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California Judge REJECTS Preliminary Injunction to Permit Euthanasia

A California federal judge has rejected a preliminary injunction asking the court to permit euthanasia within the state assisted suicide act.

A California court case to permit euthanasia within the state assisted suicide act argued that some people with disabilities, who are approved for assisted suicide, are unable to self-administer the lethal drugs. Therefore, based on the Americans with Disabilities Act (ADA), the court must permit euthanasia (doctor-administered death) in these cases. The court must reject the challenge to the state assisted suicide act based on these reasons (among others):

1. There is no right to assisted suicide, therefore there is no legal requirement to amend the perceived inequality within the state assisted suicide law.
2. The Supreme Court, in *Glucksberg* (1997) recognized that there is no right to assisted suicide and that one state's interests in prohibiting assisted suicide was the prevention of euthanasia. This court case specifically seeks to permit euthanasia.
3. Permitting euthanasia is not an extension of the state assisted suicide law but rather it requires the court to legislate a new law to legalize euthanasia, which is a form of homicide.

On September 20, Justice Vince Chhabria of the United States District Court Northern District of California rejected a preliminary injunction to permit death by lethal injection (euthanasia) for the plaintiffs.

Judge Chhabria

Chhabria stated:

> The plaintiffs' ADA claim does not raise a serious legal question, because it seems clear (at least on this record) that the plaintiffs are seeking a modification that would compromise the essential nature of California's program.

Chhabria also makes a clear distinction between euthanasia and assisted suicide by stating:

> And most relevant here, the Legislature drew a clear line between assisted suicide and euthanasia, providing that a terminally ill person cannot obtain a prescription unless they can administer the medication themselves and specifying that there is no immunity from criminal or civil liability for someone who administers the medication to a terminally ill person.

Chhabria concludes his decision by stating:

> In short, the line between assisted suicide and euthanasia is a significant one. See *Washington v. Glucksberg*... (1997). It is unlikely that the ADA could be reasonably construed as requiring a state to cross the line to euthanasia merely because the state has chosen to authorize assisted suicide. Requiring the State of California to cross the line here would likely compromise the essential nature of the end-of-life program it created.

The case will still be heard at the federal court. This decision only dealt with the request for a preliminary injunction to permit euthanasia for the two plaintiffs.

The Euthanasia Prevention Coalition exists to protect people by building a well-informed, broadly-based network of groups and individuals for an effective social resistance to euthanasia and assisted suicide.

Assisted Suicide is Neither Painless or Dignified

Dr Joel Zivot is researching the autopsy results from people who died by lethal injection. Zivot is an assistant professor of anesthesiology/critical care at Emory University School of Medicine in Atlanta. *The Spectator* published an article by him on September 18 titled, "Last rights: assisted suicide is neither painless nor dignified". Zivot explains that he is an expert witness opposing lethal injection executions in America. He opens the *Spectator* article by stating:

> I am quite certain that assisted suicide is not painless or peaceful or dignified. In fact, in the majority of cases, it is a very painful death.
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> The death penalty is not the same as assisted dying, of course. Executions are meant to be punishment; euthanasia is about relief from suffering. Yet for both euthanasia and executions, paralytic drugs are used. These drugs…mean that a patient cannot move a muscle, cannot express any outward or visible sign of pain. But that doesn't mean that he or she is free from suffering.

Zivot explains his experience with execution by lethal injection:

> In 2014, I watched [a] lethal injection in a Georgia prison.
>
> I noticed that [their] fingers were taped to the stretcher, which made little sense, given [their] body had already been restrained by heavy straps. I kept asking myself why. I read into the subject and came across a report of the lethal injection execution of another death row inmate five months earlier. During that 24-minute process, [they] clenched [their] fists. Perhaps it was a final, futile show of defiance. Perhaps it was an outward display of pain. With [their] fingers secured, [they] could not have made any such gesture.

Based on autopsies, Zivot explains that death by lethal injection is similar to death by drowning:

> In 2017, I obtained a series of autopsies of inmates executed by lethal injection, which confirmed my worst fears. [The autopsy of the execution I watched] revealed that [the] lungs were profoundly congested with fluid, meaning they were around twice the normal weight of healthy lungs. [This person] had suffered what is known as pulmonary oedema, which could only have occurred as [they] lay dying. [They] had drowned in [their] secretions. Yet even my medical eye detected no sign of distress at [the] execution.
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> [The execution I watched used the same chemical that is used, or its close relatives, in four in five assisted suicides in Oregon.] (The Assisted Dying Bill is based on the Oregon system.) If a post-mortem examination were to be performed on a body after assisted suicide, it's very likely that similar pulmonary oedema would be found.

Zivot continues by explaining why the proposed British assisted suicide bill will likely result in deaths similar to drowning:

> The proposals before the House of Lords would see sick patients prescribed a lethal dose of pills. Laws in Oregon, like those proposed in the UK, require patients to take the drugs themselves, which rules out any form of general anaesthetic. Often patients are handed anti-sickness and anti-seizure tablets but nothing more in preparation, meaning they're very much awake as the assisted suicide process begins. Without a general anaesthetic, many will be in great discomfort, even if outwardly they don't appear to be suffering.

Zivot states that, when given the information about how death by lethal injection occurs, three death-row inmates chose to die by the electric chair rather than die by lethal injection.

He concludes that, "People deserve to know that [assisted dying is not simply 'falling asleep', it may be death by drowning.]"

When Zivot made a similar presentation to the Canadian Senate Committee examining the euthanasia bill, they ignored his warnings based on the argument that executions and assisted death are different. In fact, Zivot acknowledges that they are different, but the lethal drugs used are the same or similar.

Belgium: Euthanasia of Newborns Practiced Outside the Law

Published by the European Institute of Bioethics on June 24, 2021

A recent study[1] has brought to light the practice of deliberate euthanasia to newborns for whom the medical team considered that there was "no hope of a bearable future". These practices concerned 10% of the neonates (0-1 year) who died in Flanders, between September 2016 and December 2017 (i.e., 24 babies).

This practice is illegal in Belgium, yet no authority seems to take offense. The law only allows the euthanasia of a minor if he or she is capable of discernment and conscious at the time of the request.

Among what is considered as "end-of-life medical decisions" involving 61% of these babies, the study distinguishes between decisions not to start or to stop "life-sustaining treatment" (e.g. ventilator), on the one hand, and the administration of certain substances to the baby, on the other hand. Note that the term "euthanasia" does not appear anywhere in the article.

In terms of the physician's intentions, the study distinguishes three situations.

In the first scenario, the physician does not intend to cause or hasten the baby's death, but considers the potential effect of hastening death (e.g., decision not to administer antibiotics, administration of morphine or sedatives).

The second scenario consists in the situation where the potential effect of hastening death is not the primary goal but is partly aimed at by the physician.

The third scenario is that in which the physician explicitly intends to cause death (e.g., injection of a lethal muscle relaxant).

While the ethical considerations on the medical decision differ substantively depending on whether it refers to the first or second scenario (death not intended vs. intended death), the study classifies the cases neither according to these two categories of intention, nor referring to the withholding/withdrawing distinction, nor underlining the relevant moral factor actively administering substances. The criterion of proportionality (in withdrawing treatment or in the dosage of substances) is not mentioned either, even though it is decisive for judging the physician's intention.

Doctors who euthanized newborns with lethal injection indicated in 91% of the cases that the main reason for their action was that there was no hope of a "bearable future" for the child. In other words, these children had a real chance of survival, but the medical team—[possibly] in agreement with their parents—considered that their lives were not worth living.

Why do practitioners deviate from the legal framework when it comes to children who are unable to express themselves?

The authors of the study raise the question of the need for a framework for this "practice", similar to the paralegal framework established in the Netherlands through the Gröningen Protocol. Such a "framework" would in fact mean conditional authorization of physician infanticide.

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1 https://doi.org/10.1136/archdischild-2021-322108

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Euthanasia Deaths Increase in Ontario and Nova Scotia

Last March, Canada's federal government passed Bill C-7 to widen access to euthanasia (MAiD) in Canada.

On September 29, Rebecca Lau reported for *Global News* that Nova Scotia temporarily put (MAiD) euthanasia referrals on hold as it attempts to deal with a euthanasia backlog:

> Nova Scotia Health is placing a 30-day hold on referrals for Medical Assistance in Dying (MAID) because increased demand has created a "significant backlog".
>
> According to Nova Scotia Health, the program has already exceeded the total number of referrals received in 2020.

There has also been an increase in Ontario euthanasia deaths. Data from the Office of the Chief Coroner indicates that there were 1875 euthanasia (MAiD) deaths in the first eight months of 2021, up by 24% from 1517 in the first eight months of 2020. In the last three months there were 793 euthanasia deaths.

The combination of normalizing killing, expanding access to killing, and a healthcare system stretched by COVID concerns have all likely contributed to this outcome.

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The Mentally Ill Should be Cared For

An article by Dr Paul Saba was published in *The Suburban*, "The mentally ill should not be euthanized". He shares about one of his patients:

> This past year I cared for a young woman in her early 20s. Carole (pseudonym) has extreme anxiety and depression which has been going on for years. [She] is a community worker who works with the homeless. During the pandemic her symptoms were exacerbated to the point that she has become anorexic. Access to dieticians, psychiatrists and psychologists has been extremely difficult and limited. By seeing her on a regular basis and making myself readily available, I have kept her from giving up hope.

He notes that with the passing of Bill C-7, mental illness has been added as a reason for euthanasia:

> The causes of these mental disorders include: stress, substance abuse, low self-esteem, difficulty in adapting, personal loss, abuse, homelessness, isolation, job loss, and low income. Treatment of mental illness includes social supports, psychotherapies and psychiatric medications. A 2017 Canadian Psychiatric Association study indicates that only 29% of Canadian psychiatrists support MAID in cases of mental illness.
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> In the Netherlands, where euthanasia is practiced on the mentally ill, two-thirds of psychiatrists are opposed to it.... most people who have attempted or committed suicide do not necessarily want to die, they want escape from their overwhelming emotional pain.

Saba concludes:

> We need to communicate to those contemplating suicide that we do not want them to die, they are valuable to us, there is always a reason to live, and we will help them solve their problems. We need to provide more psychological, social and financial help for those who are in distress. We must improve their living conditions by providing affordable housing, food, and basic life supports. Those with dependency problems need access to care. We need to care for those with mental health problems—not support or endorse MAID.