

WRONGFUL DEATHS BY ASSISTED SUICIDE OR EUTHANASIA

BULLYING OR COERCION

Can we rule out coercion if we legalise assisted suicide?

- Assisted suicide and euthanasia laws usually require that a request be voluntary and free of coercion. To be truly voluntary a request would need to be not just free of overt coercion but also **free from undue influence, subtle pressures and familial or societal expectations**.
- A regime in which assisted suicide is made legal and in which the decision to ask for assisted suicide is positively affirmed as a wise choice in itself creates a framework in which a person with low self-esteem or who is more susceptible to the influence of others may well express a request for assisted suicide that the person would otherwise never have considered.
- Elder abuse, including from adult children with "*inheritance impatience*" is a growing problem in Australia. This makes legalising assisting suicide unsafe for the elderly.
- Evidence from jurisdictions that have legalised assisted suicide or euthanasia shows that coercion, including the feeling of **being a burden on others, is a real problem**.
- Some supporters of assisted suicide **don't care if some people are bullied into killing themselves** under an assisted suicide law.

Oregon and Washington

The data from [Oregon](#)¹ and [Washington](#)² shows that in 2017 more than half (55.2% in Oregon; 56% in Washington) of those who died from prescribed lethal drugs cited concerns about being a "*Burden on family, friends/caregivers*" as a reason for the request.

Does the concern about being a burden originate from the person or is it generated by subtle or not so subtle messages from family, friends and caregivers - including physicians - who find the person to be a burden or a nuisance or just taking too long to die?

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<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year20.pdf>

² <https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-109-DeathWithDignityAct2017.pdf>

Elder law expert Margaret Dore comments:

In both Washington and Oregon, the official reporting forms include a check-the-box question with seven possible "concerns" that contributed to the lethal dose request. These concerns include the patient's feeling that he was a "burden."

The prescribing doctor is instructed: "Please check 'yes,' 'no,' or 'don't know' depending on whether or not you believe that a concern contributed to the request."

In other states, a person being described as a "burden" is a warning sign of abuse.

For example, Sarah Scott of Idaho Adult Protection Services describes the following "warning sign":

"Suspect behavior by the caregiver . . . [d]escribes the vulnerable adult as a burden or nuisance."

The recommendation is that when such "warning signs" exist, a report should be made to law enforcement and/or to the local adult protective services provider.

Washington and Oregon, by contrast, instruct its doctors to check a "burden" box. Washington and Oregon promote the idea that its citizens are burdens, which justifies the prescription of lethal drugs to kill them. Washington's and Oregon's Acts do not promote patient "control," but officially sanctioned abuse of vulnerable adults.³

Belgium

Claire-Marie Le Huu-Etchecopar is a French nurse who has worked in Belgium since 2008. She [has written about her experience with euthanasia in Belgium](#).

She describes the actions of the friends of a patient:

Those close to her are locked in the emotion of seeing their friend disabled. They cannot bear to see her different. Any other solution than euthanasia seems unimaginable to them. In a small notebook where they leave her messages while she's sleeping, the question of euthanasia is on every page. You can read words such as:

Do not forget your euthanasia, it is your right, you have to ask the doctors or they'll never do it for you...⁴

³ <http://scholarship.law.marquette.edu/elders/vol11/iss2/8>

⁴ <http://alexschadenberg.blogspot.com.au/2014/05/lifting-veil-on-euthanasia-what-really.html>

Elder abuse

Undue influence is increasingly being seen as a relevant factor in the financial abuse of elders.

Seniors Rights Victoria provides [a useful summary of case law and best practice on undue influence](#) in the financial abuse of elders.⁵

It is clear from this summary that undue influence can easily be missed and may be difficult to identify. Of course, the courts can apply the remedy of rescission if it is established. In the case of assisted suicide a failure to spot undue influence before writing a prescription for a lethal dose will be incapable of remedy once the lethal dose is ingested.

A recent [parliamentary report on Elder Abuse in New South Wales](#) also referenced the failure of professionals to identify undue influence and so unwittingly facilitate elder abuse.⁶

It cites the Council on the Ageing NSW as observing that the *NSW Interagency policy on preventing and responding to abuse of older people*:

does not address the more common cases where elder abuse is perpetrated by a family member or carer 'in an environment of isolation, dependence and undue influence. (para 5.13 on p. 54)

The report also notes that:

Capacity Australia observed that financial abuse is often fueled by ignorance and family conflict, as well as 'inheritance impatience'. It further noted that undue influence by one family member over another is commonly facilitated by legal professionals because of their failure to detect when an older person is struggling to manage their financial affairs, that is, when they lack financial capacity. (para 6.6 on p. 80)

As long ago as 1885 in what is still cited in Australian law as the leading case on undue influence, [Sir James Hannen described some of the kinds of subtle coercion](#) that a frail, elderly or ill person may be subjected to that could be hard for any outside person to detect.

The coercion may of course be of different kinds, it may be in the grossest form, such as actual confinement or violence, or a person in the last days or hours of life may have become so weak and feeble, that a very little pressure will be sufficient to bring about

⁵ <https://assetsforcare.seniorsrights.org.au/relationship-breaks-down/equity/undue-influence-unconscionable-dealing/>

⁶

<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6063/Report%252044%2520-%2520Elder%2520abuse%2520in%2520New%2520South%2520Wales.pdf>

*the desired result, and it may even be that the mere talking to him at that stage of illness and pressing something upon him may so fatigue the brain, that the sick person may be induced, for quietness' sake, to do anything. This would equally be coercion, though not actual violence.*⁷

If a few grannies are bullied ...

Dr Henry Marsh, a British neurosurgeon and proponent of legalising assisted suicide and euthanasia, has acknowledged the possibility of coercion and elder abuse leading to wrongful deaths under such a law but he simply doesn't care:

*"Even if a few grannies get bullied into [suicide], isn't that the price worth paying for all the people who could die with dignity?"*⁸

Conclusion

It is clear from this evidence that simply requiring a physician to tick a box stating the person requesting assisted suicide is doing so voluntarily is no guarantee that the physician has the competence or has undertaken the extensive and careful inquiries necessary to establish that the person is not subject to undue influence or subtle pressure (albeit unwittingly) from family, friends or society to request assisted suicide so as not to burden others.

No jurisdiction that has legalised assisted suicide has even made any serious effort to establish a genuinely safe framework in this regard. Indeed no such framework is possible.

Any law permitting assisted suicide or euthanasia will inevitably result in wrongful deaths from coercion.

⁷ <https://swarb.co.uk/wingrove-v-wingrove-1885/>

⁸ <https://www.medscape.com/viewarticle/879187>