

# Reporting suicide: safety isn't everything

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Between July 2011 and July 2012, 547 New Zealanders took their own lives.<sup>1</sup> Although considerably higher than Canada, Australia or the United Kingdom, this figure is not especially high by international standards, and New Zealand sits near the average for overall suicide rate among OECD countries and has done for some time.<sup>2</sup> However, New Zealand youth suicide rates are among the worst in OECD countries. We have recorded the third highest rate for males aged 15–24 years, and the highest rate for young females of the same age, in recent data.<sup>3</sup> It is therefore with good reason that the Government, the Law Commission, the Chief Coroner and others continue to develop and investigate initiatives and proposals aimed at reducing our suicide rate, particularly among this younger cohort.

Given that this age group is widely considered to be particularly vulnerable to peer pressure and 'copycat' behaviour, it is perhaps no surprise that significant attention is being paid to the possible correlation between depictions of, and incidence of, suicide. The debate around media reporting on suicide is not a new one, but it has been given increased prominence by some recent events and statements by influential figures. Much of this has focused on whether media depictions of suicide are likely to increase or decrease numbers of suicides, why this may be, and how it might be avoided.

While these are obviously important questions, they are not the only considerations that should inform policy in this area. Privacy rights of the deceased and their family are weighty concerns militating against public dissemination of information pertaining to a suicide or suicide attempt, unless such rights are waived. However, it may be

that the details of particular suicides, or suicide attempts, can also play an important role in informing public discussion of current and emerging social problems, policy debates, and proposed law reforms. The background to, and circumstances of, some suicide deaths can raise a legitimate case for media scrutiny in the public interest. While factors favouring public reporting of the details of suicides have to be weighed against any risk of encouraging further incidents of it, focusing only on the latter would be a mistake.

## What the law says

New Zealand law presently imposes fairly strict limits on reporting suicide. Section 71(1) of the Coroners Act 2006 provides that 'No person may, without a coroner's authority, make public any particular relating to the manner in which a death occurred if—

- (a) the death occurred in New Zealand after the commencement of this section; and
- (b) there is reasonable cause to believe the death was self-inflicted; and
- (c) no inquiry into the death has been completed.'

Some doubt surrounds what, for these purposes, would constitute a 'particular relating to the manner in which a death occurred.' Is it reporting on the precise manner of the suicide that is banned? Or would reporting the mere fact, or suspicion, of a suicide amount to a breach of the law? The current Chief Coroner, Neil MacLean, has made it clear that in his opinion, 'the media would breach the Act if the death is reported as an apparent, suspected or presumed suicide.'<sup>4</sup> Unless and until the issue comes before a court,

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The **ETHICS** column explores issues around practising ethically in primary health care and aims to encourage thoughtfulness about ethical dilemmas that we may face.

**THIS ISSUE:** This issue focuses on media reporting of suicide and aspects other than safety that warrant consideration.

though, the point remains moot. (For a thoughtful discussion of this point, see Steven Price's article 'Killing the Messenger'.<sup>5</sup>)

Even after a coroner's inquiry has concluded that a death was suicide, statutory restrictions remain in place. Under section 71(2) of the Coroners Act 2006, 'no person may, without a coroner's authority or permission ... make public a particular of the death other than—

- (a) the name, address, and occupation of the person concerned; and
- (b) the fact that the coroner has found the death to be self-inflicted.'

Section 71(3) of the 2006 Act states that the only grounds on which a coroner may authorise the making public of any other particulars of the death are 'that the making public of particulars of that kind is unlikely to be detrimental to public safety.' In making this determination, the coroner must have regard to a number of factors, including the characteristics of the person who is, or is suspected to be, the dead person concerned. It is interesting to note that these safety concerns are the only grounds which the coroner may use to justify authorising making public the details of a suicide. Consequently the other considerations we have claimed should feature in such a decision appear, *prima facie* at least, to be excluded as justifiable grounds at the level of statute.

The existence and precise parameters of these restrictions have been the subject of ongoing controversy. In May 2011, the Chief Coroner made a public call for 'more discussion, more accurate information' about suicide.<sup>6</sup> A few months later, Prime Minister John Key advocated a more liberal approach to suicide reporting.<sup>7</sup>

Some experts, though, have taken issue with such calls. In a recent editorial of the *New Zealand Medical Journal*, Annette Beutrais and David Fergusson stated that:

While it is sometimes argued that media publicity is beneficial in that it brings an important social and health issue to public attention, there is, in fact, no evidence that this form of education or dissemination does good.<sup>8</sup>

They point to a range of studies that demonstrate a causal link between (at least certain kinds of) suicide reporting and an increase in the incidence of suicide. Indeed, it is precisely such concerns that lie behind the reporting restrictions; the fear is that frequent and detailed accounts of suicide in the media will, at least, normalise suicide as a solution to life's problems, and at worst, potentially glamorise it. To quote Chuck Palahniuk: 'The only difference between a suicide and a martyrdom really is the amount of press coverage.'<sup>9</sup>

The empirical question of whether, how, and to what extent, media depictions of suicide contribute to its incidence is, of course, an important one. It may be a mistake, however, to regard this as the only factor that should weigh upon the law's approach to the subject. There are a number of other issues of considerable public importance that may be informed or highlighted by reference to accounts of suicide.

### Cyber-bullying and online harms

In August of this year, the New Zealand Law Commission published its proposals regarding 'cyber-bullying' and harmful digital conduct.<sup>10</sup> These included introducing a new criminal offence, and a Tribunal which would be empowered to order 'take-downs' of harmful online material. In support of these proposals, the Commission sought to emphasise that 'harmful digital communications' can cause more than trifling and transient harms. By way of emphasising this point, the Commission drew attention to several instances of suicide or self-harm by (predominantly teenage or younger) victims of such conduct.

Since the Report's publication, two widely publicised incidents have drawn attention to the purported link between harmful online conduct and suicidal behaviour: the suicide of Canadian teenager Amanda Todd, and the hospitalisation of television personality Charlotte Dawson following an apparent suicide attempt.

While the Law Commission's report set out the principled case for reform, it is arguable that this alone is often insufficient to effect political change. Rather, the emotional impetus is often provided when we have the tragic stories of iden-

tifiable people to illustrate the problem with the status quo. It is sometimes said by cliché-loving law lecturers, that hard cases make for bad law; but it may also sometimes be true that tragic, high-profile cases are the catalysts for necessary law. At the very least, such incidents may give us pause before dismissing online harms as merely digital ‘sticks and stones’, requiring ‘thicker skins’ rather than tougher laws.

Yet, as things stand, had Amanda Todd taken her life in New Zealand, it would be a criminal offence to mention it in this article, without the explicit permission of a coroner—even in the context of writing specifically about the Law Commission’s proposed reforms. With respect to this, it is curious that suicides occurring in other countries can be reported without statutory restriction. If minimising harm to the public is the justification for restriction of suicide reporting in New Zealand, this ought to apply regardless of the location of the suicidal act in question (at least, in the absence of evidence that the emulation effect is notably stronger among compatriots).

### Assisting suicide

In July of this year, Labour MP Maryan Street introduced her End of Life Choice Bill. This would allow all mentally competent New Zealand adults to be provided with medical assistance to end their life if they suffer from a terminal disease or an irreversible and unbearable medical condition. Although the members’ bill has yet to be drawn from the ballot, it has already generated considerable debate on the issue of assisted suicide.

Assisted suicide and euthanasia remain contentious issues internationally. In jurisdictions where they are permitted, like the Netherlands, Switzerland and Oregon, attention has often focused on people who have availed themselves of these laws, sometimes in fairly controversial circumstances. The assisted suicide of Edward Brongersma, an 86-year-old Dutchman who was not terminally ill but had grown ‘tired of life’, was seized upon by opponents of liberalisation, who saw this as evidence of the ‘slippery slope’ towards assistance on demand. In fact, Brongersma’s assisted suicide was held by a Haarlem court not to satisfy the requirements of the Dutch law.

However, the case still sheds some valuable light on the challenges that can face drafters of any such law, and on the possibility that particular doctors would misapply it.

In those jurisdictions where such assistance is not permitted, scrutiny has sometimes turned to people driven to desperate lengths to end their own lives. In New Zealand, the recent suicide of Gretha Appleby<sup>11</sup> and the prosecutions of Sean Davison and Evans Mott for assisting close relatives to take their own lives have been argued by assisted dying advocates to illustrate the ‘back-street’ alternatives to providing legal assistance. While deaths in the Netherlands are not covered by the Coroners Act, those New Zealand deaths most assuredly are, so it is interesting that we are able to know so much about them. This suggests either that the coroners gave permission for these details to be published, or that prosecutors elected not to bring charges under the 2006 Act. Either way, it suggests that, contrary to the apparent restrictiveness of the Act, a sensible degree of discretion is being exercised, whereby the risk of emulation is being balanced against the contribution such information makes to important policy debates.

### Unanswered questions

There are also those whose suicides may be, to some extent, attributable to questionable official action—or indeed, inaction. The suicide of medical marijuana campaigner Stephen McIntyre has led to a campaign by blogger Malcolm Bradbury, who has alleged that ‘bullying tactics’ by police may have played a significant part in McIntyre’s death.<sup>12</sup> UK-based journalist Patrick Butler has collected several accounts of suicides that, he argues, were related to cuts to benefits and welfare services.<sup>13</sup> Medical ethicist Carl Elliott, Mary Weiss and others have used details surrounding the suicide of Weiss’s son Dan Markingson during an anti-psychotic drug trial, to expose and attempt to rectify flaws in the conduct and regulation of this, and potentially other drug trials.<sup>14</sup> We are in no position to offer any perspective on the truth or otherwise of any of these. But the prospect of the law preventing the pursuit of justice when suicide is involved is, we suggest, a legitimate concern.

## Conclusion

Though restrictions on suicide reporting were also found in predecessors to the present Coroners Act, it was the 2006 Act that introduced the rule that ‘the only grounds on which a coroner may authorise the making public of any other particulars of the death ... are that the making public of particulars of that kind is unlikely to be detrimental to public safety.’ Public safety is of course a highly important consideration. However, it is not the only valid consideration which should bear on such decisions.

When a suicide seems likely to cast light on a serious social or legal problem, or to inform an important policy debate, a coroner should be able to take that into consideration when deciding whether to allow reporting. Indeed, the fact that we are able to know something of the background to the suicide of, for example, Gretha Appleby, suggests that coroners are taking such considerations into account (assuming, of course, that permission was given, rather than the reports being in *prima facie* violation of the Act).

The privacy interests, both of the deceased and of the surviving family, should also be given significant weight. In one of the few occasions when a coroner’s decision on such a matter was challenged in court, the judge—having carefully weighed the competing interests—decided that such privacy interests should, on that occasion, be given more weight than the public interest in open justice.<sup>15</sup> Despite the fact that Section 71 of the 2006 Act makes no reference to such privacy interests, effort should be put into ascertaining the nature and strength of these interests in each case, and they should be given due consideration by coroners. It would be unwise for coroners to assume too much about the wishes of relatives for privacy. Chief Coroner Neil MacLean has reported some anecdotal evidence of change in this regard:

What I’m picking up increasingly now is, families are asking for [some details of a suicide to be made public]. In the past they’ve been saying—please, this is a personal private tragedy. Please don’t publish anything. Could you even restrict publication of the name. That’s starting to change. They will often say: we don’t want this to ever happen to other parents in a comparable situation.<sup>6</sup>

In short, there is no single consideration that should determine all such decisions. Rather, a sophisticated and informed balancing of multiple interests and values would be the appropriate response from coroners. Reducing the suicide rate among vulnerable populations is a worthy and important concern; but it would be disproportionate if heightening of risk to the public, however marginal, automatically outweighed all other considerations when deciding what restrictions to place on reporting suicides. Competing recent arguments have tended to focus on the likely effects on suicide rates of more open or more restrictive reporting. Those arguments deserve serious attention and scrutiny. While they make important contributions to the issue of suicide reporting, they should not be the final word on it.

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