



Assisted Dying and Legal Change

Penney Lewis

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The question of whether euthanasia and assisted suicide should be legalized is often treated, by judges and commentators, as a universal, ethical question, transcending national boundaries and diverse legal systems. By thinking of the issue in this way, the important context in which individual jurisdictions make decisions about assisted dying and the significance of the legal methods chosen to carry out those decisions is often lost.

This book examines the impact of the choice of diverse legal routes towards legalization on the subsequent assisted dying regimes in operation. This examination suggests that greater caution is needed before relying on the experience of one jurisdiction when discussing proposals for regulation of assisted dying in others. The book seeks to demonstrate the need to explore the legal environment in which assisted dying is performed or proposed in order to evaluate the relevance of a particular legal experience to other jurisdictions.

The book explores the unsuccessful attempts to use constitutionally entrenched human rights claims to challenge criminal prohibitions on assisted suicide which reached the highest courts in the United States, Canada and Europe. Their failure makes legalization through a rights-based claim unlikely in any major common law or European jurisdiction. Alternative routes towards legalization are then discussed, including the defense of necessity, by which euthanasia was effectively legalized in the Netherlands and an approach based on compassion which has been proposed in France, as well as the legislative approaches which have been taken in Oregon, Belgium and the Northern Territory of Australia. All of these approaches are compared in some detail, with particular attention paid to the effectiveness and transferability of the ubiquitous slippery slope arguments

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