

## Physician-Assisted Suicide: A Response to Elias Pratt

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In the 2017 edition of Brigham Young University’s journal, *Aporia*, Elias Pratt wrote an article titled “The Legalization of Physician-Assisted Suicide.” In it he discussed the benefits and risks of legalizing physician assisted suicide. He concluded that none of the arguments put forth by those opposing the legalization were strong enough to justify a universal prohibition (Pratt 1). Yet, he conceded that some sort of regulation was needed if it were to be legalized. I will argue that Pratt approached this controversial subject with good intentions but ended up falling short in his argument and methodology. Specifically, I will respond to two elements of Pratt’s paper: 1) Pratt’s argument that immorality does not imply illegality, and 2) Pratt’s approach in seeking regulations. I will use the essay “Physician-Assisted Death in the United States: Are the Existing ‘Last Resorts’ Enough?” by Timothy Quill to supplement my response.

To maintain continuity, I will utilize the same medical language as Pratt. It should be noted that Quill uses the term “physician-assisted death” where Pratt uses “physician-assisted suicide.” Though the connotation may differ, I believe the meaning is the same. Because I am responding to Pratt, I will use the term “physician-assisted suicide,” and will often replace it with the acronym PAS. All other terms are used synonymously with Pratt.

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## Immorality and Illegality

Pratt discusses the views held by both proponents and opponents of the legalization of PAS. Proponents usually appeal to either (1) the autonomy of the patient or (2) the right of the patient to receive relief from suffering (Pratt 1). In contrast, opponents usually appeal to (1) the immorality of PAS, (2) the proper role of physicians, or (3) the possible social consequences (Pratt 1). A significant element of Pratt's argument centers on the morality of PAS. In an act to grant charity to the opponents of PAS, Pratt argues that even if their moral convictions are correct, and PAS is inherently immoral, it does not follow that PAS should be made illegal (Pratt 3). Pratt attempts to defend this claim by using John Stuart Mill. However, I believe such a defense is insufficient. Mill argues that men should live according to what they personally believe, and not what is dictated by a majority (23). The scope of Mill's argument is the varying individual beliefs that could easily be wrong or easily be right—and one's judgment of morality could swing either way. Yet this is not what Pratt seems to be saying. Pratt is conceding the arguments of the opponents of PAS, who make claims regarding the *inherent immorality* of PAS. Pratt concedes these claims by explicitly mentioning this inherent nature. He says, "Even if practicing physician-assisted suicide is *inherently* immoral, immorality does not necessarily indicate that something should be made illegal" (Pratt 3 emphasis added). Pratt is granting the inherent nature of PAS immorality. This is vastly different from Mill, who does not refer to these inherent immoralities. Therefore, Pratt's claim is unsupported by Mill.

Pratt later discusses how citizens are *not* justified in subjecting others to their own moral beliefs (3). At this point, Pratt appears to be dealing with things that are not inherently immoral. Here there is a disconnect between the inherent wrongs Pratt assumes earlier and the subjective wrongs that he later considers. Having presented this problem with Pratt's argument, I am not saying that all the things one individual views to be immoral should be made illegal. Many individual beliefs are based on religious/personal convictions—things that are not shared by all. These convictions should not be the standard for law. But if there is a moral judgment that is collectively inherent, then there is sufficient ground to take legal action. Pratt connotes that the inherent immorality of PAS is not a sufficient condition to make it illegal. I suggest that it is.

Typically, "inherent immorality" brings to mind such things as murder, incest, or rape. These are clearly inherently wrong and are deemed illegal. I will not now argue if PAS is comparable to these. If, however, Pratt concedes that PAS is inherently immoral, then he is demonstrating a common feature between it and the three crimes mentioned above. I

think this common feature of inherent immorality is grounds to make things illegal and so, per Pratt, PAS should be treated the same as the other inherently immoral acts and be made illegal. Things that are inherently immoral cannot be regulated in such a way that they can be allowable (as conditionally immoral things could be). Therefore, no matter what regulations Pratt suggests, if PAS is inherently immoral, it can never be allowable, and ought to be illegal in any case. Therefore, if Pratt means what he says, then PAS should be treated contrary to his conclusions and be made illegal. If Pratt does not mean what he says, then substantially more clarification and support is needed.

## Regulations

Pratt discusses the points of view of both proponents and opponents, but ultimately sides with the proponents. He spends a great deal of time in his essay discussing regulations for PAS once it is legalized. It is here that I believe he is asking the wrong question. His question seems to be, "What are the necessary limits for PAS once it is legalized?" This question has already been considered in the medical realm. Timothy Quill, an American physician and board member of Death with Dignity National Center in Portland, discusses the complexities associated with PAS. In Quill's paper, he already assumes much of what Pratt has brought up as necessary regulations. Quill mentions the palliative care movement, which has increased the ability of patients to be fully informed when decisions are being made (17). He talks about having a third party involved whenever there is a PAS at hand (Quill 21). He demonstrates the importance of ensuring that the patient is mentally capable of decisions before any PAS action is taken (Quill 21). He shows that PAS is not being used as a replacement for hospice or palliative care (Quill 20). He even argues that PAS only makes sense if excellent palliative care is already being provided (Quill 20).

Since most of his concerns are already being discussed, I believe Pratt's question should be, "How can we better understand PAS as a last resort option?" I present this question because I am granting charity to Pratt's argument that we have no reason to prevent legalization. Quill provides some perspective on this topic. He outlines four different last resort options that can be taken if state-of-the-art palliative care is unsuccessful.

1. The right to intensive pain and symptom management (Quill 18). In this case, pain can almost always be relieved without any significant risks of death. It is widely accepted and relatively uncontroversial.

2. The right to forgo life-sustaining therapy (Quill 19). In this case, the patient exercises her right to forgo treatments or to stop them once started. This option is also widely accepted and rather uncontroversial.

3. Voluntarily stopping eating and drinking (Quill 19). This is the patient's informed decision meant to hasten death and escape suffering. It is not directly "physician-assisted," but needs to be "physician-supported." This option is less settled than the previous two.

4. Sedation to unconsciousness (Quill 19). This case is the explicit decision to make the patient unconscious so that he can escape suffering. Food and drink are usually discontinued. Patients consequently die about seventy-two hours later. This, like the voluntarily stopping eating and drinking case, is less settled upon than the first two cases. However, all four of the cases mentioned above generate less legal and ethical controversy than does PAS.

This outline of Quill's analysis is meant to demonstrate that there are in fact many last resort options available to patients experiencing severe pain. PAS is another option. Regarding legality, I am not advocating one side of the issue over the other. I have attempted to withhold my biases as I have critiqued Pratt. If PAS is on the trajectory of being legalized, it has already assumed the regulations Pratt presents. However, the legalization of PAS does not already possess a delineation in how it is viewed in relation to other last resort options. Is it more comparable to the right of intensive pain management, or to sedation to unconsciousness? Perhaps it is more extreme than all four of these options and should only be considered the last of the last resorts. Regardless, the obligation is ours to determine where it falls along the spectrum and how society should respond to it.

## Conclusion

In Oregon, one in a thousand deaths per year are due to PAS, one in fifty patients talk with their doctors about PAS, and one in six patients talk about it with their family members (Quill 20). The statistics are not insignificant—they show that the availability of PAS is much more important than its use. Though we are dealing with a minority when discussing PAS, that does not make it any less important. Progress will likely be made gradually. To many, this will seem frustrating. However,

with incrementality comes value. It gives us time to study the effects of our legislation. It helps us better understand the progression of our ideas and policies. It might not make the practice of PAS less divisive, but it may make the process through which legalization occurs less divisive—that is my hope. In responding to Pratt, I hope I have not diminished his worthy endeavor. He has sought to better establish our understanding of PAS, which is vitally important as we move forward in the medical and philosophical world. I stand with his optimism that the ideal can be achieved as we come together in understanding

## Works Cited

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