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Death, Dying, and the Biological Revolution

Robert M. Veatch

Yale University Press, New Haven, Conn., 1976.

In the past few decades, we have witnessed an explosion in the sheer amount of publications on various aspects of death and dying issues. While there were many good works on the general question, few attempted to grapple realistically with the specific concrete problems of moving from ethical analysis to prescriptive suggestions for public policy. Veatch has addressed these specific questions in his most interesting, timely, and valuable book. And because of that fact, his work will be most helpful to a broad cross section of the general public, and not only to those in scholarly communities.

The general concern about the plight and possibilities of the dying person is prismatically reflected through the central issues of the personal and public dimensions of the questions on the definition of death, the dying process itself, the rights and limitations of refusing treatment, truth-telling, the usages of newly dead bodies, and natural death. Veatch carefully clarifies, distinguishes, and delineates the types of questions that one needs to ask in attempting to respond to both the personal and public aspects of decision-making on these issues. His overriding concern is the protection of personal freedom over and against technocracy, and his fundamental thesis is "that, especially in issues as basic as these, the patient must be the one who decides." (p.8) Furthermore, this skeletal thesis is fleshed out when he sets forth the themes which underline the arguments of the book. These themes highlight the importance that Veatch asserts for patient control and preservation of patient freedom, dignity, autonomy, either by the patient alone, or by his/her agent. (p. 11) In fact, respect for freedom is so central that even in the question of the very meaning of death, he asserts we may wish to give patients and their agents some choice in the individual cases, leading to a public policy where "we may have to tolerate philosophical pluralism." (p. 56)

Patient freedom, however, is not unrestricted. While Veatch agrees with the general consensus of the civil courts that one ought to have the right to refuse treatment, even when the consequence is death, the means by which death occurs has such public consequences that only "allowing to die" ought to be publicly sanctioned; never killing. Veatch acknowledges the difficulties of pinpointing the exact difference on borderline cases, but is led "to conclude that the differences between commission and omission are much more subtle than some traditions would indicate," and that "the wisdom of the common judgment is sound." (p. 93) Although there might be some exceptions to a prohibition on direct killing, "we may want active killing of dying patients to remain illegal even in those rare cases where it might be morally justified." (p. 97) In other words, for Veatch, individual exceptions ought not to become normative social policy, as there are greater risks in legalizing such actions than in continuing the legal prohibition. (p. 201)

The case for freedom and dignity of the patient is developed along a similar line when Veatch presents his reflections on truth-telling. Here too, he asserts that although there might be some exceptions to the general rule of always telling the truth, "only in extremely rare instances of overwhelmingly negative consequences can withholding be tolerated." (p. 248)

Finally, even the newly dead ought to have prior wishes respected. The respon-

sible treatment of the body by the family is not simply a right, but a responsibility to honor the deceased's wishes, fulfill commitments to them, protect the integrity of the corpse, provide a fitting removal of the body from society, and offer reasonable and responsible service to the living. (p. 260)

The author concludes his work with some reflections on the concept of natural death and public policy. This concept has only recently emerged in much of the literature. Veatch points out the ambiguity of the term "natural" and then sketches two scenarios — death as natural, and death as evil — and considers the relative merits of each. His own opinion here is that "although prolonging life and combatting natural death are goods that are part of man's responsibility in building human community" death is a relative, rather than an absolute evil. (p. 302)

This book is so well written that it is hard to find serious difficulties with it. This is due, no doubt, to the fact that much of its content has already been formally criticized by members of the Hastings Center Research Group on Death and Dying, as Veatch acknowledges in his Preface (p. viii). However, I would suggest two minor inadequacies in his treatment of the allowing to die/killing issue. First of all, although he acknowledges the importance of the development of the principle of double effect in Catholic moral thought, his major criticisms of it are taken from persons working outside that tradition. There is a vast literature with the tradition itself, both American and European, on this topic which combines a retention of the principle's best elements while shifting the emphasis in its application from exclusive concentration on "directness" to the element of proportionate reason for such actions, e.g., Richard McCormick's study of this principle in his *Ambiguity in Moral Choice* (Milwaukee: Marquette University Press, 1974). This major shift of emphasis has substantive importance for present and future discussions on allowing to die and killing. Secondly, although Veatch thinks that potential risks and abuses far outweigh the benefits of the allowance of killing of terminal patients who request active euthanasia, he has not sufficiently shown why these abuses will inevitably occur. Tightly written laws might also prevent major abuses, and allow freedom in this regard for the few cases where active euthanasia might be recommended. The case against it can not be argued on the basis of numbers requesting it alone, as the civil law does not make its judgments here simply on quantity. Otherwise, refusal of life-saving treatment would also be disallowed, as very few also follow this option. Its disallowance is operative only when a compelling state interest is clearly present, i.e., when the rights of others, immediately or remotely, are being violated. It has not been shown that these exceptional cases would seriously undermine the rights of others, or undermine respect for life generally. However difficult the task might be to build in abuse stoppers into the law, the efforts and risks are seriously worth it, if the plight of minorities — in this case the pain-ridden terminally ill — are being neglected. At any rate, more serious attention needs to be given to empirical consequences, positive and negative, of such legal changes. Only when this is done, can the whole issue be adequately presented for public debate.

In spite of these two inadequacies, Veatch's book is one of the finest, most comprehensive treatments of the issues yet published. It will be a valuable tool for scholars, students, and the general public as we work together to resolve the complexities of public policy making on death and dying issues in the future.

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