

Assisted (or Facilitated) Death: The Debate in Canada

Summarized are notable developments – also highlighting those in other countries – that inform discussion in Canada on assisted (or facilitated) death.

January 2010 – Suspension of the parliament until 3 March will delay second reading of Bill C-384. The private member's bill, which would decriminalize assisted suicide, was introduced by Parti Québécois MP Francine Lalonde. Previous attempts to amend the law, Bill C-407 (2005) and Bill C-562 (2008), died on the Order Paper with the dissolution of parliament in the fall of both years. A private member's bill receives two hours of debate in parliament before it is voted-on at second reading. Bill C-384 received its first scheduled hour of debate 2 October 2009.¹

International Perspective: U.S.A.

31 December 2009 – The Montana Supreme Court ruled that state law protects doctors in Montana from prosecution for helping terminally ill patients die. The court chose not to address the question of whether physician-assisted suicide is a right guaranteed under the state's constitution. Montana became the third state in the U.S. to legalize assisted suicide. Unlike Oregon and Washington, however, Montana has no specific laws outlining guidelines for doctors to help a dying patient commit suicide.

4 December 2009 – The Quebec provincial government agreed to create a non-partisan *ad hoc* commission that will seek out Quebecers' opinions and the views of experts on the issue of euthanasia.

N.B. In November, the Collège des médecins du Québec called for an open debate on euthanasia, re-stating its conditional support for a change in current legislation that would decriminalize assisted suicide and euthanasia. In a survey of its membership in October, the Fédération des médecins spécialistes du Québec found 84% of respondents are ready for a public debate on euthanasia and 74% "would certainly favour or probably be favorable" to euthanasia within a legal framework.²

International Perspective: Europe

27 November 2009 – French Parliamentarians rejected the draft of a law to make euthanasia legal.

International Perspective: Australia

18 November 2009 – The Upper House of the South Australia parliament voted down a Private Member's Bill that would legalize euthanasia.

14 November 2009 – Tasmania's parliament voted down a private member's bill giving terminally ill people the right to end their lives.

International Perspective: U.S.A.

11 November 2009 – A special committee of the New Hampshire legislation rejected a proposed bill that would legalize assisted suicide in the state.

2 November 2009 – An Environics Research Group poll found 61% of all Canadians, and 75% of Quebecers, approve of legalized euthanasia. The poll revealed, however, that support may be weaker once respondents are asked to consider the potential consequences of such a law.

28 October 2009 – The Royal Society of Canada, known also as The Academies of Arts, Humanities & Sciences of Canada, announced the appointment of an expert panel on End-of-Life Decision Making in Canada. The panel is to investigate key aspects of this issue, including "euthanasia and physician-assisted suicide," and is expected to publish its report in **2011**.

International Perspective: Europe

23 September 2009 – The U.K. Director of Public Prosecutions presented his interim policy on prosecuting cases of assisted suicide and launched a consultation process on the factors he has identified that will be taken into account when considering prosecutions.³

4 September 2009 – According to an Angus Reid poll, 71% of Canadians support decriminalizing assisted suicide and euthanasia.⁴

N.B. A poll by the research firm taken at the same time in the U.K. and in the U.S. indicated that 71% and 45%, respectively, support decriminalizing assisted suicide and euthanasia.

International Perspective: Europe

27 July 2009 – In a landmark court case, the British House of Lords ruled that the Director of Public Prosecutions should clarify the law on assisted suicide following an appeal by a woman living with multiple sclerosis who sought assurances that her husband would not be prosecuted if he accompanied her to a Swiss clinic in order to end her life.

N.B. Members of the British Medical Association rejected in July 2009 calls to exempt from criminal prosecution relatives and friends who accompany sick or terminally ill patients to "assisted suicide clinics."

24 July 2009 – The (U.K.) Royal College of Nursing announced that it had moved to a neutral position, neither opposing nor supporting a change in the law to allow assisted suicide.

International Perspective: U.S.A.

17 April 2009 – The Patient Choice & Control at the End of Life Act was introduced in the Vermont legislature. The Act, if passed, would allow a person with a terminal illness to request medication for the purpose of hastening death.

N.B. Oregon-styled assisted suicide bills are pending in Massachusetts (An Act Relative to Dying with Dignity) and Pennsylvania (Death with Dignity). Bills to decriminalize assisted suicide failed in Connecticut, Hawaii and New Mexico.

5 March 2009 – The State of Washington's assisted suicide bill took effect.

International Perspective: Europe

March 2009 – Luxembourg decriminalized assisted suicide and euthanasia.

12 December 2008 – A jury acquitted Stéphan Dufour on a single charge of assisted suicide. Dufour was charged with helping his ailing uncle, Chantal Maltais, hang himself in **2006** and is the first Canadian to stand trial by jury for assisted suicide. The Crown – to appeal the decision – laid charges against Mr. Dufour under section 241 of the Criminal Code (counselling or aiding suicide).⁵

International Perspective: U.S.A.

1 October 2008 – The Governor of California signed into law the State's Right to Know End-of-Life Options Act, an amended version of assisted suicide bills that failed in **2005**, **2006** and **2007**.

July 2007 – The RCMP decided not to lay charges in the assisted suicide case of Elizabeth MacDonald, a Canadian with multiple sclerosis (MS) who died in Switzerland with the assistance of the organization Dignitas. Her husband, Eric, was with her when she died. The RCMP stated that no infraction of the Criminal Code was committed in Canada.

June 2007 – A B.C. court sentenced Dr. Ramesh Kumar Sharma for aiding the suicide of Ruth Wolfe, a 93-year-old woman suffering from heart problems, by prescribing her a fatal dose of drugs. The court imposed a conditional sentence of two years less a day to be served in the community. Dr. Sharma's licence was revoked by the B.C. College of Physicians & Surgeons.

1 May 2007 – The Canadian National Palliative Care Survey found a large proportion of patients receiving palliative care for cancer would consider making a request for assisted suicide if it were legally available ... but, only if their worst fears about pain and symptoms actually came true.⁶

N.B. Authors of an article in a **2007** edition of the *Canadian Journal of Public Health* observed that public opinion polls on euthanasia should be interpreted in the light of the wording of the question. Education of the population concerning euthanasia, and other end-of-life decisions, would be an important prerequisite to engage in public debate concerning the legalization of euthanasia.⁷

22 November 2006 – The Canadian Hospice Palliative Care Association released 'Euthanasia, Physician-Assisted Suicide & Quality End-of-Life Care,' a discussion document.⁸

September 2006 – Raymond Kirk pleaded guilty to aiding the suicide of his wife. The Ontario Court of Justice suspended Kirk's sentence and imposed a sentence of three years' probation.

July 2005 – André Bergeron was charged with the attempted murder of his wife, Marielle Gagnon, who had Friedreich's ataxia, an inherited disease that causes progressive damage to the nervous system. Bergeron was sentenced to three years' probation for aggravated assault.

June 2005 – Senator Sharon Carstairs published *Still Not There: Quality End-of-Life Care: A Progress Report*, which examined progress on implementing the recommendations made in the Senate of Canada Committee reports tabled in **1995** and **2000**.⁹

N.B. Sen. Carstairs called for a renewed commitment to a national strategy on palliative and end-of-life care. She recommended that research be undertaken into how many people are requesting euthanasia, why it is being requested, and whether there are any alternatives that might be acceptable to those making the requests.

November 2004 – Evelyn Martens was acquitted of aiding and abetting the suicides of two women that took place in **2002**.

September 2004 – Marielle Houle pleaded guilty to aiding and abetting the suicide of her son, who had multiple sclerosis, and was sentenced to three years' probation.

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International Perspective: Europe

16 May 2002 – Belgium decriminalized euthanasia.¹⁰

1 April 2002 – Holland decriminalized euthanasia. There was no change in practice, as the new law codified rules and requirements that had developed over the previous 25 years.

11 December 2001 – The Swiss National Council confirmed the assisted suicide law, but maintained the prohibition of voluntary euthanasia. Physician and non-physician suicide was decriminalized in **1941**.

June 2000 – A Senate committee studied developments with respect to recommendations made in *Of Life & Death – Final Report (1995)* and issued *Quality End-of-Life Care: The Right of Every Canadian*.¹¹

N.B. Authors of the subcommittee report concluded that the calls for a more compassionate and a more comprehensive approach to end-of-life seemed to be assigned a low priority in the existing health care system, and that there had not yet been the required shift of resources to end-of-life care.

19 June 1998 – The Canadian Medical Association (CMA) issued a policy statement opposing the legalization of euthanasia and assisted suicide. The CMA urged its members to uphold the principles of palliative care.¹²

N.B. In November **2007**, the CMA made minor changes to its policy, but reaffirming the association's position. The College of Family Physicians of Canada similarly opposed legalization of euthanasia and assisted suicide.¹³

25 March 1998 – Motion M-123, calling for a special committee to review the provisions in the Criminal Code dealing with euthanasia and assisted suicide, was rejected by the House of Commons.

N.B. The motion was introduced in November **1997** by Svend Robinson, who had failed on two occasions to introduce a Private Member's Bill to decriminalize assisted suicide (in **1992** and **1994**).

International Perspective: U.S.A.

27 October 1997 – The State of Oregon enacted its Death with Dignity Act, the first such legislation in the U.S., which allows a terminally-ill patient to end their life through the voluntary self-administration of lethal medications, expressly prescribed by a physician for that purpose.¹⁴

May 1997 – Dr. Nancy Morrison was charged with the first-degree murder of a terminally ill patient who had been removed from active life support.

N.B. In February **1998**, a Nova Scotia judge found that there was not sufficient evidence for a jury to convict Morrison and refused to commit her to trial.

27 October 1996 – The Liberal Party of Canada, at Party's convention in Ottawa, passed a resolution endorsing legalizing euthanasia. No further action was taken on the issue.

June 1995 - A Special Senate Committee issued *Of Life & Death – Final Report* recommending that euthanasia and assisted suicide should not be decriminalized, that priority be given to improving access to palliative care.¹⁵

N.B. A minority of the Committee members recommended the creation of a separate offense of compassionate homicide that would carry a less severe penalty than a mandatory life sentence. The report also identified additional issues with regard non-voluntary euthanasia and end-of-life decisions, for example those involving persons in persistent vegetative states.

1994 – National Angus Reid Poll found that 74% of Canadians believed a medical doctor should be able to legally help a terminally ill patient end their life if this is what the patient wants.

November 1994 – Robert Latimer was convicted of second-degree murder in the asphyxiation death of his 12-year-old daughter, Tracy, who was diagnosed at birth with cerebral palsy. Latimer was sentenced to life in prison with no eligibility for parole for ten years.

6 February 1994 – Private Member's Bill C-215 was introduced.

N.B. Bill C-215 would have permitted physician assisted suicide upon the request of a terminally ill patient. The Bill was dropped from the Order Paper 21 September **1994**.

15 February 1994 – Prime Minister Jean Chrétien stated that MPs would have a free vote on whether to decriminalize doctor-assisted suicide. This did not come to pass.

14 February 1994 – Justice Minister Allan Rock stated that the issues of cessation of treatment and assisted suicide should be considered by Parliament.

3 November 1993 – The B.C. Ministry of the Attorney General issued guidelines for Crown Counsel with respect to charging persons involved in cases of active euthanasia and/or assisted suicide.

30 September 1993 – In a five-to-four decision, the Supreme Court of Canada dismissed an appeal by Sue Rodriguez in which she challenged the validity of the Criminal Code, which prohibited an assisted suicide, under the Canadian Charter of Rights & Freedoms. Rodriguez was diagnosed in 1991 with amyotrophic lateral sclerosis (ALS).

N.B. Sue Rodriguez committed suicide with the assistance of a physician on 12 February **1994**. The death was investigated by police, but no criminal charge was laid.

April 1993 – An Ontario physician who gave a lethal injection to a seriously ill cancer patient received a three-year suspended sentence after pleading guilty to a charge of administering a noxious substance to endanger life. The original charge of second-degree murder was withdrawn.

22 March 1993 – Federal MPs defeated a motion that called upon the government to consider the advisability of introducing legislation on the subject of euthanasia and ensuring that those assisting terminally ill persons who wish to die will not be subject to criminal liability.

1992 – The Euthanasia Prevention Coalition of British Columbia (EPCBC) was established.

August 1992 – Scott Mataya, a Toronto nurse who had originally been charged with first-degree murder in the mercy killing of a terminally ill patient, entered a guilty plea to a lesser charge of administering a noxious substance to endanger life. Mataya received a suspended sentence and he was ordered to surrender his nursing licence.

30 January 1992 – An unnamed Ontario surgeon was charged with second-degree murder in connection with the death of a seriously ill cancer patient who allegedly died of a cardiac arrest after having been administered morphine and potassium chloride. The physician received a three-year suspended sentence after pleading guilty to a charge of administering a noxious substance to endanger life. The second-degree murder charge was withdrawn.

6 January 1992 – The Quebec Superior Court ruled in the case of Nancy B. (a pseudonym), a woman living with Guillain-Barré syndrome, a neurological disease. The Court ruled that turning off her respirator at her request and letting nature take its course would not be a criminal offence, constituting refusal of treatment and not assisted suicide. Nancy B. died in February **1992**.

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International Perspective: The Netherlands

10 September 1991 – In Holland, the Rummelink Commission released findings from a comprehensive study of Dutch euthanasia practices.

N.B. Comparative studies were published in **1995** and **2001**.¹⁶

1991 – The B.C. College of Physicians & Surgeons issued a statement opposing euthanasia following a review of the deaths of two patients of Dr. Peter Graff. A provincial coroner ruled that both patients had died from morphine overdoses and urged the College to review Dr. Graff's actions. The College ruled that the doctor's method of treatment was unacceptable. No criminal charges were laid.

1991 – Dr. Alberto de la Rocha was convicted of administering a noxious substance to endanger life when he administered injections of morphine and potassium chloride. The patient had asked Dr. de la Rocha to remove her breathing tube to end her suffering. The doctor received a suspended sentence and three years' probation. At a hearing of the Discipline Committee of the College of Physicians & Surgeons of Ontario, he pleaded guilty to professional misconduct. His license was suspended for 90-days.

19 June 1991 – Private Member's Bill C-261 was introduced.

N.B. If passed, Bill C-261 would have decriminalized euthanasia for a patient who requested it and who was suffering from an "irremediable condition." The Bill was debated at a second reading on 24 October **1991**, but was dropped from the Order Paper.

16 May 1991 – Private Member's Bill C-203 was introduced.

N.B. If passed, Bill C-203 would have protected a physician against criminal liability where the physician did not initiate or continue treatment at the request of the patient or where the physician did not prolong life, except at the patient's request. The Bill would also have protected a physician who administered treatment to a patient even though the effect of that treatment would hasten death. Bill C-203 received second reading on 24 September **1991** and, subsequently, was referred to a Legislative Committee for consideration. The Committee began hearings 29 October **1991**, but adjourned 18 February **1992** *sine die* (i.e., the matter was stayed permanently).¹⁷

1990 – David Lewis, a Vancouver man living with HIV, claimed he had assisted eight friends, all suffering from AIDS, in committing suicide. In August **1990**, Lewis took his own life.

1983 – The Law Reform Commission of Canada released *Report on Euthanasia, Aiding Suicide & Cessation of Treatment*.

N.B. The Commission recommended against legalizing or decriminalizing voluntary euthanasia and aiding suicide. In **1987**, the Commission released proposals for amending the Criminal Code, recommending that mercy killing be treated as second-degree murder ("ordinary murder") rather than as first-degree murder ("premeditated murder"). Second-degree murder would carry no fixed or minimum jail term.

1982 – Dr. Nachum Gal was charged with first degree murder for allegedly ordering a lethal overdose of morphine for an infant. Dr. Gal fled to Israel. The federal government was unable to have him extradited back to Canada. Two nurses involved with the infant's death were suspended from nursing for one year.

June 1980 – The Canadian pro-euthanasia group Dying with Dignity was established.

1972 – The Canadian Parliament decriminalized suicide and attempted suicide.

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3. Public consultation on the (U.K.) Director of Public Prosecutions' interim policy on assisted suicide. Crown Prosecution Service, September **2009**. http://www.cps.gov.uk/consultations/as_index.html
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Advocacy groups (representative sample)

In favour of decriminalizing assisted (or facilitated) death:

1. Compassion & Choices (U.S.): <http://www.compassionandchoices.org/home>
2. Dying with Dignity (Canada): <http://www.dyingwithdignity.ca/>
3. Association Québécoise pour le droit de mourir dans la dignité (Canada): <http://www.aqmdm.qc.ca/page1.php>
4. Right to Die Society (Canada): www.rightodie.ca
5. World Federation of Right to Die Societies: <http://www.worldrtd.net/>

Opposed to decriminalizing assisted (or facilitated) death:

1. Compassionate Health Care Network (U.S.): <http://www.chninternational.com/default.html>
2. Euthanasia Prevention Coalition (British Columbia): <http://www.epc.bc.ca/index.html>
3. Euthanasia Prevention Coalition (Ontario): <http://www.euthanasiaprevention.on.ca/>
4. International Task Force on Euthanasia & Assisted Suicide <http://www.internationaltaskforce.org/about.htm>
5. Physicians for Compassionate Care (U.S.): <http://www.pccef.org/index.htm>

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