Commentary: Kevorkian on Trial

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Putting Kevorkian on trial is not the same as developing a rational health care policy for those who are terminally ill. Kevorkian needs to be checked, but too much significance should not be given to his case. Our concern with the care for those who are seriously or terminally ill is too important to relegated to the trial of someone who is so narrowly fixed on being the instrument of his own death or that of others.

Jack Kevorkian, M.D., gave Thomas Youk, a 52-year-old Michigan man suffering with amyotrophic lateral sclerosis (ALS), a lethal injection, videotaped the deed, and arranged for an edited version of that tape to be broadcast on the national television program "60 Minutes." He then challenged Michigan prosecutors to try to convict him, threatening to starve himself to death if they succeeded. Michigan authorities have accommodated him, charging him with premeditated murder, criminal assistance in a suicide and improper use of a controlled substance. Kevorkian's license to practice medicine, and thus to dispense controlled substances, had been suspended in 1991 by the Michigan Board of Medicine.

The public first learned about this case in the rather sensational promotions aired by CBS for the "60 Minutes" episode. Many reacted to the news and the program with shock, feeling the case for legalization of euthanasia could have been made, even using the suffering of Youk to support it, without showing his death. At least six CBS affiliates refused to show the Kevorkian segment. Youk's wife, who supported her husband's request for death, spoke of him as a person who cherished his privacy without seeming to recognize the irony in which his death was publicized and treated was a means for Kevorkian to achieve his own ends.

Some were shocked that Kevorkian crossed the boundary between assisted suicide, in which patients perform the lethal act with physicians providing the means, and euthanasia, in which the physicians directly induce death through lethal injection. Experience, however, over the past decade seems persuasive that assisted suicide does not offer much protection against the coercion that many fear may accompany euthanasia. Nor, if assisted suicide becomes legal, will it long be possible to draw the line short of euthanasia.

Although Youk could have swallowed lethal medication, many terminally ill patients cannot, and would need a doctor's help to effect their deaths. If assistance in suicide becomes accepted medical practice, it would be hard to deny help in providing it to such patients.

Although the media treated this as the first showing of euthanasia on American television, in December 1994, ABC's "Prime Time Live" played an excerpt from a Dutch documentary showing a physician ending the life of a patient, also diagnosed with ALS. That program introduced the film as a story of "courage and love," but enough detail was provided to make it clear that the patient was very ambivalent about dying, and wanted to put off the date for his death. That ambivalence was ignored by the doctor, who supported the desire of the patient's wife to move forward quickly. The clip shows that this doctor never sees the patient alone, permits the wife to answer all questions for him about whether he wants to die, and presents a frightening and inaccurate picture of the death that awaits him without euthanasia. The doctor says of his patient, "I can give him the finest wheelchair there is, but in the end it is only a stopgap. He is going to die and he knows it." That death may be years away, but a physician with this attitude may not be able to present plausible alternatives to such a patient.

Similarly, in the Youk case, most disturbing for many physicians was Kevorkian's inability to do anything for his patient but end his suffering by ending his life. Kevorkian, unfortunately, is not equipped by training, and perhaps by temperament, to do anything else.

Youk was asked questions requiring only one- or two-word answers. Therefore, missing in the segment played on "60 Minutes" is his voice and any attempt to engage him in any other subject than the question of how and when he should die. Kevorkian and Youk's family constantly speak for him.
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Kevorkian does not address the role of Youk's family in the decision to end his life. At one point, Youk's brother states, "We were at the end of our rope." We know that a family who feels overburdened by an illness can play a powerful role in influencing a patient's wish to die. A Swedish study, for example, looked at the response of relatives to the suicide attempts of patients with somatic illnesses. Family members, overwhelmed by what they felt were the relentless needs of the patient, were likely to have delayed calling the doctor, to urge nonresuscitation of the patient and to have expressed death wishes to the patient. Once help from social welfare agencies was arranged, family attitudes changed and the patients wanted to live.

Kevorkian does not inquire about the desperation that invariably underlies a patient's request for death. Nor does he ever address with Youk what might be done to relieve his distress. For example, Youk was said to be afraid of choking because he was unable to swallow his saliva, but there is no discussion of medications that can control this problem. Dame Cicely Saunders, the English physician who founded the hospice movement, has written that she has treated hundreds of patients with ALS and none of them choked or suffocated to death. Given proper medical care, death is painless for most people with this disease.

Although Youk preferred assisted suicide, Kevorkian claims to have persuaded him to accept euthanasia. The segment of the tape containing that persuasion was not shown. We are told that Youk was in a hospice program, yet we never hear from anyone in that program. We are also told that Youk was unhappy with his medical treatment, but not why or what could have been done to improve it.

Nor did Mike Wallace's interview for "60 Minutes" reflect any feeling on Kevorkian's part for Youk. Youk's death seemed subordinate to Kevorkian's starvation threat if convicted of murder. The final and ultimate disrespect shown to Youk was in televising his death, and sacrificing the privacy and dignity that should accompany death to Kevorkian's need to attract our attention.

Structuring their program in a way that was sympathetic to Kevorkian while trying to appear to be unbiased, CBS did not give its audience enough background information to enable them to view the Kevorkian tape in any meaningful context.

Kevorkian has told us that he sees as euthanasia candidates not only those suffering from disease, deformity or trauma, but people with "intense anxiety or psychic torture inflicted by self or others." The latter could have been his justification for assisting in the suicide of Judith Curren, a woman with chronic fatigue syndrome and fibromyalgia, a nonlethal muscular disorder. Three weeks before her death, her husband, who played an active role in the arrangements with Kevorkian, had been arrested on a domestic assault charge. Curren was addicted to painkillers, and had complained of depression as well as spousal abuse. Like Curren, many of those Kevorkian has assisted in suicide were not terminally ill, and some had doubts about dying. At least one person's autopsy showed no evidence of physical disease.

Kevorkian's fascination with death, also expressed in his paintings of dismembered bodies, has a long history. He was first called "Dr. Death" in 1956 during his medical residency because of his interest in photographing the retinal blood vessels of patients at the moment of their deaths. He achieved notoriety a few years later with papers suggesting that death row inmates be anesthetized at execution time so that their living bodies could be used for experiments lasting hours, or even months, after which they would be given a lethal dose of the anesthetic. Thus, this would save the lives of innocent animals killed in the name of science.

His persistent advocacy of such experimentation made him a pariah among physicians, and caused him to lose an academic appointment at the University of Michigan. Speaking of his interest in euthanasia in 1990, he told U.S. News and World Report, "The medical profession made a mistake when they ostracized me. I have no career anymore. This is the substitute."

Becoming the instrument of death for others or oneself is a way that death-obsessed individuals sometimes deal with their own anxieties. Using their own death as an instrument of control is characteristic. I won't live "if I lose my looks, power, prestige or health," or "if I am going to die soon" or, in Kevorkian's case, "if I am not permitted to perform euthanasia." Prisoners are not given the right to starve themselves to death, so, in fact, that option will not be open to Kevorkian.

Michigan prosecutors concerned with putting a stop to Kevorkian's activities will need to educate the jury (and the public) about the eccentric and unprofessional nature of Kevorkian's behavior, as well as its illegality, or they will run the risk of arousing sympathy for him. Kevorkian has been acquitted three times by Michigan juries on charges of assisted suicide. Although Michigan now has a statute prohibiting assisted suicide, a jury may again understandably, but mistakenly, see him as a champion of those who are terminally ill. The best chance for conviction may rest on the charge of misuse of controlled substances, which by itself could lead to several years of imprisonment.
Kevorkian plans to act as part of his legal team in this case, which may give the jury a better opportunity to witness his erratic behavior. Proponents and opponents of assisted suicide legalization see this case as a battleground in their ongoing struggle. Proponents, though embarrassed by Kevorkian, know that if he is acquitted it will be hard to convict any physician in Michigan for ending the life of a patient who requests it, no matter how negligently or irresponsibly the physician behaves. Opponents hope that a conviction will provide momentum to their efforts to educate the public on the need for palliative care, and the dangers of using physician-assisted suicide and euthanasia as substitutes.

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