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"LIVING WITH DIGNITY WHEN DYING"

Submission to

THE QUEBEC PUBLIC CONSULTATION ON "DYING WITH DIGNITY"

by

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TABLE OF CONTENTS

INTRODUCTION

The possible content of a *consultation sur la question du droit de mourir dans la dignité* is very broad. Much could be and needs to be said in exploring it. In this submission, I will, however, largely address only the issue of euthanasia and physician-assisted suicide[1]. My reasons for doing so are that I believe these are the most important issues we face in relation to "death and dying" (which, I hasten to add, is not meant to detract from the great importance of other issues, such as access to good palliative care for all people who need it, in particular, fully adequate pain relief treatment); that what we decide in regard to them will have major impact far outside that context; and because "death with dignity" is a mantra for pro-euthanasia advocates and a code for promoting their cause.

I have researched and written on euthanasia and physician-assisted suicide for over thirty years. Much of this research and writing, up to the year 2002, is collected in my book *"Death Talk: The case against euthanasia and physician-assisted suicide"*[2], which is 433 pages in length. It's impossible, of course, to communicate to you in this submission, all the facts on the basis of which I have concluded that legalizing euthanasia or physician-assisted suicide is a bad idea and my reasons for coming to this conclusion, but many of them can be found in my book.

Rather, I'm going to assume that you have probably heard all the usual arguments for and against euthanasia, many of which are very important and prominent in this debate. I'm taking this approach, because I want to focus on some aspects that you might not otherwise have presented, or at least not from the perspectives that I will present them.

Before doing so, however, I want to point out that we need to look at the impact of legalizing euthanasia at three, and probably four, levels: The micro or individual level; the meso or institutional level; the macro or societal level; and the mega or global level.

The case for euthanasia is made almost entirely at the individual level – the right of individuals to decide how and when they will die. It focuses on rights to autonomy and self-determination and relief of suffering. While there are strong arguments against euthanasia at the individual level, in particular, realistic and valid concern about its abuse, very strong arguments against it exist at the institutional and

[1] Note: Unless the contrary is indicated, I use the term euthanasia in this text to include both euthanasia and physician-assisted suicide.

[2] Margaret Somerville, *Death Talk: The case against euthanasia and physician-assisted suicide*, McGill-Queen's University Press, 2002, Montreal, pp.433

societal levels, which, so far, have not been given the consideration they deserve[3]. To the extent that I am able, I hope to correct that omission.

1. THE DIFFICULTY OF MAKING THE CASE AGAINST EUTHANASIA

Trying to convince law students of the risks and harms of euthanasia, as an example.

The euthanasia debate in Canada and Quebec is part of a trend in western democracies of increasing activism over the last decade to legalize euthanasia and physician-assisted suicide. In short, we are not unique in needing to deal with this issue.

In Canada, we have seen private members' bills introduced in Parliament, which would amend the Criminal Code to allow a physician to "aid a person to die with dignity." And in Québec, we only have to look to these *Consultations particulières et auditions publiques en vue d'étudier la question du droit de mourir dans la dignité* of the Commission de la santé et des services sociaux in which we are participating.

So understanding the arguments both for and against these interventions is of crucial importance. But that's not necessarily easy to accomplish, if my own experience holds true more generally.

I taught a course, "Ethics, Law, Science and Society," to upper year and graduate law students at McGill, in which euthanasia and physician-assisted suicide was one of the topics we studied. As mentioned previously, I've researched euthanasia, physician-assisted suicide, the ethics and law of palliative care and pain relief treatment, decision-making at the end of life, and related topics, for nearly three decades and published a 433-page book on these topics.

Yet, I came away from the class feeling that I had completely failed to communicate to most of my students what the problems with euthanasia were -- that I was hitting a steel wall. This was not due to any ill-will on their part; rather, they seemed not to see euthanasia as raising major problems -- at least any beyond preventing its abuse -- a reaction I found very worrying.

[3] Note: Much of the following content first appeared as articles in Canadian daily newspapers, including The Globe and Mail, The Ottawa Citizen and The [Montreal] Gazette.

The one student who tried to express a contrary view, although normally very articulate, ended up by saying, "Well, it's what I believe and I guess my background has something to do with that."

My concern went beyond failing to convince my students there was, at the least, a strong case to be made against euthanasia. It included the fear that their response was likely to be true also for the wider society.

So, I e-mailed my students explaining I felt "that I had not done a good job in presenting the euthanasia debate ... [and] decided to see if I could work out why not by writing about it." I attached an early draft of an article that, with the students' permission, I hoped to publish in a newspaper and asked for comments; I received several, very thoughtful replies.

The difficulty of communicating the case against euthanasia and the ease of communicating the case for it, is a serious danger, in the current debate about whether we should legalize euthanasia in Canada.

So why is the case against euthanasia so hard to establish?

When personal and societal values were consistent, widely shared and based on shared religion, the case against euthanasia was simple: God commanded "Thou shalt not kill."

In a secular society based on intense individualism, the case for euthanasia is simple: Individuals have the right to choose the manner, time and place of their death.

In contrast, in such societies the case against euthanasia is complex. It requires arguing that harm to the community trumps individual rights or preferences.

One student explained that she thought I was giving far too much weight to concerns about how legalizing euthanasia would harm the community and our shared values, especially that of respect for life, and too little to individuals' rights to autonomy and self-determination, and to euthanasia as a way to relieve people's suffering.

She emphasized that individuals' rights have been given priority in contemporary society, and they should also prevail in relation to death. Moreover, legalizing euthanasia was consistent with other changes in society, such as respect for women and access to abortion, she said.

To respond to such arguments, we need to be able to embed euthanasia in a moral context without resorting to religion -- that is, formulate a response that adequately communicates the case against euthanasia from a secular perspective.

That requires, first, countering the belief that individual rights should always prevail -- a task I failed at in class.

We must show, as well, there are solid secular arguments against euthanasia, for example, that legalizing euthanasia would harm the very important shared societal value of respect for life, and change the basic norm that we must not kill one another. It would also harm the two main institutions -- law and medicine -- that paradoxically are more important in a secular society than in a religious one for upholding the value of respect for life. And, it would harm people's trust in medicine and make them fearful of seeking treatment.

So why now?

There is nothing new about people becoming terminally ill, suffering, wanting to die, and our being able to kill them. So why now, after we have prohibited euthanasia for millennia, are we debating whether to legalize it?[4]

Although the euthanasia debate usually centres on a dying, identified person, who wants euthanasia, I believe the answer to what has precipitated the debate lies in understanding a complex interaction of certain unprecedented changes in society. Identifying these factors can also help us to see what is needed to make the case against euthanasia clearer and stronger.

Dying alone or unloved seems to be a universal human fear. In democratic western societies many people have a sense of loss of family and community: relationships between intimates have been converted into relationships between strangers. That loss has had a major impact on the circumstances in which we die. Death has been professionalized, technologized, depersonalized and dehumanized. Facing those realities makes euthanasia seem an attractive option and easier to introduce. Euthanasia can be seen as a response to "intense pre-mortem loneliness."

We engage in "death talk" in order to accommodate the inevitable reality of death into the living of our lives. That talk helps us to live reasonably comfortably with that knowledge, which we must do if we are still to be able to find meaning in life.

[4] Some of these points are explored more fully infra, pp. 30 et seq., as well as additional considerations relating to why we are now considering legalizing euthanasia.

"Death talk" (and other morals and values talk) used to take place in religion and its churches, synagogues, mosques and temples and was confined to an hour or so a week. Today, it has spilled out into our daily lives, especially through mainstream media. The euthanasia debate is one example of such "death talk."

Moreover, "secular cathedrals" -- our parliaments and courts -- have replaced our religious ones. That has resulted in the legalization of societal ethical and moral debates, including in relation to death. It is not surprising, therefore, that the euthanasia debate centres on its legalization.

Mass media and the mediatization of societal debates, including euthanasia, also have major impact. Media focus on individual cases: People, such as Sue Rodriguez -- the ALS sufferer who took her fight to die to the Supreme Court of Canada -- pleading for euthanasia, make dramatic, personally and emotionally gripping television.

The arguments against euthanasia, based on the harm that it would do to individuals and society in both the present and the future, are very much more difficult to present visually.

Moreover, the vast exposure to death that we are subjected to in both current-affairs and entertainment programs might have overwhelmed our sensitivity to the awesomeness of death and, likewise, of inflicting it.

But one of my students responded, "If anything, I think many of our reactions come not from an overexposure to death, but from an aversion to suffering, and an unwillingness or hesitancy to prolong pain."

Finding convincing responses to the relief-of-suffering argument used to justify euthanasia is difficult in secular societies. In the past, we used religion to give value and meaning to suffering. But, now, suffering is often seen as the greatest evil and of no value, which leads to euthanasia being seen as an appropriate response.

Some answers to the "suffering argument" might include that:

- even apart from religious belief, it's wrong to kill another human;
- euthanasia would necessarily cause loss of respect for human life;
- it would open up an inevitable slippery slope and set a precedent that would present serious dangers to future generations. Just as our actions could destroy their physical environment, likewise, we could destroy their moral

or metaphysical environment. Both environments must be held on trust for them;

- recognizing death as an acceptable way to relieve suffering could influence people contemplating suicide; and
- there are many ways to relieve pain and suffering without killing the person who experiences them.

Might the strongest argument against euthanasia, however, relate not to death but to life? That is the argument that normalizing euthanasia would destroy a sense of the unfathomable mystery of life and seriously damage our human spirit[5], especially our capacity to find meaning in life.

2. THE ROLE OF DEATH

Approval for euthanasia muffles our proper emotional response to a person's passing. Assisted suicide can adversely affect our ethical judgments surrounding death.

Should we allow people to choose death to avoid emotional suffering?

A newspaper story, in 2009, reported that William Melchert-Dinkel, a Minnesota nurse, used the Internet to encourage many people, including Ottawa resident, 18-year-old Nadia Kajouji, who committed suicide, to kill herself. No one argued that this was or should be ethically or legally acceptable.

That is not the case in relation to George and Betty Coumbias, two 73-year-old British Columbia residents. George suffered from serious heart disease; Betty was healthy. But in Betty's words, "I don't think I can face life without [George], and since we read about Dignitas [a Swiss organization that assists people to commit suicide], we felt what would be better than to die together, you know, to die in each other's arms?"

[5] I define the human spirit as "the intangible, immeasurable, ineffable, numinous reality that all of us need to have access to find meaning in life and to make life worth living — a deeply intuitive sense of relatedness or connectedness to all life, especially other people, to the world, and to the universe in which we live; the metaphysical -- but not necessarily supernatural -- reality which we need to experience to live fully human lives." See, Margaret Somerville, *The Ethical Imagination: Journeys of the Human Spirit*, House of Anansi Press; Toronto, 2006.

Under Swiss law, because George was seriously ill, Dignitas has no problems in helping him. But it sought a ruling from local officials as to whether they might help Betty, as a healthy woman, to kill herself and allow her and George to carry out their suicide pact[6].

If, as pro-euthanasia advocates argue, respect for people's rights to autonomy and self-determination means everyone has a right to die at a time of their choosing, and the state has no right to prevent them from doing so, then Betty would have the right to choose to die with George. And that's precisely what Ruth Von Fuchs, head of the Right to Die Society, argued on CTV's Canada AM. In her words, "life is not an obligation."

Most of us, I suggest, including some people who would support assisted suicide in some circumstances, see the situation differently from Ms. Von Fuchs and would regard helping Betty to kill herself as wrong, just as they do the encouragement given the Ottawa woman. The possibility that legalizing euthanasia and assisted suicide could allow this might make some pro-euthanasia people rethink their stance.

Euthanasia and assisted suicide involve extinguishing human life. Research shows that humans have a basic instinct against killing other humans, which might be a source of the widely shared moral intuition that it's wrong to do so.

People who oppose euthanasia and assisted-suicide believe these interventions are inherently wrong -- they can't be morally justified, and that even compassionate motives do not make them ethically acceptable -- the ends do not justify the means.

People who would accept euthanasia and assisted-suicide, but only in some circumstances, usually limit access to them to people who are terminally ill and in serious pain and suffering that can't be relieved (which are exceptional cases). These limitations show that these people believe each case of euthanasia or assisted-suicide needs moral justification to be ethically acceptable.

Even Ms. Von Fuchs, although she thought Ms. Coumbias should have the unfettered right to assisted-suicide, argued that it would allow Ms. Coumbias to avoid the suffering, grief and loneliness associated with losing her husband -- that is, she articulated a justification.

[6] As events turned out, Betty died a natural death and George is still living and has not, so far at least, gone ahead with assisted suicide.

But surely the answer to loneliness and grief is not to help the person commit suicide? As I once suggested to a Dutch physician who had carried out euthanasia on an old woman in similar circumstances to those Ms. Coumbias was anticipating, and thought euthanizing this woman was justified, "Did you think of buying her a cat?"

Loneliness and social isolation are strongly associated with requests for euthanasia. Although the need for euthanasia to relieve pain and suffering is often the reason pro-euthanasia advocates give to justify it and is the justification the public accept in supporting its legalization, research shows that dying people who request euthanasia do so far more frequently because of fear of social isolation and of being a burden on others, than pain.

Further, Ms. Coumbias was only anticipating her grief, not experiencing it. We give much more negative weight to -- we disvalue -- dreaded events in anticipating them, as compared with when they actually befall us. For instance, on a scale of zero to minus 10, with minus 10 being the worst affliction, sighted people put blindness around minus 8.5; blind people put it around minus 2.

That leads to wider considerations raised by this case. Most of the analysis was at the individual level of Ms. Coumbias's right to die. But how we die is never just a private matter. It necessarily involves society and what it allows or prohibits, and some of society's most important values and institutions.

Society would be complicit in euthanasia or assisted suicide in legalizing them and in allowing medicine to be involved. Law and medicine are the two main institutions in a secular society that carry the value of respect for life. That value would be unavoidably seriously harmed.

Even utilitarians, who base their ethics on whether benefits outweigh risks and harms, should decide against euthanasia and assisted suicide because the harms outweigh the benefits, especially on the slippery slope these interventions open up. Indeed, one of the people responsible for shepherding through the legislation legalizing euthanasia in the Netherlands recently admitted publicly that doing so had been a serious mistake, because, once legalized, euthanasia cannot be controlled.

We can clearly see that in the Netherlands’ 30-year experience of euthanasia.

The original Dutch criteria for euthanasia were that it was limited to competent adults, who were terminally ill and had pain and suffering that could not be

relieved, and who repeatedly asked for euthanasia. Now, none of those requirements apply.

- The recent Groningen protocol allows parents of disabled babies to request euthanasia for them.

- Children aged 12 to 16 years can request and obtain euthanasia with their parents' consent and those over 16 can give their own consent.

- There are more than 500 deaths a year from euthanasia (and possibly many more) where the adult was not competent or whose consent was not obtained.

- A middle-aged depressed woman, who was not terminally ill, was given euthanasia by her treating psychiatrist. A court ruled this was justified.

- An old man who had a dread of being put in a nursing home was given a choice by his family between a nursing home and euthanasia. He chose euthanasia. He was not terminally ill or in unrelievable pain and suffering.

- Recent research showed that in the Netherlands the rate of suicide in late middle-aged men (a group with an increased risk for suicide) had dropped, but the rate of euthanasia in this same age-group had risen. What impact would recognizing suicide as a legitimate way to relieve suffering have on people who are suicidal?

- And it's just been reported that a group of older Dutch academics and politicians have launched a petition in support of assisted suicide for the over-70s who are "tired of life" [7]. They have attracted over 40,000 signatures, enough to get the issue debated in parliament under citizens' initiative legislation[8].

Legalizing euthanasia and assisted suicide causes death to lose its moral context and us to lose our proper emotional response to it, a loss which research shows detrimentally affects our ethical judgment. An article in Nature, "The Moral Brain" (May 2007), gives us scientific evidence to that effect. People with damage to the parts of their brains that process emotions, but who have intact centres for rational judgment, made ethically inappropriate decisions. To quote: "The study provides evidence that [good] moral decision-making is based on emotion as well as rational thought".

[7] "Tired of life? Group calls for assisted suicide",
http://www.dutchnews.nl/news/archives/2010/02/tired_of_life_group_calls_for.php
[8] 'Assisted suicide petition gets 40,000 names.'
http://www.dutchnews.nl/news/archives/2010/02/assisted_suicide_petition_gets.php

Euthanasia delivers a "better off dead" message that treats dying humans as disposable products. As one pro-euthanasia Australian politician expressed this: "When you are past your 'use by' or 'best before' date, you should be checked out as quickly, cheaply and efficiently as possible." Euthanasia implements that approach.

An aging population, scarce health-care resources and legalized euthanasia or assisted suicide would indeed be a lethal combination, not only for individuals, but also for important societal values and institutions that uphold those values and the overall ethical tone of our Canadian society.

An article in The Montreal Gazette reports that the medical authority of the U.S. state of Oregon (where physician-assisted suicide is legal) “has acknowledged that when it turns down an application to cover the cost of an expensive new drug, it sends out simultaneously a reminder that the state’s assisted suicide program is available at an affordable cost”[9]. As the journalist, Hugh Anderson, comments, “What a great way to put a crimp in medical costs. Have the patients kill themselves when the cost of keeping us alive gets too high.”[10]

But the Coumbias's campaign to die together through assisted suicide might have a silver lining for people opposed to euthanasia and assisted suicide.

In 1999, when Princeton philosopher, Peter Singer, told a Newsweek reporter that he thought there was no ethical or moral difference between abortion and infanticide, and he approved of both, he was described as the pro-choice "abortion-rights movement's worst nightmare" come true. He was expressing the logical extension of the pro-choice stance and, thereby, doing a favour to those opposed to abortion.

Now, in 2010, the same kind of "nightmare" faces the dying-with-dignity, pro-euthanasia lobby as a result of George and Betty Coumbias's campaign. They are expressing the logical extension of the pro-euthanasia stance and, thereby, doing a favour to those opposed to euthanasia and assisted suicide.

[9] Hugh Anderson, “Suicide bill would give doctors a licence to kill”, *The [Montreal] Gazette*, February 13, 2010, A20
[10] Ibid.

3. WE CAN ALWAYS RELIEVE PAIN

The deliberate confusion of pain relief treatment and euthanasia to promote the legalization of euthanasia.

The importance of a clear definition of euthanasia.

The Quebec College of Physicians and Surgeons has "tentatively proposed" legalized euthanasia. The college says that it could be seen "as part of appropriate care in certain particular circumstances." An Ottawa Citizen editorial interprets this statement to say: "Terminally ill patients sometimes require increased dosages of painkillers to alleviate their pain although that can prove fatal. It certainly happens across the country that terminally ill patients are sometimes quietly given more painkillers despite the risk that they could die as a result. Many people would conclude that is the most humane course of action." [11]

We can all endorse the last sentence: People in pain have a right to fully adequate pain relief treatment. Indeed, for a healthcare professional to act unreasonably in leaving a person in pain is a breach of a fundamental human right of that person[12]. But endorsing all necessary pain relief treatment does not entail endorsing euthanasia, as pro-euthanasia advocates propose.

The pro-euthanasia lobby has deliberately confused pain relief treatment and euthanasia in order to promote their cause. Their argument is that necessary pain relief treatment that could shorten life is euthanasia; we are already giving such treatment and the vast majority of Canadians agree we should do so; therefore, we are practising euthanasia with the approval of Canadians, so we should come out of the medical closet and legalize euthanasia. Indeed, they argue, doing so is just a small incremental step along a path we have already taken.

It's true and to be welcomed that the vast majority of Canadians agree we should give fully adequate pain relief, but the pro-euthanasia lobby is wrong on all its other claims.

We need to distinguish treatment that is necessary to relieve pain, even if it could shorten life (which is a very rare occurrence if pain relief is competently prescribed and probably no longer an issue, see below), from the use of pain relief treatment as covert euthanasia. The former is not euthanasia, the latter is.

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[11] Editorial, "Debating life's end," *Ottawa Citizen*, July 20, 2009

[12] See, Somerville, supra note 2, pp.205-232, especially at 227-228.

Pain specialists have explained that individually optimizing the opioid dose provides pain relief *without* central nervous system or respiratory depression, since pain relief occurs at a lower dose than toxicity due to the opioid 'zone of efficacy'. In short, life is not shortened by such treatment.

And in the small number of cases in which pain cannot be controlled “palliative sedation” is an option. This is not euthanasia, as 49 percent of Quebec physicians recently polled mistakenly thought it was.

The distinction between pain relief treatment and euthanasia hinges on the physician’s primary intention in giving the treatment. Pain relief treatment given with a primary intention to relieve pain and reasonably necessary to achieve that outcome is not euthanasia, even if it did shorten the patient’s life. Any intervention, including the use of pain relief drugs, carried out with a primary intention of causing the patient’s death and resulting in that outcome, is euthanasia.

Acting with a primary intention to kill is a world apart from acting with a primary intention to relieve pain. And this is not a novel or exceptional approach. The law recognizes such distinctions daily. If we accidentally hit and kill a pedestrian with our car, it is not murder. If we deliberately run him down with our car intending to kill him, it is.

It is a tragedy for patients, especially those who are terminally ill and in pain, and a major disservice to physicians, nurses and humane and good medical care to confuse these situations as the Quebec College of Physicians and Surgeons seems to do. Physicians and patients become frightened of giving and accepting adequate pain relief.

Physicians should not fear that giving adequate pain relief treatment is unethical or illegal; in fact, they should fear the ethical and legal consequences of not doing so. It is now generally accepted in the palliative care literature and palliative care practice that it is a breach of human rights to unreasonably leave a person in pain; doing so is medical negligence (malpractice); and, I believe, in extreme cases, it should be treated as criminal negligence — wanton or reckless disregard for human life or safety. It is torture by willful omission.

The proper goal of medicine and physicians is to kill the pain. It is explicitly not their role to kill the patient with the pain — to become society’s executioners — which is what euthanasia entails, no matter how merciful or compassionate our reasons.

Even most people who support legalizing euthanasia believe its use needs to be justified, usually as being necessary to relieve pain and suffering. Surveys of the general public that ask the question “Do you believe people in terrible pain should have access to euthanasia?” reflect that belief. But again this approach causes confusion between pain relief and euthanasia. It makes euthanasia the treatment for pain, and it makes it impossible for people to agree that all necessary pain relief must be provided, without also endorsing euthanasia. Respondents have either to agree to both pain relief and euthanasia or to reject both. Of course, to have the public endorse euthanasia might be the goal of some of these surveys.

As is true of necessary pain relief treatment, likewise, ethically and legally valid Do Not Resuscitate orders are not euthanasia or assisted-suicide. Nor do “living wills” or refusals of life-prolonging treatment result in euthanasia. There is an ethical and legal difference between killing someone and allowing them to die naturally of their underlying disease.

We must be very clear in debating euthanasia and physician-assisted suicide, if we are to avoid ending up legalizing those interventions through their confusion with other practices or interventions which are not euthanasia, especially because that confusion may sometimes be intentionally generated in order to promote the legalization of euthanasia and physician-assisted suicide.

But rights to pain relief treatment will, however, be nothing more than empty words unless that treatment is accessible. If, as I do, we believe legalizing euthanasia or physician-assisted suicide would be a terrible mistake for society, we have serious obligations to ensure fully adequate pain relief treatment is readily available to all Canadians, including Quebecers, who need it.

As to why legalizing euthanasia would be a terrible mistake, ask yourself the questions, “How would I not like my great-great-grandchildren to die?” and “What values do I want to pass on to the world of the future?” For answers, have a look at the consequences that have resulted from the 30-year history of legalized euthanasia in the Netherlands, some of which I briefly outline in section 2 above.

4. ‘PULLING THE PLUG’ ISN’T EUTHANASIA

The confusion of justified allowing-to-die and euthanasia

When I appeared before the Quebec Legislative Assembly on *la question du droit de mourir dans la dignité* I found some committee members were confused about whether withdrawing life support treatment to allow someone to die was euthanasia. The same confusion is displayed in an illustration that I saw recently that accompanied an article about euthanasia. It showed the silhouette of a patient lying on a bed. There was an electrical outlet on the wall behind the bed and an unplugged connecting cord hanging down over the side of the bed. In short, this confusion is common and needs to be clarified.

Except in very rare circumstances — for instance, if the treatment were withdrawn without the necessary consent or against the patient’s wishes — withdrawal of life-support treatment is not euthanasia. Yet many people, including the artist who penned this illustration and many health-care professionals, mistakenly believe that it is.

In my experience, they are confused with respect to the ethical and legal differences between withdrawal of treatment that results in death and euthanasia, and why the former can be ethically and legally acceptable, provided certain conditions are fulfilled, and the latter cannot be. This is a central and important distinction in the euthanasia debate, which needs to be understood.

Failure to understand it leads, among other problems, to physicians responding affirmatively to surveys that ask them whether they or their colleagues have carried out euthanasia, when in fact they have not, and members of the public saying they agree with euthanasia, because they agree with people’s rights to refuse medical treatment.

First, the primary intention is different in the two cases: In withdrawing life-support treatment the primary intention is to respect the patient’s right to refuse treatment; in euthanasia it is to kill the patient. The former intention is ethically and legally acceptable; the latter is not.

Patients have a right to refuse treatment, even if that means they will die. They have a right not to be touched, including through medical treatment, without their consent — a right to inviolability. This right protects a person’s physical integrity and can also function to protect physical and mental privacy. The right to

inviolability is one aspect of every competent adult's right to autonomy and self-determination.

Pro-euthanasia advocates use recognition of this right to refuse treatment even when it results in death to argue that, likewise, patients should be allowed to exercise their right to autonomy and self-determination to choose death through lethal injection. They say that there is no morally or ethically significant difference between these situations, and there ought to be no legal difference.

They found their argument by wrongly characterizing the right to refuse treatment as a "right to die," and then generalize that right to include dying through euthanasia and physician-assisted suicide. But the right to refuse treatment is not a "right to die" and does not establish any such right, although death results from respecting the patient's right to inviolability. The right to refuse treatment can be validly characterized as a "right to be allowed to die," but this is quite different from a right to be killed that euthanasia would establish.

Moreover, a "right to be allowed to die by refusing treatment," is a "negative content" right — a right against one's integrity being breached without one's consent. In contrast, a "right to die" through access to euthanasia would be a "positive content" right — that is, a right to something. In general, the law is very much more reluctant to recognize positive content rights, than negative content ones.

This pro-euthanasia line of argument is yet one more example of promoting euthanasia through deliberate confusion between interventions, such as valid refusals of treatment, that are not euthanasia and those that are.

This brings us to the issue of legal causation, which also differentiates refusals-of-treatment-that-result-in-death from euthanasia. In the former, the person dies from their underlying disease — a natural death. The withdrawal of treatment is the occasion on which death occurs, but not its cause. If the person had no fatal illness, they would not die. We can see that when patients who refuse treatment and are expected to die, do not die. In contrast, in euthanasia death is certain and the cause of death is the lethal injection. Without that, the person would not die at that time from that cause.

The fact that the patient dies both in refusing treatment and in euthanasia is one of the sources of the confusion between the two. If we focus just on the fact that in both cases the outcome is death, we miss the real point of distinction between death resulting from refusing treatment and from euthanasia.

The issue in the euthanasia debate is not if we die — we all eventually die. The issue is how we die and whether some means of dying, such as euthanasia and physician-assisted suicide, should remain legally prohibited. In order to maintain that they should, we need to be able to show how currently accepted practices, such as respect for patients' refusals of treatment, are not euthanasia and differ from it and assisted suicide.

5. EUTHANASIA WOULD HURT DOCTORS

We must consider the damage to medicine if physicians are allowed to kill. Physicians' and nurses' absolute rejection of intentionally inflicting death is necessary to maintaining people's and society's trust in their own physicians and the profession of medicine as a whole.

The Quebec College of Physicians and Surgeons tentatively approving euthanasia also means it's essential that we look, specifically, at the impact that euthanasia would have on physicians and the profession of medicine, in order to understand why this approval is a very bad idea.

In mainstream media, and therefore in the general public forum, the euthanasia debate has been focused, almost entirely, on the impact that legalizing euthanasia (as explained before, a term I use to include physician-assisted suicide) would have at the individual level. But we must also consider the impact legalizing it would have at institutional, governmental and societal levels. We need to explore not only the practical realities, such as the possibilities for abuse, that allowing euthanasia would open up, but also, the effect that doing so would have on important values and symbols that make up the intangible fabric that constitutes our society.

For example, what would be its likely impact on major societal institutions, such as medicine and law, which help to establish those values and carry the message of the need to respect them?

Legalizing euthanasia would damage the foundational societal value of respect for human life. If euthanasia is involved, how we die cannot be just a private matter of self-determination and personal beliefs, because, as American philosopher Daniel Callahan says, "Euthanasia is an act that requires two people to make it possible and a complicit society to make it acceptable." The British House of Lords, likewise, rejects euthanasia because of the harm it would cause to societal values

and institutions: "The prohibition on intentionally killing is the cornerstone of law and human relationships, emphasizing our basic equality."

One important reason to protect health-care institutions is that they are value-creating, value-carrying and consensus-forming for society as a whole.

In a secular, pluralistic society, medicine and law are the principal institutions that maintain the value of respect for human life in society as a whole. Changing the law to allow physicians to carry out euthanasia -- making an exception to the norm that we must not kill each other --would seriously damage these institutions' capacity to carry that value.

In short, we need to be concerned about the impact that legalizing euthanasia would have on the institution of medicine, not only in the interests of protecting it for its own sake, but also because of the harm to society that damage to the profession would cause.

And what might be the impact of the legalization of euthanasia, internally, on the profession of medicine and its practitioners?

As the Canadian Medical Association wrote in a letter distributed to all members of the Canadian Parliament just before the first debate on Bill C-384, a private member’s bill that propose legalizing euthanasia, "CMA's policy on this matter is clear: 'Canadian physicians should not participate in euthanasia or assisted suicide'." And surveys show that physicians in various countries are more opposed to euthanasia than the general public. For instance, a 2009 survey by the British Royal College of Physicians showed 73 per cent of its members opposed euthanasia, whereas up to 82 per cent of the British general public approved of it. Important insights could be gained by pondering the causes of such disparities.

Euthanasia takes physicians and medicine beyond their fundamental roles of caring, healing and curing, whenever possible. It involves them, no matter how compassionate their motives, in the infliction of death on those for whom they provide care and treatment. It can be described, as the London(England) based Institute of Medical Ethics does in its report, "Working Party on the Ethics of Prolonging Life and Assisting Death," as "a merciful act of clinical care," or, as the Quebec College of Physicians and Surgeons characterizes it, "part of appropriate care in certain particular circumstances" and, therefore, it may seem appropriate for physicians to administer. But the same act is also accurately described as "killing." This means, as American psychiatrist and ethicist Willard Gaylin put it, that euthanasia places "the very soul of medicine on trial."

There are very few, if any, institutions in today's secular societies with which everyone identifies except for those -- such as medicine -- that make up the health-care system. These, therefore, are of unusual importance when it comes to carrying values, creating them, and forming consensus around them. We must take great care not to harm their capacities in this regard and, consequently, must ask whether legalizing euthanasia would run a high risk of causing this type of harm.

The kinds of questions we need to ask include: How would legalizing euthanasia affect medical and nursing education? What impact would physician role models carrying out euthanasia have on medical students and young physicians? Would we devote time to teaching students how to administer death through lethal injection? (There has been a medical malpractice case in The Netherlands for "botched" euthanasia -- the patient didn't die.) Would they be brutalized or ethically desensitized? (And we cannot afford to underestimate the desensitization and brutalization from carrying out euthanasia.) Do we adequately teach pain-relief treatment at present? Would euthanasia be a required procedure, that is, a student must perform it competently, in order to graduate? Can we even imagine teaching medical students how to kill their patients?

A fundamental value and attitude that we reinforce in medical students, interns and residents, and in nurses, is an absolute repugnance to killing patients. It would be very difficult to communicate to future physicians and nurses such a repugnance in the context of legalized euthanasia.

Physicians' and nurses' absolute rejection of intentionally inflicting death is necessary to maintaining people's and society's trust in both their own physicians and the profession of medicine as a whole. This is true, in part, because physicians and nurses have opportunities to kill that are not open to other people.

Physicians and nurses need a clear line that powerfully manifests to them, their patients, and society that they do not inflict death. Both their patients and the public need to know with absolute certainty -- and be able to trust -- that is the case. Anything that blurs that line, damages that trust, or makes physicians or nurses less sensitive to primary obligations to protect and respect life is unacceptable. Legalizing euthanasia would do all of these.

Consider the outraged reactions against physicians carrying out capital punishment through lethal injection -- the same procedure as euthanasia -- when laws provide for them to do so. We do not consider their involvement acceptable -- not even for those physicians who personally are in favour of capital punishment. We, as a

society, need to say powerfully, consistently, and unambiguously, that killing each other is wrong (except as a last resort to save human life, as in self defence), and we can't do that if we legalize euthanasia.

It is sometimes remarked that physicians have difficulty in accepting death, especially the deaths of their patients. This raises the question of whether, in inculcating a total repugnance to killing, we have evoked a repugnance to death as well. In short, there might be confusion between inflicting death and death itself. We know that failure to accept death, when allowing death to occur would be appropriate, can lead to overzealous and harmful measures to sustain life. We are most likely to elicit a repugnance to killing, while fostering an acceptance of death, and to avoid confusion between these, if we speak of a repugnance to killing (although that is an emotionally powerful word).

Moreover, it is a very important part of the art of medicine to sense and respect the mystery of life and death, to hold this mystery in trust, and to hand it on to future generations -- including future generations of physicians. We need to consider deeply whether legalizing euthanasia would threaten this art, this trust, and this legacy.

Finally, it's a controversial suggestion, but I propose that if we were to legalize euthanasia, we should take the "medical cloak" off it, that is, physicians should not be the ones to carry it out. Some of the reasons are discussed above, but other reasons include that it causes people to fear physicians, accepting pain relief treatment, and hospice and palliative medicine and care. As well, placing a medical cloak on euthanasia makes it seem safe, ethical and humane, because those are the characteristics we associate automatically with medical care, when, in fact, we all need to question the acceptability of legalizing euthanasia.

One suggestion for alternative practitioners, that has shocked even people who are euthanasia advocates, is to consider having specially trained lawyers. I was giving a speech on euthanasia at a national medical association conference in Australia. I stated on two or three occasions that “we can’t have physicians killing people”. A pro-euthanasia palliative care physician in the audience leapt to his feet and shouted, “Margo, will you stop using that word killing; it’s not killing, it’s VAE [voluntary active euthanasia]”. Later in the speech, I addressed the issue of, if we were to legalize euthanasia, who should carry it out. I argued against physicians, because that makes people frightened of consulting physicians and reluctant to accept pain relief treatment, because they fear being euthanized. The solution I

suggested would be to have a specially trained group of lawyers[13]. The justification put forward for this choice is that they understand how to properly interpret and strictly apply laws and, for pro-euthanasia advocates, ensuring that is the major concern, not euthanasia itself. The same physician who had objected to my using the word “killing”, rose to his feet and exclaimed, “Margo are you crazy? We can’t have lawyers killing people.” I agree wholeheartedly, and neither should we have physicians killing people. With the medical cloak on the act it was not killing; with the cloak off, the same act was killing.

6. HOPE: KEEPING THE HUMAN SPIRIT ALIVE

What do dying people need?

Hope is the oxygen of the human spirit; hope is to the human spirit as oxygen is to breathing

Dr. Harvey Chochinov of the University of Manitoba is a psychiatrist who specializes in psychiatric care for terminally ill people.

In one project, he was among the researchers who developed an approach that allowed them to distinguish from clinical depression, a condition they called "hopelessness." They found that hopelessness, not clinical depression as such, was the characteristic that best identified people who wanted euthanasia or assisted suicide.

This is very important information for those of us who think legalizing euthanasia is a bad idea. It means that giving hope is part of the treatment dying people need. Long-term hopes are not possible, of course, but "mini-hopes" are.

Hope is dependent on having a sense of connection to the future, even if that future is very short-term. It is generated by having something to look forward to.

In the case of a terminally ill person, that could be a visit from a loved one or friend, seeing a grandchild on their graduation or wedding day, or perhaps just hearing the birds’ "dawn chorus" as the sun rises the next morning. Palliative care specialists tell many stories of the power of such mini-hopes to keep our will to live alive, until we die naturally.

[13] This is not my original idea. See R.M.Sade and M.F.Marshall,, “Legistrothanatory: A New Specialty for Assisting in Death”, *Perspectives in Biology and Medicine* 1996;39(4):547-549

Hope is the oxygen of the human spirit; without it our spirit dies. With it, we can overcome even seemingly insurmountable obstacles, including in our last great act of living, our dying.

It's a true tragedy when our spirit dies before our bodies. But the answer is not to kill our bodies with euthanasia; it's to do our best to keep alive our human spirit with hope. As I discuss now, there are steps that we can take that will help dying people in that regard.

7. DEFINING HUMAN DIGNITY

Pro- and anti-euthanasia advocates use different interpretations of the concept to bolster their arguments.

Euthanasia advocates argue respect for human dignity requires that euthanasia be legalized and opponents of euthanasia argue exactly the opposite, that respect for human dignity requires it remain prohibited. In short, the concept of human dignity and what is required to respect it is at the centre of the euthanasia debate, but there is no consensus on what we mean by human dignity, its proper use, or its basis.

American political scientist Diana Schaub says "we no longer agree about the content of dignity, because we no longer share ... a 'vision of what it means to be human'." She's correct. So what are the various interpretations of dignity and what can they tell us about "what it means to be human"?

Intrinsic dignity means one has dignity simply because one is human. This is a status model - dignity comes simply with being a human being. It's an example of "recognition respect" - respect is contingent on what one is, a human being.

Extrinsic dignity means that whether one has dignity depends on the circumstances in which one finds oneself and whether others see one as having dignity. Dignity is conferred and can be taken away. Dignity depends on what one can or cannot do. Extrinsic dignity is a functional or achievement model - dignity comes with being able to perform in a certain way and not to perform in other ways. It comes with being a human doing. This is an example of "appraisal respect" - respect is contingent on what one does.

These two definitions provide very different answers as to what respect for human dignity requires in relation to disabled or dying people, and that matters in relation to euthanasia.

Under an inherent dignity approach, dying people are still human beings, therefore they have dignity. Opponents of euthanasia believe respect for human dignity requires, above all, respect for human life and that while suffering must be relieved, life must not be intentionally ended. Taking life, except where that is the only way to save life as in justified self-defence, offends human dignity. That is why capital punishment is wrong and why euthanasia is wrong.

In fact, the original primary purpose of the concept of dignity was to ensure respect for life. It's ironic that it has been turned on its head by pro-euthanasia advocates to promote exactly the opposite outcome.

Under an extrinsic dignity approach, dying people are no longer human doings - that is, they are seen as having lost their dignity - and eliminating them through euthanasia is perceived as remedying their undignified state.

Pro-euthanasia advocates argue that below a certain quality of life a person loses all dignity[14]. They believe that respect for dignity requires the absence of suffering, whether from disability or terminal illness, and, as well, respect for autonomy and self-determination. Consequently, they argue that respect for the dignity of suffering people who request euthanasia requires it to be an option.

Importantly, to respect human dignity we must have respect for both the human dignity of each individual *and for the worth of humanity as a whole*. That means that even if we accepted that individual consent could justify taking human life, it is not necessarily sufficient to ensure human dignity is not being violated. For instance, a French court ruled that the "sport" of "dwarf throwing" was in breach of respect for human dignity and banned it, even though the dwarfs involved consented.

Even those people who argue for euthanasia should agree that it must be used only as a last resort. Again, the work of Canadian psychiatrist Harvey Chochinov and his colleagues is relevant in this regard. They identified the components of dignity and defined them. They then designed an approach to enhance terminally-ill

[14] I note, here, that research has shown that healthcare professionals rate patients' quality of life as much lower than the patients themselves do. See, for example, A.E. Epstein, "Comparison of perception of health status by physicians, nurses, and patients in the Dual-chamber And VVI Implantable Defibrillator (DAVID) trial", *The American Journal of Cardiology*, 2004; 93:120-121

people's feelings of dignity and being treated with respect for their dignity, in order to address their psycho-social and existential distress. They call this approach "dignity therapy."

Here are their results: "Ninety-one per cent of participants reported being satisfied with dignity therapy; 76 per cent reported a heightened sense of dignity; 68 per cent reported an increased sense of purpose; 67 per cent reported a heightened sense of meaning; 47 per cent reported an increased will to live; and 81 per cent reported that it had been or would be of help to their family. Post-intervention measures of suffering showed significant improvement and reduced depressive symptoms."

These are truly remarkable results and provide a stark contrast to a quick-fix solution of a lethal injection as being the best way to enhance a person's dignity. But to achieve them takes care, time, commitment, research and expertise. In thinking about investing health-care and medical-research dollars to enhance human dignity, we should keep in mind such studies.

Some commentators have distinguished different ways in which the concept of dignity can be used in bioethics. One they term "human dignity as empowerment." The central idea here is that one's dignity is violated if one's autonomy is not respected, and this concept leads quite naturally to an emphasis upon informed consent, as we see in pro-euthanasia arguments. Another concept is "human dignity as constraint"- that is, constraint on individual choices to protect human dignity, in general, as we can see in anti-euthanasia arguments.

The idea of dignity as constraint of autonomy and self-determination to preserve human dignity, in general, could be described as "dignity in fetters." In that case, it is similar to "freedom in fetters." Sometimes we have to restrict freedom to maintain the conditions that make freedom possible.

Dignity is like justice, often it's easier to identify what constitutes a violation of it, than to define what it is. That probably explains why it is not uncommon to speak of something being "beneath human dignity" without defining what dignity is. That tells us that what is involved - torture, for example - does not respect human dignity, which might be a judgment informed in part by moral intuition or examined emotions, not just logical cognitive mentation or reason, important as the latter are[15].

[15] See Somerville, supra note 5, pp. 28-31

Some philosophers see dignity as the marker of the ethical and moral sense humans have, which they see as distinguishing humans from animals, which also have consciousness. They believe humans are "special" because of this moral sense and, therefore, deserve special respect. Others reject any special status for humans and see us as just another animal in the forest. Arguments that, out of mercy, we euthanize our pet dogs and cats and so should do the same for humans reflect this latter view.

Secularists argue that dignity is intimately connected with religion and reject it on this basis. It's true that some commentators believe "human dignity is based on the mystery of the human soul" and most people regard "soul" as a religious concept with a theological base. But I'd like to suggest a broader concept that might allow us to find a wider consensus about the values we should adopt if we are to respect human dignity, in particular in the context of death and dying.

In my book *The Ethical Canary*[16], I introduced a concept I called the "secular sacred" - everyone disliked it. Secular people thought I was trying to impose religion on them and that religion had no place in the public square, and religious people objected that I was denigrating the concept of the sacred.

What I suggested is that the sacred is not only a concept that applies in a religious or ritualized context, but also one that operates at a general societal - or secular - level. Among other outcomes, it might help us to articulate what respect for human dignity requires.

I proposed, in my subsequent book, *The Ethical Imagination*[17], that linking the secular and the sacred, by adopting a concept of the secular sacred, can help to unite everyone who accepts that some things are sacred, whether they see the sacred's source as religious or purely natural or secular. In short, the "secular sacred" is a concept we can endorse whether or not we are religious, and, if we are religious, no matter which religion we follow.

In relation to humans, the sacred requires that we respect the integrity of the elements that allow us to fully experience being fully human; in doing so, we protect that experience. It is a concept that we should use to protect that which is most precious in human life, starting with life itself. I propose, as has been true for millennia, that that requires us, as a society, to reject euthanasia.

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[16] Margaret Somerville, *The Ethical Canary: Science, Society and the Human Spirit*, Viking/Penguin, Toronto, 2000.

[17] Somerville, supra note 5, pp.53-70

The concept of dignity must be used to maintain respect for the life of each person, and for human life and for the essence of our humanness, in general. The current danger is that in the euthanasia debate it could be used to realize precisely the opposite outcomes.

8. WE MUST PROTECT HUMANS' SPECIAL STATUS

If certain animals become persons, as some philosophers argue, human persons become animals, which has consequences for how we treat each other, including with respect to euthanasia.

Addressing the argument that we euthanize our pets out of compassion, so why not humans we love? The short answer is we are not just another animal.

A chimpanzee mother and baby might seem human-like, but assigning them -- or any animals -- the status of persons based on attributes of intelligence and awareness could mean taking it away from humans who don't have those attributes.

Anybody who sees the powerful and immensely distressing documentary, The Cove, which testifies to the horrible slaughter of dolphins in Japan, should not be able to turn their backs on the brutal and cruel treatment of these animals to which it testifies. Likewise, Matthew Scully's book, Dominion, which documents the hell that "factory farmed" animals endure as well as a variety of other cruelties, elicits the same response -- that we must do whatever we can to stop these practices.

Some ethicists, philosophers and scientists have suggested that one remedial response would be to confer personhood on at least some animal species for the purpose of protecting them through ethics and law, including by attributing rights to them.

Biologist Lori Marino proposed this in a recent article in the Ottawa Citizen[18], citing philosopher-ethicist Thomas White's new book, *In Defence of Dolphins*. Princeton philosopher Peter Singer proposed the same in the early 1980s. While I strongly endorse their goal of preventing cruelty to all sentient creatures, and

[18]Lori Marino, **"**Dolphins are people too", *Ottawa Citizen*, January 16, 2010
http://www.ottawacitizen.com/technology/Dolphins+people/2449863/story.html

believe that we humans have obligations to protect them, I don't agree with trying to achieve that through making animals persons.

My reasons for rejecting personhood for animals include that it would undermine the idea that humans are "special" relative to other animals and, therefore, deserve "special respect."

Whether humans are "special" -- sometimes referred to as human exceptionalism or uniqueness -- is a controversial and central question in bioethics, and how we answer it will have a major impact on what we view as ethical or unethical with regard to our treatment of humans and of animals.

Currently, we use the word "person" as a synonym for human and to indicate, communicate and implement the concept that humans are different from other animals and "special." It can no longer fulfill that function if it does not refer exclusively to humans. In other words, if animals become persons, human persons become animals. The line between humans and other animals is blurred and the idea that humans are "special" and deserve "special respect" is eliminated.

That means that what we do or don't do to "animal persons" should be the same as we do or don't do to "human persons." So, for instance, if we have euthanasia for animals, we should, likewise, have it for humans. If we don't eat humans, we shouldn't eat animals.

This is Singer's approach. He argues that distinguishing humans from other animals and, as a result, treating them differently, is a form of wrongful discrimination he calls "speciesism." He rejects the stance that all human beings are persons and no animals are persons; rather, he argues some human beings are not persons and some animals are.

For Singer, who is a powerful advocate of legalizing euthanasia, personhood depends on being self aware, having a sense of one's history and, perhaps, of a future, and a capacity to relate to others. Consequently, he argues some seriously mentally disabled humans and babies are not persons and, therefore, do not have the protections personhood brings. Not being a person means that a baby, for instance, does not have a right to life and, therefore, the parents of a disabled baby could consent to her being euthanized.

In his book, Prof. White takes a similar approach. He argues that dolphins should be regarded as non-human persons on the basis that they are self-conscious, intelligent, and have free will and emotions comparable to those of humans, which

is at least partially correct. Note that this concept of non-human personhood makes "animal personhood" contingent on animal persons having certain characteristics or capacities to function in certain ways.

White also argues that judging non-human species using human characteristics or standards in order to judge their worth, and what we owe them ethically, is speciesism. To avoid this, he proposes, we should treat them as "alien beings" and judge whether or not they are persons on the basis of their own standards. In short, the word person no longer refers exclusively to humans or even its attribution judged by human standards. (I note in passing that this would respond to the objections of people who believe all animals need protection and it's ethically wrong to select just those we see as most like us.)

The feature of both the Singer and White approaches, however, is that whether or not a living being is a person depends on its measuring up to a certain standard, however that standard is set. This is an attribute approach to whom or what is a person and, therefore, deserves the respect and protections that come with that characterization.

Applied to humans, this approach means that those who don't have a certain level of physical, mental or emotional functioning are not persons and, as a result, don't have the same rights as others. In short, it creates different categories of human beings and those in some categories are not regarded as persons.

The contrasting approach, which I believe is the one we should continue to uphold, is that all humans are persons (at least, as the law stands at present, those humans who have been born) and only humans are persons. This accounts for using the words "human being" and "person" interchangeably. Currently, we also use the word person to distinguish humans from animals, in order to establish that every human deserves "special respect" as compared with animals.

Universal human personhood means that every human being has an "intrinsic dignity" that must be respected that comes simply with being human; having that dignity does not depend on having any other attribute or functional capacity. This is a status approach to who is a person.

The refusal of the courts to recognize unborn babies as persons, in order to allow abortion, shows the protective effect of the concept of personhood and that, unless expressly excluded, all human beings are persons. We used to regard humans as special on the basis that they had a soul, a Divine spark, and animals did not. Far from everyone accepts that today. But most people at least act as though we

humans have a "human spirit," a metaphysical, although not necessarily supernatural, element as part of the essence of our humanness. The beautiful Sanskrit greeting, “Namaste”, loosely translated, "The Light in me recognizes the Light in you," captures this reality.

That all humans were seen as persons was not always the case. For instance, in Roman law free living, adult men were persons in the sense of having legal status, but slaves, like animals, were chattels, that is, property and not persons. Of course in Canada women were natural persons -- not property -- but they weren't legal persons until the *Persons* case of 1929.

We must have greater respect for all life, and I would add to that, in particular, human life. Restricting personhood to humans is one way we recognize and implement the latter. But that should not denigrate from our respect for all non-human life, and not just that which has high intelligence, self-awareness, an emotional life, ability to communicate, and so on, but all life, including that of dying and disabled people, which rules out euthanasia.

What respect for all life requires will not be uniform for different forms of life, but asking ourselves what is required is always necessary, and respect certainly excludes wanton or reckless cruelty to animals. Indeed, I've argued elsewhere that we will be unable to maintain respect for human life unless we implement respect for all life[19]. And if we lose our respect for life, we lose our humanity.

9. WHY WE'RE DEBATING EUTHANASIA NOW

Deep changes in society have created a growing demand for the legalization of euthanasia -- but that doesn't make it right.

A loss of the sacred fosters the idea that worn-out people may be equated with worn-out products; both can then be seen primarily as 'disposal' problems.

Why has Canada's Parliament recently been considering a bill to legalize euthanasia and the Quebec legislature examining this issue, when we have prohibited euthanasia for millennia?

[19] Somerville, supra note 16

As I've pointed out already[20], not one of the bottom-line conditions usually linked with calls for legalizing euthanasia -- that a person is terminally ill, wants to die and we can kill them -- is new. These factors have been part of the human condition for as long as humans have existed. And our capacity to relieve pain and suffering has improved remarkably. So, is some other cause the main one?

I suggest it is profound changes in our post-modern, secular, western, democratic societies, and their interactive and cumulative effects. To make wise decisions about whether or not to legalize euthanasia, we need to identify and understand these changes.

Individualism: "Intense individualism" (sometimes called "selfish" or "radical" individualism), which needs to be distinguished from "healthy individualism," dominates our society. This entails giving pre-eminence to rights of personal autonomy and self-determination, often to the exclusion of considering harms to institutions or society - that is, the community – all of which favour the acceptance of euthanasia.

Intense individualism or neo-liberalism is reflected in the questions, "Whose genes, whose pregnancy, whose is giving birth, whose child, whose life, whose death is it, anyway?" when they are asked rhetorically. The anticipated, "intensely individualistic" answers are "your genes, your pregnancy, your giving birth, your child, your life, and your death, so it's entirely up to you to decide what you do and don't want and no one else's business to tell you otherwise."

Francis Fukyama speaks of "intense moral individualism" which has a very dominant focus on individual values and very little concern about the impact on societal values or the common good of giving priority to those values[21]. Moreover, "intense moral individualism" focuses on only the physical risks, not the moral risks, of always giving priority to individuals' values. "Intense moral individualism" is implemented through individual legal rights, for instance, "rights to absolute reproductive freedom" or euthanasia.

Almost all the justifications for legalizing euthanasia focus primarily on the dying person who wants it. Its harmful impact on society and its values and institutions is ignored.

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[20] Supra pp. 6-7. Note: Some of the points made in this section are addressed more briefly in the earlier section. I have repeated them here for the sake of having a full list (but not a comprehensive one) accessible in one place.

[21] Francis Fukuyama, *The Great Disruption: Human Nature and the Reconstitution of Social Order*, Simon & Schuster, 1999.

"Intense individualism" tends to exclude developing any real sense of community, even in connection with death and bereavement, where that sense is an essential need and coping mechanism for most people.

In our society, death is largely a medical event that takes place in a hospital or other institution and is perceived as occurring in great isolation. It's been institutionalized, depersonalized and dehumanized. Asking for euthanasia can be a response to the "intense pre-mortem loneliness" of the dying person that results.

Finally, there is a radical difference between valuing only what we want in relation our own life or also valuing the lives of generations to follow and deciding what we owe to them, accordingly. Calling for legalized euthanasia in order to allow personal preferences concerning death to prevail is an example of the former. Rejecting euthanasia because of the harm we believe it would do to our shared values, societal institutions, and society, itself, shows that we also value the lives of future generations.

Mainstream media: Today we create our collective story -- the store of values, attitudes, beliefs, commitments and myths -- that informs our collective life and through that our individual lives and helps to give them meaning, through mass media and the Internet.

Failure to take into account societal and cultural-level issues related to euthanasia is connected with the "mediatization" of the debate. We consider only the issues presented by the mass media -- and those only as presented by them. As I mentioned before, it makes dramatic, personally and emotionally gripping television to feature Sue Rodriguez, an articulate, courageous, 42-year-old, divorced woman, dying of amyotrophic lateral sclerosis, begging to have euthanasia made available.

The arguments against euthanasia are based on the harm that it would do to society, both present and future, and are very much more difficult to present visually. They come across as abstractions. Society cannot be interviewed on television and become a familiar, empathy-evoking figure to the viewing public.

Moreover, the vast exposure to death that we are subjected to in both current-affairs and entertainment programs might have overwhelmed our sensitivity to the awesomeness of death and, likewise, of inflicting it.

Denial of death and 'death talk': Ours is a death-denying, death-obsessed society. Those who no longer adhere to the practice of institutionalized religion have lost

their main forum for engaging in "death talk" -- whether church, synagogue, mosque or temple. We need to engage in that "talk" if we are to accommodate the inevitable reality of death into the living of our lives. And we must do that if we are to live fully and well.

Our extensive discussion of euthanasia in the mainstream media may be our contemporary "death talk." So, instead of being confined to an identifiable location and an hour or so a week, "death talk" has spilled out into our lives in general. This makes maintaining the denial of death more difficult, because it makes the fear of death more present and "real." One way to deal with this fear is to believe we have death under control. The availability of euthanasia could support that belief. Euthanasia moves us from chance to choice concerning death. Although we cannot make death optional, we can create an illusion that it is, by making its timing and the conditions and ways in which it occurs a matter of choice.

Fear: We can be frightened not only as individuals, but also as a society. For instance, collectively, we express the fear of crime in our streets or terrorist attacks. But that fear, though factually based, might also be a manifestation of a powerful and free-floating fear of death, in general. Calling for the legalisation of euthanasia could be a way of symbolically taming and civilising death, thus reducing our fear of its random infliction through crime, that is, it functions as a “terror reduction” mechanism or “terror management” device.

If euthanasia were experienced as a way of converting death by chance to death by choice, it would offer a feeling of increased control over death and, therefore, decreased fear. We tend to use law as a response to fear, often in the misguided belief that this will increase our control of that which frightens us and, hence, augment our safety.

Legalism: We have, to varying degrees, become a legalistic society. The reasons are complex and include the use of law as a means of ordering and governing a "society of strangers," as compared with one of "intimates." On the whole, we use ethics to govern intimate relationships and law to govern relationships with strangers. Think of a divorce case or a medical malpractice one. When the bond of trust is broken in these “intimate” relationships, the people become strangers and a switch occurs from ethics to law to govern the relationship.

Matters such as euthanasia, which would once have been the topic of moral or religious discourse, are now explored in courts and legislatures -- especially through concepts of individual human rights, civil rights, and constitutional rights.

Man-made law (legal positivism), as compared with divinely ordained law or natural law, has a very dominant role in establishing the values and symbols of a secular society. In the euthanasia debate, it does so through the judgments and legislation that result from the "death talk" that takes place in "secular cathedrals" -- legislatures and courts.

Materialism and consumerism: Another factor favouring euthanasia is that our society is highly materialistic and consumerist. It has lost any sense of the sacred, even just of the "secular sacred." That favours a pro-euthanasia position, because a loss of the sacred fosters the idea that worn-out people may be equated with worn-out products; both can then be seen primarily as "disposal" problems.

I noted before that one Australian politician put it this way: "When you are past your best-before or use-by date, you should be disposed of as quickly, cheaply and efficiently as possible." Euthanasia implements that approach.

Mystery: Mysteries make many contemporary humans highly anxious. So, we convert mysteries into problems in order to deal with them, often through a technological solution, and reduce our anxiety in doing so. If we convert the mystery of death into the problem of death, euthanasia (or, even more basically, a lethal injection) can be seen as a solution to that problem.

A sense of mystery might be required to "preserve room for hope." As I pointed out previously, hopelessness -- nothing to look forward to -- is strongly associated with a desire for euthanasia.

Rejection of any sense of mystery often correlates with a belief that reason is the only valid way of human knowing, and a rejection of other ways, such as intuition, especially moral intuition, examined emotions, experiential knowledge and so on. Such an approach favours euthanasia -- it can make logical sense, even though humans have a deep moral intuition against killing each other and we have thousands of years of history (human memory as a way of knowing) in all kinds of societies that it is wrong to do so, except where it is unavoidable to save human life.

Challenging established societal values: The euthanasia debate is one of many current debates that have a common feature in that they are challenging long-established, previously, at least, widely-shared societal values. While it is good to be open to debate about our values, it’s not necessarily progress to change them, in fact, it can be the opposite.

I have written elsewhere[22] about how I believe that we go through three stages in relation to forming our values. At the “true simplicity” stage we know what are values are and accept them as correct. When they are challenged, we can shift to a “chaos stage” – we are no longer certain our values are correct, but we don’t yet know what they should be. In the third, “apparent simplicity” stage we have restructured the chaos and know what our values should be and, often, that is very similar or the same as what they were in the “true simplicity” stage. The difference is that we now understand much more deeply why they should be what they are.

What it means to be human: At the heart of many of the current debates on ethics, including in relation to euthanasia, is the issue of whether humans are “special” and, therefore, deserve "special respect" as compared with animals or robots, which links to whether we have absolute obligations to protect and preserve the essence of our humanness.

As I’ve explained, I believe we deserve special respect simply because we are human. But some people don't agree that there's anything intrinsically special about being human. For instance, as explained previously, Princeton "animal rights" philosopher Peter Singer would not differentiate animals from humans in the kind of respect they are owed. So, to repeat an example I’ve already mentioned, if we see it as acceptable to euthanize our suffering dog or cat, likewise, we should be able to offer euthanasia to humans.

Impact of scientific advances: Among the most important causes of our loss of a sense of the sacred, in general, and regarding human life in particular, is our extraordinary scientific progress and the mistaken view that science and religion are antithetical.

New genetic discoveries and new reproductive technologies have given us a sense that we understand the origin and nature of human life and that, because we can, we may manipulate -- or even "create" -- life. Transferring these sentiments to the other end of life would support the view that euthanasia is acceptable.

Control: The new science has created a new reality in our societies – that of the present capacity and future potential of technoscience to move us beyond what we have known as human, to make us what the transhumanists call “post-humans”. Up to the present, the ethics focus on the mind- and world- altering changes that could be wrought by the new science has been on human birth and the living of human life. But, now, that science and the ethics that govern it are also having impact on

[22] See Somerville, supra note 16, p.288

how we view human death and what we see as ethical conduct in relation to it. Calls to legalize euthanasia are one expression of such impact. The polar opposite example of the transhumanists' search for immortality, is another. The feature they have in common is control over human death, in the case of euthanasia to cause it, and that of the search for immortality to avoid it.

A science based or technological based approach to life and death – which both euthanasia and a search for physical immortality reflect - is strongly related to taking control. In contrast, a "spiritual approach" (which may or may not be based in religious belief)[23] accepts that there are some things that we cannot or ought not to try to control, at least through certain means.

Competing worldviews: Though immensely important in itself, the debate over euthanasia might be a surrogate for yet another, even deeper, one. Which of three irreconcilable worldviews will form the basis of our societal and cultural paradigm in the future?

According to one worldview, which I call the "pure science view", we are highly complex, biological machines, whose most valuable features are our rational, logical, cognitive functions. This worldview is in itself a mechanistic approach to human life. Its proponents support euthanasia, as being, in appropriate circumstances, a logical and rational response to problems at the end of life.

In contrast, the "pure mystery view" rejects science, and takes a fundamentalist approach to religion and bases itself on a literal interpretation of sacred texts, for instance, the Bible. The commandment, "Thou shalt not kill", means the adherents of this view strongly reject euthanasia.

The third worldview (which for some people is expressed through religion, but can be, and possibly is for most people, held independently of religion, at least in a traditional or institutional sense) celebrates science, but also accepts that human life consists of more than its biological component, wondrous as that is. It involves a mystery - at least the "mystery of the unknown" - of which we have a sense through intuitions, especially moral ones. It sees death as part of the mystery of life, which means that to respect life, we must respect death. Although we might be under no obligation to prolong the lives of dying people, we do have an obligation not to shorten their lives deliberately. I call this the "science human-spirit view".

[23] See supra note 5.

CONCLUSION

Placing and keeping euthanasia in a moral context

We need to place and keep euthanasia into a moral context, not just a reasoned or legal one, important as the latter are.

We can see what might happen with respect to our capacity to keep euthanasia in a moral context if we legalize it, by looking at what has happened with abortion – it's lost its moral context. Whatever our stance on abortion, that should be of concern to all of us.

As the Archbishop of Canterbury, the Reverend Rowan Williams, writing in London, England's The Observer, says, we have lost our sense that abortion involves a "major moral choice" – it's been "normalized" – "when one third of pregnancies in Europe end in abortion". The same is true in Canada: between one in four and one in three pregnancies end in abortion.

Abortion has gone from being a rare exception to the norm – the same would happen with euthanasia. If we legalized euthanasia, we would lose the moral context within which death and dying need to be viewed. Maintaining that context is crucial in light of an aging population and scarce and increasingly expensive healthcare resources, which will face us with many difficult decisions about who lives and who dies.

The euthanasia debate is a momentous one. It involves our individual and collective past (the ethical, legal, and cultural norms that have been handed down to us as members of families, groups and societies); the present (whether we will change those norms); and the future (the impact that this would have on those who come after us).

In debating euthanasia we need to ask many questions, but three of the most important are: Would legalization be most likely to help us or hinder us in our search for meaning in our individual and collective lives? How do we want our grandchildren and great grandchildren to die? And, in relation to human death, what kind of values and culture do we want to pass on?

It is my respectful submission that the best answers to all the questions I have just posed, strongly indicate that we should not legalize euthanasia and I hope that that will be the conclusion which the people of Quebec and their representatives in the National Assembly will arrive at.

In that regard, the words of C.S. Lewis are also worth keeping in mind:

“We all want progress, but if you're on the wrong road, progress means doing an about-turn and walking back to the right road; in that case, the man who turns back soonest is the most progressive.”