

Freethought San Marcos: Attacks on the right to a peaceful death continue

by Lamar Hankins

"My Life My Death My Choice," the billboards read. They are springing up in three locations around the country, with more planned later. They are the work of the Final Exit Network (of which I am a member). Simply put, the Final Exit Network supports the human right to a death with dignity.

This notion that there is a right to a death with dignity was first suggested in the United States over a century ago when a bill that would permit euthanasia was introduced in the Ohio legislature. Thirty-two years later, The Euthanasia Society of America was founded in New York. In the 1950s, a few academic and professional journals broached the idea of a right to die. In 1967, the first living will, a directive about what sort of medical treatment a person would choose when facing a terminal illness, was proposed by attorney Louis Kutner, and his proposal was debated in the Indiana Law Journal. In 1976, eleven states passed so-called natural death acts, recognizing living wills and protecting physicians who honor a patient's wishes not to receive certain medical treatments for terminal and debilitating conditions.

In 1980, Pope John Paul II issued a declaration about euthanasia, opposing mercy killing, but permitting greater use of painkillers to ease pain as well as recognizing the right to refuse extraordinary means for sustaining life. In that same year, the Hemlock Society was founded in Santa Monica, California, by Derek Humphry. It advocated legislative changes to allow people the assistance of physicians to end their suffering and distributed how-to-die information. Within ten years, Hemlock's national membership grew to 50,000.

In the 1970s and 1980s, several state legislatures and state courts recognized a right to refuse medical treatment, culminating in a 1990 US Supreme Court decision (the Cruzan case), in which the court recognized that competent adults have a constitutionally protected liberty interest that includes a right to refuse medical treatment, but allowed states to impose procedural safeguards to protect public interests.

In 1991, the federal Patient Self-Determination Act took effect. It required hospitals that receive federal funds to tell patients that they have a right to demand or refuse treatment. That same year, Derek Humphry published his seminal how-to book on self-deliverance—Final Exit. (To date, total sales exceed one million; it is available as a 3rd edition book, a DVD, and a digital edition on-line at <http://www.finalexit.com>.) Also in 1991, Choice in Dying was formed by the merger of two aid-in-dying organizations—Concern for Dying and Society for the Right to Die. The new organization advocated for patients' rights and promoted living wills. Within five years it grew to 150,000 members.

On January 1, 1998, the Oregon Death with Dignity Act, first passed in 1994 and subjected to legal appeals and one referendum to repeal it, took effect. A similar law was

passed in the state of Washington in 2008, and the Montana Supreme Court ruled in 2009 that nothing in its state law prevents patients from seeking physician-assisted death, making Montana the third state to allow the procedure.

The renaming of Hemlock Society USA to End-of-Life Choices in 2003, followed by its merger a few months later with Compassion in Dying to become Compassion & Choices (C&C), led to the new organization's focus on promoting legislative solutions to aid-in-dying, rather than providing direct guidance to the terminally ill as had been done through the Hemlock program Caring Friends. This changed focus left a gap in direct services to those unable to use the physician-aid-in-dying law in Oregon and those without recourse to such a law elsewhere in the US.

Responding to a need for self-help remedies for prolonged suffering from terminal illnesses and other debilitating conditions, former Hemlock members, including Humphry, created the Final Exit Network in 2004, which developed a system of trained, volunteer guides across America to help dying people who wanted assistance in learning how to die peacefully without a physician's help.

The Guiding Principle of the nonprofit, volunteer-operated Final Exit Network explains its philosophy: "Mentally competent adults have a basic human right to end their lives when they suffer from a fatal or irreversible illness or intractable pain, when their quality of life is personally unacceptable, and the future holds only hopelessness and misery. Such a right shall be an individual choice, including the timing and companion, free of any restrictions by the law, clergy, medical profession, even friends and relatives no matter how well-intentioned. We do not encourage anyone to end their life, do not provide the means to do so, and do not actively assist in a person's death. We do, however, support any member who requests it when medical circumstances warrant their decision."

The philosophy of the Final Exit Network is implemented by:

- offering free service to all who apply, providing relevant information, home visits if possible and compassionate counseling for the individual and family
- raising the awareness of all Americans concerning this basic human right
- promoting the use of advance directives and other related legal instruments to document the intentions of any individual
- sponsoring research into new peaceful and reliable methods to end life
- vigorously defending "our guiding principle" in a court of law when necessary

For the last thirty years, the idea of a right to die has been widely debated in the US. Most people who make use of this right do so by refusing ultimately futile medical treatment or procedures, often aided by hospice, which began in the US in New Haven, Connecticut in the early 1970s, and became widespread by the early 1990s. Generally, hospice follows a philosophy which focuses on palliative care of a terminally ill patient's symptoms, whether physical, emotional, spiritual, or social. Hospice tries to alleviate, rather than cure, a patient's symptoms so that suffering is significantly reduced or eliminated. For

some people, however, palliative care does not work, and they seek to end their lives rather than continue suffering.

Perhaps the most important aspect of aid-in-dying, death with dignity, or self-deliverance—whatever one prefers to call it—is that it is the individual's decision to proceed in such a fashion. No one has the right to actively assist a person to end their own life, encourage such behavior, or promote it. And that is made clear by the Final Exit Network's billboard campaign—"My Life My Death My Choice"—which is intended to promote one's autonomy in such decisions and encourage thoughtful discussion about the end of life.

Such advocacy is not without its detractors. The Catholic Church, along with other religious groups, has poured millions of dollars into defeating right-to-die legislation. For many religions, taking one's life for any reason is a sin, punishable by eternal torment. And some law enforcement officials have decided to torment the Final Exit Network in this life. Three years ago, prosecutors in Arizona brought charges against four members of the Final Exit Network for allegedly assisting in the deaths of several individuals. While two ill, elderly women defendants pleaded guilty to avoid the possibility of going to prison, the other two chose to fight the charges, and their cases have been postponed indefinitely while prosecutors try to find sufficient evidence to secure convictions. In Georgia in 2009, four Final Exit Network volunteers were similarly charged, and all of Final Exit Network's assets were seized under a racketeering law, making it impossible for the organization to provide immediate legal assistance. Very quickly, however, once the circumstances became known, the Final Exit Network was able to raise sufficient funds to bail the defendants from jail and provide legal counsel. Their cases are being vigorously defended while the Georgia Bureau of Investigation and the FBI try to find sufficient incriminating evidence to take the defendants to trial. The cases have been postponed until 2012 because the prosecutor insists that it does not have the finances to proceed to trial at this time. Seven months after the seizure of the organization's funds, a judge ordered all \$330,000 returned because there was no basis in law for the seizure.

The use of the criminal laws to attack an organization and individuals for engaging in lawful activities that offend politicians and the powerful is nothing new in this country. Citizens have worked against unfair laws at least since the days when the Underground Railroad assisted and protected escaped slaves from recapture by their masters and law enforcers because slavery was viewed as inhumane and immoral. Many who support the Final Exit Network believe that the freedom to decide how one will live one's own life and choose one's own death is as important as being free from involuntary servitude. In many cases, it means being free from involuntary suffering. "My Life My Death My Choice" means that others have no right to impose their values on my life. The alternative is "My Life My Death Your Choice," which is no choice at all for me.

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