

## BOOK REVIEW

Maier I. Tuchler,<sup>1</sup> M.D.

### A Review of *Euthanasia*

---

**REFERENCE:** Carmi, A., Ed., *Euthanasia*, Vol. II, Springer-Verlag, 175 Fifth Ave., New York, NY 10010, 1984, 185 pp., \$32.90.

This volume, edited by Judge Amnon Carmi of Haifa, Israel, presents a series of articles by distinguished scientists from Africa, Europe, the United States, and Israel, and makes a serious effort to cope with the technological and engineering advances in the field of medicine which have been responsible for the extraordinary amount of literature and litigation considering euthanasia.

By far the most scholarly and absorbing chapters deal with biblical, Talmudic, and Halachic duty to the dying which premises that man is not the owner of his body, that he must not allow harm be done to the body, life is a gift of God and is in His hands, and He, alone, designates what is to be taken away.

The chapters by Judges Carmi and Cohn establish the concept that dying is an integral part of life, that Judaic duty (law) supports human dignity and moral responsibility, and, not only must living be esteemed, so must the process which ends in death be equally dignified.

Biblical law formulated elaborate rules which prohibited active intervention in the process of death of those moribund, already dying. With the incurable in which the process of death has not yet set in, it is prohibited to do any act which may shorten life by even a few minutes.

With these several chapters the reader can identify the Biblical origins of our criminal law on euthanasia which is characterized as the ultimate and extreme manifestation of human compassion, an expression of the Golden Rule of Biblical duty, "Thou shalt love thy neighbor as thyself."

Active and passive euthanasia can be distinguished as the difference between an act and an omission. In active euthanasia the physician does something to bring about the patient's death. In passive euthanasia no positive action is taken to prolong the life of the terminally ill. It is permissible to withdraw treatment in some cases to allow the patient to die; it is never permissible to take direct action designed to cause death. The distinction between an act and an omission reflects the difference between first degree murder and a legally permissible action.

The Karen Quinlan case is explored as an example in which the New Jersey Supreme Court subordinated the government interest in preserving human life in situations involving terminally ill patients bereft of cognitive facilities and maintained by complex technology. In such a complicated case involving passive euthanasia, the patient's right to privacy and freedom from intrusion is constitutionally guaranteed and must be upheld unless outweighed by compelling State's interests.

<sup>1</sup>Neurology Forensic Psychiatry, 2641 E. Roma, Phoenix, AZ 85016.

In current American practice, the notion of an individual's rights to privacy originated with the Founding Fathers as articulated by Judge Brandeis in his dissent in *Olmstead v. U.S.*: "the makers of our Constitution sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They confer, as against the government, the right to be left alone—the most comprehensive of rights and the right most valued by civilized man."

In reading Judge Carmi, this writer must recall the encyclopedic Biblical and historical knowledge of the late Sam Levenson, second president of the American Academy of Forensic Sciences. Dr. Sam would frequently illuminate the common law with its origins in Judaic practice and Judeo-Christian values. Judge Carmi reiterates what Dr. Sam taught as he reflected on the Biblical origins of the body of common law.