

When Metaphysical Beliefs Trump Human Compassion

Gary Bauslaugh

*The Lord comforts his people and will have
compassion upon his afflicted ones*

— Isaiah 49:13

The overarching message of Christianity is that, like Jesus, we ought to show compassion for our fellow human beings. Many Christians heed this message and work assiduously to help the needy around the world; many of them are motivated, or at least encouraged, by the religious organizations to which they belong. Many take seriously their church's message of mercy and kindness, as do adherents of other religious beliefs that hold similar values.

One may wish to question the evidence that lies behind the virtually universal religious assumption of the existence of a higher being or beings, but to the extent that religions try to be forces for good in the world, their efforts should be respected.

Most religions provide some sort of moral guidance to their followers. Religious beliefs in general provide a framework for a widely felt human urge to do what is right and to be caring and generous people. But Christianity, with its emphasis on compassion, would seem especially likely to provide a powerful voice in opposition to the seeming moral emptiness of contemporary society.

In churches, as in mosques and synagogues, and in other places of worship, there are constant explorations of how best to serve the interests of human goodness and compassion. And whether or not they actually live up to the full

implications of the lessons they learn, at least some followers, some of the time, absorb and internalize some of the messages they receive. There is little question that religions can be agencies for the betterment of human communities, and Christian organizations and churches, with their overarching commitment to compassion, should be particularly dedicated to supporting human kindness and dignity.

2

The strongest things in society are always too strong.

— G.K. Chesterton

A problem arises, however, whenever any belief is held too strongly. It is one thing to hold a set of beliefs that can act as a guide to our behaviour, but it is quite another to venture into the realm of certainty and absolute truth. Then moral guidance gives way to self-righteousness. Tolerance and mutual respect yield to intolerance and disrespect for "the other." Divisive prejudice and intolerance, rather than understanding and compassion, are the likely end results of narrow certitude.

Human life is fraught with moral ambiguities, and difficult and unclear choices, and we need all the help we can get in navigating through these matters. Trying to determine what is right demands openness and moral curiosity, not the assumption that the answers are made simple or obvious by ideological or religious rules and teachings.

From a scientific perspective, no belief is beyond scrutiny. Even scientific “truths,” supposedly established through years of careful collection of evidence, are sometimes unexpectedly overturned by the discovery of new evidence. But openness to new evidence is part of science. Scientists seek truth, but never, or at least should never, claim that finally, and once and for all, they have found it. Uncertainty is an underlying principle of science.

Certainty belongs solely in the world of metaphysics, not that it should have a home there, but very often it does. Metaphysical beliefs are those not based on objective evidence; they arise from stories, often ancient ones, and speculation and a need to find meaning in and purpose to human life. They are different, in a very important way, from scientific beliefs: they have no expectation of reevaluation. They are, sometimes at least, thought of as eternal truths.

Without this self-correcting mechanism of science, and without the underlying assumption, in science, of uncertainty, metaphysical beliefs are much more vulnerable to slipping into unwarranted certainty. Speculative ideas can morph into absolute truths. Arbitrariness can become dominant and, with that, extremism can thrive.

Without a detached overview, as science requires, ideas can become entrenched, rules can become absolute, and reason, never a central element of metaphysics, can be pushed aside. Overarching principles of a belief system can then become submerged in the minutiae of doctrinal busyness.

3

Euthanasia and wilful suicide are offenses against life itself which poison civilization . . .

— Second Vatican Council

The Right to Die movement provides us with an interesting example of how the problem of metaphysical belief plays out in our society today – a problem that often bedevils the search for a rational and compassionate resolution of difficult social issues, and a problem that is

the direct result of a particular doctrine of the Catholic Church.

That doctrine concerns the notion of the sanctity of human life, something that sounds like a good thing – should we not all support the preservation of human life? But what about when this doctrine conflicts with the overarching Christian message of compassion? What ought we to do, for example, when faced with fellow humans in prolonged, agonizing and irremediable pain? Just let them endure pointless suffering?

The Catholics among us have a choice to make when confronted with irremediable suffering: seek a way to help end the suffering, as their Christianity would seem to demand, or just let the torture go on, as required by a metaphysical belief promulgated by the Church? Do they act according to the cornerstone of their faith – compassion – or to an abstract notion like the sanctity of life? For Catholic officialdom, the latter has been the consistent choice of preference.

There are very elaborate arguments made by Catholics to defend this choice, often with impeccable logic. Inescapable in this, however, is the metaphysical basis for the premise of their argument: that all human life is created by God, belongs to God and can only be ended by God. And this view, held with a certainty that in effect justifies human torture, is possible only in the realm of metaphysics.

4

I didn't like being shackled – I had a hard time getting up the steps to the plane... I steeled myself about going to jail. I'd take courses and do lots of things.

— Evelyn Martens, after her trial, speaking about her arrest and the prospect of spending years in jail.

Well, we weren't there to read them the 23rd Psalm.

— John Hofsess, shortly before his death, when asked what he and Martens had done when they attended deaths.

Evelyn Martens

(Photo by Emrys Damon Miller / Rocketday Arts)



In October of 2004, Evelyn Martens, a woman in her early 70s, was prosecuted in Duncan, British Columbia, on two counts of assisted suicide. Martens, previously a Catholic and supportive of Catholic doctrine, changed her mind after watching her beloved brother Cornelius die a horrible death from cancer. Evelyn and other siblings stood around and watched the agonizing death of Cornelius, unable to do anything to help despite their brother's begging for someone to do something to end his suffering. But their religion, and a Church-influenced law prohibiting assisted death, forbade them to do so. This, Martens later said, was wrong. She subsequently devoted her life to trying to find ways to alleviate such unnecessary suffering, as Cornelius had undergone, going even to the extent of risking her own freedom to help people end their lives.

Is it wrong, as Martens said, to force people to go on living when life becomes unendurable. She disavowed the position her

church had taken on the matter because that position, she thought, was cruel and unjust. Church doctrine needs to be re-examined, she felt, when stacked up against very real and unnecessary human agony. The belief is an abstract thing, the grounds for which are unverifiable. The suffering is real, immediate and palpable. The choice, for Martens, was not a difficult one.

Martens felt so strongly about the injustice of Canada's laws on assisted death that she joined the Victoria-based Canadian Right to Die Society, and worked for years with the leader of the organization, John Hofsess, to provide information to people seeking help in dying and to lobby for a change in the highly restrictive Canadian laws.

Eventually, in the late 90s, following the unsuccessful attempt by paralyzed ALS sufferer Sue Rodriguez to get legal assistance in dying, and after a Senate Committee on death and dying had offered little support for changing the



John Hofsess

(Photo by Lawrence McLagan, 1992)

law, Hofsess grew discouraged about the chances of finding legal remedies. He decided that the best thing he could do for people who wanted to die was simply to help them die. So he set up a secret euthanasia service for members of the Right to Die Society. Martens was his accomplice in this.

Hofsess felt that what people really wanted was for someone to carry out the process for them, not simply to assist in their suicide. So that is what he and Martens did – taking a plastic hood, placing it over the head of dying person, and filling the bag with helium, a process that caused suffocation without the sensation of smothering. Assisting suicide, of course, was illegal at the time, but this went beyond that. This was not just assisting but carrying out the act. Technically, this was first-degree murder, and would have been charged as such if Hofsess and Martens had been caught. However both have now themselves died and their stories can be told.

Martens was actually caught and charged with the lesser crime of assisted suicide, but in her lengthy trial in 2004 the prosecution could not prove that she had actually participated in any direct way in the deaths she was found to have attended. In all, Hofsess and Martens carried out about a dozen of these deaths, including that of celebrated Canadian poet Al Purdy.

What should we think of the actions of Hofsess and Martens? Certainly they acted in blatant defiance of the law, committing offenses that are generally regarded as the most serious of crimes. In their defense, Hofsess likened what they did to the actions of northern whites who supported the underground railroad, in defiance of the American Fugitive Slave Act, helping blacks to escape from the tyranny of slave-owners in the South. But because the law prohibiting assistance to escaped slaves was viewed by many northerners as unjust, people risked their own freedom helped the escapees. Who among us would have refused to do so?

Hofsess claimed that the actions that he and Martens took were similar – helping innocent, suffering people from the tyranny of an unjust law. Whatever one thinks of that argument, Hofsess and Martens, and Sue Rodriguez, and Robert Latimer and his mercy-killing case, and the actions of many others, helped bring the issue of assisted death, and the injustices caused by the Canadian prohibition of assisted death, to public prominence.

5

We respect your religious views, but they cannot, in a secular society, trump our clients' constitutional rights.

— Joe Arvay, lawyer, responding to religious testimony in the Supreme Court of Canada's hearing on assisted death.

On February 6, 2015, the Supreme Court of Canada unanimously ruled that the prohibition on assisted suicide, as specified in the Criminal Code of Canada, was unconstitutional, and the Court gave direction on how this should be remedied by new legislation. The responsibility to make a legislative change fell to the new Liberal government, which passed Bill C-14, on medically-assisted death, on June 17, 2016.

The Court had specified that, according to our Charter of Rights and Freedoms, all competent and consenting adults who have a grievous and irremediable medical condition that causes enduring and intolerable suffering should have access to assisted death. Bill C-14, however, fell somewhat short of that directive. In Clause 241,2(2)(d), the Liberals arbitrarily limited eligibility to those for whom natural death is “reasonably foreseeable.” Many observers, including eminent Constitutional lawyers Peter Hogg and Joe Arvay, felt that the imposition of this limitation was a violation of constitutionality as determined in the Court ruling. The Court specified the eligibility of “competent and consenting adults ...” with grievous and incurable medical conditions, not just those about to die anyway.

The requirement that death must be reasonably foreseeable was indeed a major limitation in the bill – a limitation that not only appears to be unconstitutional but which deprives many Canadians of the right to seek medically-assisted death. In May, 2016, I spoke to the Standing House of Commons Committee on Justice and Human Rights about this serious problem with the proposed legislation. I spoke about my recent book (*The Right to Die*, April, 2016) which reviews the significant court cases involving assisted death in Canada since 1940. It appeared that at least half of these cases would not have been alleviated by the new legislation, largely because of the reasonably foreseeable clause. In September, 2016, I prepared a Government of Canada e-petition on the same issue and was successful in getting the necessary 500 signatures to have the petition presented in the House of Commons, which happened February 6, 2017.

I was far from being the only person to protest this limitation in the legislation. There were a great many others who felt that Bill C-14 is a betrayal of all the work that had been put in by so many people to get the court to the point where it could make its sweeping ruling. With that ruling and with the new legislation in the works, it appeared that Canada would finally have strong and compassionate assisted death legislation – legislation that would save many people from agonizing suffering and save many more from worrying about reaching a state of unendurable pain but being ineligible for assisted death. With the Supreme Court ruling, our legislation could have been among the best and most compassionate in the world. Instead, while better than nothing, it is tragically inadequate, leaving many desperate people with no prospect of relief from their pain.

The offending clause remained and Bill C-14 passed. A challenge was inevitable, and the BC Civil Liberties Association, which took the lead in the original case (*Carter vs. Canada*), quickly formulated a new case on behalf of Julia Lamb, suffering from spinal muscular atrophy, type II, a hereditary disease that causes weakness and wasting of the voluntary muscles. Her

death was not reasonably foreseeable, but she faced the possibility of many years of debilitated suffering. She wanted to know that she could get assistance in dying if her condition reached the point of being unbearable. A second plaintiff, Robyn Moro, suffering from Parkinson's disease, also joined the case.

The first ruling on this case came down from the BC Supreme Court on October 11, 2017. The Civil Liberties Association wanted the finding of facts from the previous Carter case, which led to the Supreme Court ruling, to hold for this case as well. The Carter case produced one of the strongest documents ever to be written in support of the idea of assisted death – written by BC Supreme Court Justice Lynne Smith. This landmark document provided powerful backing for the ultimate decision of the Supreme Court of Canada. Now Smith's acute and far-reaching analysis may well be irrelevant, as the facts surrounding the issue may be revisited by the new judge.

Whatever happens, the new decision on the case will take months or years to be resolved by the BC Supreme Court, and then it will inevitably go to the BC Appeals Court, and then to the Supreme Court of Canada.

This process will go on for years, with millions of dollars being spent, and with much additional unnecessary suffering by those barred from having access to assisted death. All of this is the result of the Liberals' unreasonable intransigence on the matter of "reasonably foreseeable" death.

6

If you can't get it all, grab what you can.

— Anon.

Why did the Liberals do this?

The reason they often give for their decision regarding reasonably foreseeable death is that it was necessary "to protect the vulnerable." Opponents of assisted death often raise the spectre of disabled or sick people being carted off, unwillingly, to die because they can no longer defend themselves. But this concern is and always has been a straw man. For one thing, as lawyer Joe

Arvey pointed out in the Carter case, this notion disrespects the intelligence and capability of the disabled. For another, evidence from other jurisdictions permitting assisted death clearly shows that the vulnerable will not be at elevated risk with the advent of assisted death legislation. Still, the shibboleth continues to be used by those who oppose assisted death. Their argument is not only unjustified, it is disingenuous. For the most part, protection of the vulnerable is invoked by those not really worried about bias against people with debilitating and incurable illness. Such vulnerable people are often the ones who have the most to gain by having a humane assisted death law. The argument is constantly invoked to create fear and uncertainty, for who among us would not be concerned if the vulnerable among us were somehow at risk.

But it is a bogus argument, and those who use it probably know that it is. The evidence is pretty clear, and these are not stupid people. But they are, apparently, people who believe that a metaphysical doctrine about the "sanctity of life" should override even the overarching message of compassion in their faith, and they believe this with such fervor and certitude in using any argument, no matter how specious, that might prevent or, failing that, limit assisted death.

In other words we have people who, because of their metaphysical beliefs, insist on prolonging real, palpable human suffering.

I have little doubt that there were significant Catholic influences on the Liberal government when it formulated Bill C-14. Given the Supreme Court decision, the Liberals had to come up with something. But even this compromised Bill had serious religious opposition even, one suspects, from within the Liberal caucus. The "reasonably foreseeable" clause undoubtedly helped smooth the passage of the Bill.

But this is a compromise that should never have been made. It is a compromise that hurts, not helps, the weakest and most vulnerable among us. In my opinion it was shameful. •

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