

6-23-2000

Trends. The Double Edged Sword of Transparency in Criminal and Civil Law: The Case of Euthanasia

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Recommended Citation

Editor (2000) "Trends. The Double Edged Sword of Transparency in Criminal and Civil Law: The Case of Euthanasia," *International Bulletin of Political Psychology*: Vol. 8 : Iss. 21 , Article 5.

Available at: <https://commons.erau.edu/ibpp/vol8/iss21/5>

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International Bulletin of Political Psychology

Title: Trends. The Double Edged Sword of Transparency in Criminal and Civil Law: The Case of Euthanasia

Author: Editor

Volume: 8

Issue: 21

Date: 2000-06-23

Keywords: Decriminalization, Euthanasia, The Netherlands

Political authorities in The Netherlands are seeking to decriminalize euthanasia under certain qualifications and criteria. According to a representative of the Health Ministry, one rationale for this move is that, if euthanasia remains a punishable offense, then transparency--i.e., a clear window into incidence, prevalence, and nature of euthanasia--will suffer. However, this appeal to transparency is problematic for at least two reasons.

First, the same logic could be equally applied to any criminal behavior, including theft, illicit drug trafficking, money laundering, and contract murder perpetrated by organized crime--the last a perfect description for euthanasia according to some analysts. Actually, not only could decriminalization facilitate transparency, but it would solve the problem of crime. Why? There would no longer be any crime.

Second, decriminalization would--in all likelihood--only induce a partial transparency as long as there would be associated qualifications and criteria because perpetrators and accomplices of euthanasia outside the limitations would shun the light of openness. To resolve this Issue would take...more decriminalization, even legalization, with even less qualifications and criteria, and so on.

What seems to be transparent is that transparency is a red herring that directs attention away from ethical and moral Issues about life and death. (See Daley, S. (June 20, 2000). The Dutch seek to legalize long-tolerated euthansia. *The New York Times*, p. A1, A10; Forde, R., Aasland, O. G., & Falkum, E. (1997). The ethics of euthanasia--attitudes and practice among Norwegian physicians. *Social Science and Medicine*, 45, 887-892; Hendin, H. S. (1998). Physician-assisted suicide and euthanasia: The human dimension of legalization. *Journal of Long Term Home Health Care: The Pride Institute Journal*, 17, 29-37; Swarte, N. B., & Heintz, A. P. M. (1999). Euthanasia and physician-assisted suicide. *Annals of Medicine*, 31, 364-371; Werth, J.L., Jr. (1999). Mental health professionals and assisted death: Perceived ethical obligations and proposed guidelines for practice. *Ethics and Behavior*, 9, 159-183.) (Keywords: Decriminalization, Euthanasia, The Netherlands.)