviews empirical evidence provided primarily by two surveys carried out by P.J. van der Maas and associates on behalf of the government, one in 1990 and the other in 1995, and secondarily by research done by himself and other independent scholars, to support the conclusion. He argues that the failure of the Dutch effectively to control VAE "lends weighty support to the empirical slippery slope argument, and their growing approval of NVAE illustrates the force of the logical slippery slope argument."

Part IV considers the legalization of PAS in the Northern Territory of Australia in 1995 and by Oregon in the US in 1994 and implemented in that state in 1997. Keown shows that the experience of Australia's Northern Territory, where the law, called Rights of the Terminally Ill Act or ROTTI permitting both VAE and PAS was repealed in 1997, fully supports the validity of the slippery slope argument. The law lacked any way of systematically supervising the application of its guidelines—themselves not very precise—by medical doctors so that the possibility of effective regulation of the law was even less than it had proved to be in the Netherlands.

Keown regards the Oregon law—the Death with Dignity Act—as the most permissive regime for PAS yet devised, with even less protection

against abuse than the Dutch law or ROTTI. Empirical evidence shows that the law gives more power to doctors than to patients, its alleged safeguards against abuse are largely illusory, and that most Oregon patients seeking PAS are clinically depressed and yet are rarely referred for counseling. The Oregon experience thus also confirms the validity of the slippery slope arguments.

In Part V Keown reviews “expert” opinion on the advisability of VAE and PAS, namely, the opinion provided by (1) medical committees established by the British House of Lords, the Canadian Senate, and the State of New York, (2) supreme courts in England, Canada, and the US (considerable attention is given to the opinions in two cases — *Washington v. Gluckberg* and *Vacco, Attorney-General of New York et al. v. Quill et al* — reversing lower court decisions striking down laws prohibiting PAS), and (3) the British, Canadian, and American medical associations. All these experts vigorously oppose legalizing VAE and/or PAS.

Part VI is devoted to a detailed discussion of passive euthanasia or euthanasia by withholding/withdrawing treatment, in particular the tube feeding of severely compromised persons, and even more particularly of those alleged to be in the “persistent vegetative state.”

Keown begins this part with a presentation of the famous (or infamous) Tony Bland case in England. The reasoning in *Bland* represents a turn from an ethic respecting the inviolability of life toward a quality of life ethic, holding that some lives are of no benefit or value to the persons whose lives they are and that consequently they may be intentionally terminated by starvation and dehydration. It regards individual autonomy as demanding respect for choices simply by virtue of being choices, ignoring their object. It fully legitimates intentional killing by acts of omission while still prohibiting active euthanasia and is thus hypocritical. It is moreover rooted in a terrible misunderstanding of the traditional ethic respecting the inviolability of life, and opens the door to the killing of patients who are not in the “persistent vegetative state.”

*Bland*, in short, was bad law, but unfortunately, as Keown goes on to show in the next chapter of Part VI, it was shortly followed by the 1999 guidelines prepared by the British Medical Association regarding the withholding and withdrawing of treatments. These guidelines justify nontreatment on the grounds, not that the *treatments* are burdensome or useless, but on the grounds that the *lives* maintained by the treatments are burdensome or useless and that one can thus intentionally terminate them by purposeful omission. Keown shows how these guidelines lead to justifying the intentional killing by omission not only of patients in the “pvs” condition but also of persons severely impaired mentally. They also appear to invite doctors to assist even suicidal treatment refusals, something hard to square with the BMA opposition to PAS. The guidelines were

revised in 2001. Unfortunately, however, nothing in the revision addresses, let alone answers, criticism of the 1999 guidelines.

Keown then considers the Winterton Bill, introduced into Parliament in December 1999 by Ann Winterton, in an attempt to reverse the movement begun by *Bland* and developed by the BMA guidelines. It provided that it is unlawful to deny treatment if *the* or *a* purpose of doing so is to hasten or cause death. The BMA and British government opposed Winterton on specious grounds, as Keown shows, and the bill was withdrawn so that British law remains "in the morally and intellectually misshapen state fashioned by the Law Lords in *Bland*."

The important Afterword allows Keown to end his book on a hopeful note. It concerns the Diane Pretty Case submitted to English courts in late 2001 (after the substance of Keown's book had been written). Mrs. Pretty maintained that the European Convention on Human Rights and Fundamental Freedoms guaranteed a right to assisted suicide. Both the English Divisional Court and the House of Lords, to which Pretty appealed, unanimously dismissed her claim. Although in doing so, the House of Lords neither endorsed nor overturned *Bland*, it correctly understood the inviolability of human life principle as distinguishing between treatment omissions intended to bring death about and those merely foreseen to result in death. Moreover, the House of Lords recognized that the legal prohibition of assisted suicide was consistent with "a very broad international consensus" and that if the law were to allow assisted suicide for the "non-vulnerable" it "could not be administered fairly and in way which could command respect." The House of Lords also noted the risk of the slippery slope evident in the arguments used to support Pretty's claim. Thus this case again illustrates the cogency of the slippery slope arguments which, Keown notes, "continue to impede the decriminalization of VAE and PAS around the world."

Keown's work is written in a very clear way. Moreover, each Chapter and Part ends with a "Conclusion" in which Keown masterfully summarizes the argument he has developed. His work is rooted in sound ethical thought and is of particular value for its contribution to the jurisprudential issues raised by euthanasia and assisted suicide. It is a most welcome addition to the literature.

***Reviewed by:***  
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