This book is dedicated to

MARIE RITA GRIZEZ, R.N. (1913–1936)

and to

MARY McGUCKIN DEAN, R.N. (1898–1976)

and to all of the other members of the nursing profession who help persons who are ill, declining, and wretched to live with dignity even as they die.
Contents

PREFACE WITH ACKNOWLEDGMENTS xi

1: INTRODUCTION 1
A. The Complexity of the Euthanasia Debate 1
B. Complex Factors Generating the Issues 4
C. The Mounting Burden of Public Welfare 6
D. A Proposal for Easing the Burden 7
E. The Future Social Insecurity of the Elderly 9
F. Killing as an Option No Longer Unthinkable 11
G. Public Confusion and the "Right to Die" 13
H. From Voluntary to Nonvoluntary Euthanasia 15
I. The Approach of This Book 18
J. The Task of the Movement for Life 21

2: LAW, LIBERTY, AND JUSTICE 24
A. The Purpose of This Chapter 24
B. Just Law and the Consent of the Governed 25
C. The Common Good 34
D. Justice as the Chief Common Good 39
E. The Relationship between Justice and Liberty 44
F. Liberty and Justice as a Sufficient Standard 46
G. Privacy and Liberty 50
H. Law, Liberty, and Morality 55

3: DEFINITION OF DEATH 59
A. Definition of Death and Euthanasia 59
B. Should Death Be Defined Anew? 62
C. The Harvard Committee's Criteria 65
D. Death as Process or Event 67
E. A Stipulative Definition of "Death"? 68
F. Robert Veatch's Analysis 71
**Contents**

G. A New Proposal for Defining Death 76  
H. A Model Statute 78  
I. Criticism of Existing Statutes 80  
J. A Federal Definition-of-Death Statute? 84

4: THE LIBERTY TO REFUSE MEDICAL TREATMENT 86  
A. "Euthanasia" and the Refusal of Treatment 86  
B. The General Primacy of Patient Choice 87  
C. Presumed Consent and the Physician's Liability 90  
D. Limits of Patient Liberty 92  
E. Privacy and Refusal of Treatment 96  
F. Clarification of Standards a Partial Solution 99  
G. A Critique of Existing Legislation 100  
H. A Critique of Other Proposals 107  
I. A Model Statute to Protect the Patient's Liberty 109  
J. Replies to Some Objections 118

5: SUICIDE AND LIBERTY 121  
A. Introduction 121  
B. The Changing Law on Suicide 122  
C. Liberty and a "Right" to Suicide 125  
D. Restraints on Attempted Suicide 127  
E. Assisted Suicide 131  
F. Criticism of Some Present and Proposed Laws 134  
G. Recommendations for a Statute on Suicide 136

6: VOLUNTARY ACTIVE EUTHANASIA AND LIBERTY 139  
A. "Voluntary Active Euthanasia" Defined 139  
B. The Present Law and the Basic Argument for Change 142  
C. Other Arguments by Proponents of Legalization 146  
D. Some Legitimate Interests Opposed to Euthanasia 149  
E. Argument against Legalization: Possible Injustice 153  
F. Legalization of Euthanasia and Liberty 163  
G. How Our Argument Differs from Yale Kamisar's 168  
H. From Voluntary to Nonvoluntary Euthanasia 171  
I. From Individual Liberty to Public Policy 176  
J. Alternatives to Legalizing Voluntary Euthanasia 178

7: KILLING WHICH IS CONSIDERED JUSTIFIED 184  
A. An Economic Argument for Nonvoluntary Euthanasia 184  
B. Killing in War 191  
C. Killing in Self-Defense 194
### Contents

D. Killing as Penalty 197
E. Abortion as Legally Justifiable Killing 199
F. Abortion for Health and in Cases of Rape 203
G. Justifiable Killing in Cases of Necessity 207

**8: NONVOLUNTARY EUTHANASIA AND JUSTICE** 214

A. Introductory Considerations 214
B. Proposed Criteria for Denying Equal Protection 218
C. Critique of the Proposed Criteria 220
D. Arguments Based on an Alleged Public Interest 225
E. Injustice of Criteria of Selection for Euthanasia 229
F. A Just Criterion: Membership in the Human Species 236
G. Legalized Abortion a Violation of Justice 238
H. The Nazi Experience with Euthanasia 242
I. Concluding Remarks 247

**9: JUSTICE AND CARE FOR THE NONCOMPETENT** 251

A. The Need for Legislation 251
B. Inadequate Solutions Criticized 256
C. Toward a Solution: The Demands of Justice 259
D. Inevitable Economic Limits and Justice 263
E. Nonsuicidal Reasons for Refusing Treatment 266
F. Reasonable Presumptions for the Noncompetent 269
G. Application to Cases of Defective Infants 272
H. The Case of Miss Karen Quinlan 273
I. The Case of Mr. Joseph Saikewicz 275
J. The Proper Locus of Decision-Making Authority 277
K. Criticism of Arkansas and New Mexico Statutes 281
L. The Decisions in Quinlan and Saikewicz Criticized 283
M. Outline of an Adequate Statute 289

**10: THE CONSTITUTION, LIFE, LIBERTY, AND JUSTICE** 298

A. Liberty and Justice in Jeopardy 298
B. Every-Human-a-Person Amendment 305
C. Need for Protection of Liberty 313
D. Life, Liberty, and the Education Establishment 320
E. Freedom of World View Amendment 331
F. Concluding Practical Considerations 334

**11: THEORIES OF ETHICS** 336

A. Why Ethical Reflection Remains Necessary 336
B. Some Less Plausible Theories of Ethics 337
### Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>C. Consequentialism: A Plausible but Inadequate Theory</td>
<td>346</td>
</tr>
<tr>
<td>D. Legitimate Uses of &quot;Greater Good&quot;</td>
<td>355</td>
</tr>
<tr>
<td>E. A Nonconsequentialist Theory: Human Goods</td>
<td>358</td>
</tr>
<tr>
<td>F. How Morality Depends upon the Human Goods</td>
<td>361</td>
</tr>
<tr>
<td>G. How the Principle of Morality Shapes Obligations</td>
<td>368</td>
</tr>
<tr>
<td>H. Human Life an Intrinsic Personal Good</td>
<td>372</td>
</tr>
<tr>
<td>12: MORAL RESPONSIBILITIES TOWARD HUMAN LIFE</td>
<td>381</td>
</tr>
<tr>
<td>A. The Distinction between Acts and Results</td>
<td>381</td>
</tr>
<tr>
<td>B. Actions and Performances Distinguished</td>
<td>390</td>
</tr>
<tr>
<td>C. The Morality of Killing: General Considerations</td>
<td>392</td>
</tr>
<tr>
<td>D. Killing in Self-Defense</td>
<td>394</td>
</tr>
<tr>
<td>E. Killing in War and Capital Punishment</td>
<td>396</td>
</tr>
<tr>
<td>F. Abortion: Usually Killing in the Strict Sense</td>
<td>401</td>
</tr>
<tr>
<td>G. Suicide and Causing One’s Own Death</td>
<td>407</td>
</tr>
<tr>
<td>H. Active Euthanasia: Voluntary and Nonvoluntary</td>
<td>412</td>
</tr>
<tr>
<td>I. Omissions, Killing, and Letting Die</td>
<td>414</td>
</tr>
<tr>
<td>J. Nontreatment and Refusal of Treatment</td>
<td>417</td>
</tr>
<tr>
<td>K. The Morality of Helping: General Considerations</td>
<td>422</td>
</tr>
<tr>
<td>L. Responsibilities of Moral Guides</td>
<td>429</td>
</tr>
<tr>
<td>M. Responsibilities of Service Personnel</td>
<td>433</td>
</tr>
<tr>
<td>N. Responsibilities of Nurses</td>
<td>435</td>
</tr>
<tr>
<td>O. Responsibilities of Health-Care Institutions</td>
<td>437</td>
</tr>
<tr>
<td>P. Responsibilities of Citizens at Large</td>
<td>439</td>
</tr>
<tr>
<td>13: JUSTICE AND THE ETHICAL FOUNDATIONS OF JURISPRUDENCE</td>
<td>442</td>
</tr>
<tr>
<td>A. Introductory Remarks</td>
<td>442</td>
</tr>
<tr>
<td>B. Utilitarianism and the American Proposition</td>
<td>443</td>
</tr>
<tr>
<td>C. The Correct Relationship between Morality and Law</td>
<td>449</td>
</tr>
<tr>
<td>D. Respect for Life Not an Independent Principle</td>
<td>458</td>
</tr>
<tr>
<td>E. The Adequacy of Justice</td>
<td>461</td>
</tr>
<tr>
<td>NOTES</td>
<td>464</td>
</tr>
<tr>
<td>INDEX</td>
<td>509</td>
</tr>
</tbody>
</table>
Preface with Acknowledgments

In 1970 one of the authors of this book, Germain Grisez, published a work on abortion: *Abortion: The Myths, the Realities, and the Arguments*. In some respects the present work updates and extends the earlier one. However, the euthanasia debate is far more complex than that concerning abortion. The chief contribution we hope to make by means of the present book is to clarify the issues and examine the arguments in the rather confused euthanasia debate.

We hope that this book will contribute to the protection of life. At present there is considerable confusion among the friends of life; to some extent they are working at cross purposes. We hope that our work will provide a unified strategy for defending human life as effectively as possible: with a jurisprudence basing its arguments squarely upon liberty as well as upon justice, in accord with the American ideal of liberty and justice for all.

This book is complicated in various ways, and so readers may find parts of the work useful even if they do not wish to study the whole of it. Many different topics are treated. The table of contents together with the index will help locate topics in which a particular reader is interested. Topics dealt with in a jurisprudential mode in chapters three through nine are considered again from an ethical point of view in chapter twelve.

In the jurisprudential chapters the question toward which inquiry focuses is: What ought the law to be on this matter? Topics are considered systematically, beginning with a clarification of the issue, a criticism of various positions, formulation of criteria for a sound resolution, and—in many chapters—very specific proposals concerning what we think the resolution ought to be. Some readers might be interested in little more than our criticisms of other positions; others will press further with us. We believe that few who are interested in the subject matter will find the book wholly disappointing, although we do not expect anyone to be completely satisfied with it. We are not completely satisfied with it ourselves.

There are many questions in the fields of medical law and medical ethics which we consider outside the field of this study. We are not concerned with
problems concerning experimentation, with issues concerning honest communication between physicians and patients, with the fairness of the health-care system as such, or with problems about the nonmedical care of dependent persons. The problem of legal competency is relevant to this study, but a good treatment of it would take us too far afield, and so we decided to leave this topic to others. Our central concern is with euthanasia. We consider other matters only insofar as they relate in one or another way to euthanasia.

Research on this book was substantially completed by August 1, 1977. Few new items were examined after that date. Moreover, the volume of materials covered was so great that in many cases we found it necessary to set limits to our research which will strike specialists in a given area as quite arbitrary. Our only apology is that this book is the first really comprehensive examination of the whole set of issues in the euthanasia debate.

Readers may wish to know which of the coauthors contributed what to this book. The project originated in a contribution which Grisez wrote by himself for the anthology edited by Dennis Horan and David Mall: *Death, Dying, and Euthanasia*. After completing his own essay and reading the anthology as a whole, Grisez decided that a more adequate, systematic treatment of the jurisprudence and ethics of euthanasia and related questions is badly needed. After collecting much material and forming some initial ideas, but with little plan for the organization of the book, Grisez sought Boyle's help in working out the outline and all the main arguments of the book. This was done in a fully collaborative effort. Since the primary business of philosophers is to argue issues, the work became a collaboration at this point.

Grisez then completed almost all of the research and much of the drafting by himself, although Boyle gave a substantial assist to drafting chapters eleven and twelve, and to redrafting certain other chapters and sections. The coauthors worked together over the first draft of chapters one through ten. At this point, the rectification of mistakes and the amendment of arguments was fully collaborative, with a more substantial contribution by Boyle. Finally, Grisez put the manuscript into shape for publication. Boyle did not examine the final version, which embodies some minor changes, before it went to press. Thus, while both coauthors share responsibility for the work as a whole, some propositions and arguments in it were not authored by Boyle; for them Grisez alone is responsible.

The debts incurred in the production of a work of this sort are many and various. The Canada Council and Campion College provided generous financial support for the research. Campion College also permitted extensive use, without charge, of stationary and copying facilities.

Joseph McPherson, a very capable student of law at Georgetown University, provided law-clerking assistance. Many individuals gave advice, provided materials, or contributed helpful comments on one or another chapter
or section. Among them were Carl Anderson, William B. Ball, Virgil Blum, Robert M. Byrn, Francis Canavan, Philip Devine, Randy Engel, John M. Finnis, James McHugh, Robert G. Marshall, Marjory Mecklenburg, Albert Moracezewski, Richard Stith, and Robert M. Veatch.

The librarians at the University of Regina, Georgetown University, Georgetown Law Library, Catholic University Law Library, Library of Congress, and the specialized library of the Kennedy Center for Bioethics at Georgetown were very helpful. Of all the librarians those who staff the interlibrary loan service of University of Regina are most to be commended. Without their very efficient work this volume simply could not have been done. The MEDLARS service of National Library of Medicine also made an important contribution to the research.

Last but not least, Barbara Boyle and Jeannette Grisez supported the project in many ways and suffered it with nearly inexhaustible patience. The latter also typed the final manuscript, helped to prepare the index, and helped with proofreading.

Germain Grisez has enjoyed the friendship and support of Campion College and all its members since 1972. This will be his last publication as a member of this community of scholars. He hopes that his colleagues will find enjoyment and profit in this work, which their friendship did much to nurture and encourage.

Campion College, University of Regina
8 May 1978
Life and death with liberty and justice : a contribution to the Euthanasia debate. by. Grisez, Germain. Publication date. 1979. Topics. Eutanasia Stati Uniti d' America, Bioetica. Liberty and Justice for is the third full-length studio album from New York hardcore band Agnostic Front. It was released in 1987 on Relativity/Combat Records and follows 1986's Cause for Alarm. Live at CBGB followed this album in 1989 featuring songs from the band's first three albums and EP. The band further explored the crossover direction they had begun on their previous album, whilst still keeping the songs to the bare minimum duration-wise. Almost wholesale changes in line-up had taken place Life and Death with Liberty and Justice: A Contribution to the Euthanasia Debate. By Germain Grisez and Joseph M. Boyle, Jr. << Previous Article. >> Next Article. Already a subscriber or member? Open this document. Not yet a subscriber or member? Subscribe or join here.