

The Right to Die

by Michael Curtis



All that lives must die, passing through nature to eternity. It is the time and drawing days out that men and women stand upon. On April 17, 2019 the well-known seventy seven year old British-Australian actress Miriam Margolyes spoke of the need to confront a major problem, that of dying, and called for legislation on the subject and on the right to die. Dying, she said, worries people, "it worries me...We struggle to discuss dying because there is embarrassment on the subject."

A new, important book, *A Death of One's Own: Literature, Law, and the Right to Die*, by Jared Stark, professor of comparative literature at Eckerd College, suffers from no such embarrassment. It is a major work that explores the legal understandings of assisted suicide and euthanasia in reflections of modern death and suicide by recent writers. Stark does not advocate his own particular position on the issues he discusses, but raises innumerable questions about them. He draws on literary texts by a variety of great writers, Rilke, Balzac, Melville, Baudelaire, and more modern authors, Walter Benjamin, Hannah Arendt, and Jean Amery, in relation to his arguments, though they did not have medically assisted death as their explicit theme.

His book is a sustained brilliant analysis of the manner in which writers and legal theorists from widely different points of view have contributed to the literature on the experience of modern death. He deepens and reframes in thought provoking fashion the questions he raises.

Stark examines the complex discussion of issues concerning the fundamental one, what does the right to die mean? What does it mean for relations with others? What does the right to die relate to being human? What does death with dignity mean?

The right to die means a person is entitled to end one's own life or in other words have voluntary euthanasia because of terminal, incurable illness, or no longer having the will to continue living. The issues are formidable. Is one's body and life one's own, and should decisions if possible be made by oneself? Is assisted suicide involved who should make the final decision?

The decision on the right to die did not occur in previous historical periods, since dying was thought of as part of nature, and human beings did not even consider if they could control dying. Modernization has changed that attitude. Stark cites medical advances to make the point. Use of chemotherapy and drugs can delay death from happening, thus giving people control over death for a time. He uses literature to illustrate the point when the modern view of death as giving people "the right to die," came into discussion.

Stark discusses the three arguments made for claims for the right to die. The first is the right of personal autonomy, the right of individuals to act for themselves. The second is self-authorship, the right to create one's own image and the narrative of one's own life. The third is to choose a death with dignity, to affirm a certain idea of what it means to be human. These questions are now more difficult to answer because of the new way of dying, in hospital, not at home as throughout history. Now, the time of death can be manipulated

because of the availability of new medical techniques. The extraordinary has become ordinary; death can be a matter of choice. The traditional legal attitude that it was criminal to assist or encourage another's death may no longer be viable in modern jurisprudence.

Stark illustrates part of his analysis by discussion of Carolyn Heilbrun, professor of English literature, and author of detective novels under the pseudonym of Amanda Cross, who committed suicide in October 2003 at the age of seventy seven. Heilbrun held that suicide was a fundamental human right. Stark carefully discusses the different views of her action to make the point that it was difficult for people to accept suicide as a positive act. They debated whether her suicide was an expression of depression, or a sadness that the world had failed her, a political appeal against conditions of injustice and unfreedom, or an act of freedom?

The United States has been concerned with a number of practical issues that resulted in court cases on the right to die from a different aspect, that of the presence or absence of a living will and the role of surrogates. The case of 22 year old Karen Ann Quinlan in 1976 involved the right of her parents to remove their daughter from life support focused on the legal issues of a proxy and the absence of a living will, and involved a battle between the parents and the state.

The case of Nancy Cruzan, victim of an automobile accident in 1983, was like that of Quinlan in two ways; her medical state of instability and need to be kept alive by hydration and feeding tube, and the absence of a living will or named proxy. Stark explains how the U.S. Supreme Court took opposite approaches to the question of the surrogate. The general problem, headedly debated, was who has or should have the final decision on the right to die?

The prolonged case of Terri Schiavo, 1990- 2005, who lacked oxygen, also dealt with how to manage someone in a similar

medical condition as Quinlan and Cruzan, the need of a feeding tube to keep her alive.

The whole country was divided over a fundamental issue; under what conditions should invalids be kept alive or allowed to die. All three cases involved the right to die, if people were suffering from terminal illness, and it was not possible to gain consciousness. Who should have the final decision on the right of others to die? Is there a right of parents to act when there was no clear evidence of the child's wishes?

Then there is the problem of a living will. This may convey, as Stark argues, the expression of the autonomy of a person who can't speak because of the illness, and thus embodies the possibility of self-determination. But he also suggests that this view is subject to limitations. One of them is the question of the image of the autonomous person who is being safeguarded.

On the question of assisted suicide there is a dilemma. If the law prohibits assisted suicide, it indicates fears that permitting assisted suicide would undermine the preservation of life. If the law permits it, this means disclaiming responsibility for the incapacitated person.

One of the most insightful passages in the book is the distinctive discussion of *Bartleby, the Scrivener*, the character in Melville's story "Bartleby, the Scrivener: a story of Wall Street" which deals with the problem that the right to die cannot be legally adjudicated according to existing legal categories and precedents. Stark argues that Bartleby is acting out of choice. He stresses the significance of Bartleby's constant reiteration that "I would prefer not to," giving him and not the lawyer in the story the right to decide on when to die.

Stark's book is highly concentrated and requires careful reading to follow his analyses of literature and the law on

the principle of the right to die, especially because of his discussion of what he calls literature's creative vision of a modernist art of death. That literature portrays the transformation as embedded in modernist concepts of individuality, economic structure and scientific advancement. One can decide on one's own death by accepting medical treatment or rejecting it. Moreover, the dividing line between life and death is now blurred through new medicine and through institutions like hospitals which hide disease and the dying from public view. Stark, in the context of Balzac's novel, *Le Peau de Chagrain*, in which the central character withdraws into a state in which he has no desires, reviews the cases of Quinian, Cruzan, and Schiavo, concerning the issue of when life support should be ended.

Finally, there is a significant and highly controversial discussion on the right to die after Auschwitz, in the light of the Nazi "euthanasia" program on who should die and who should live. The view towards euthanasia has changed drastically in view of the Nazi doctrine. After Auschwitz can someone be allowed to decide who is worthy or not worthy of living life? Stark discusses the various views of dying with dignity. Auschwitz is the antithesis of dying with dignity. The Nazis took away any sense of agency from committing suicide because the inmates were already dead in the sense they felt worthless and didn't deserve to live. The question is posed. Can dying with dignity exist after Auschwitz?