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Court Rules that the Euthanasia of a Depressed Woman in Belgium Violated Article 2 of the European Convention of Human Rights

Those who follow the Euthanasia Prevention Coalition will remember the story of Tom Mortier whose mother Godelieva de Troyer died by euthanasia based on "untreatable depression" in Belgium in 2012.

In November 2017 Mortier applied to the European Court of Human Rights and in January 2019, they agreed to hear the case. He was arguing that his mother's euthanasia death contravened Article 2 of the European Convention of Human Rights. Mortier was represented by Robert Clarke with Alliance Defending Freedom International (ADF). On October 4, 2022, ADF announced that the European Court of Human Rights "ruled in favour of Tom Mortier, son of Godelieva de Troyer, who died by lethal injection in 2012, aged 64. Her euthanasia was conducted on the basis of a diagnosis of "incurable depression". In the case of Mortier v. Belgium, the Court found that Belgium violated the European Convention on Human Rights when it failed to properly examine the alarming circumstances leading to her euthanasia."

This is the first time that a major European court has decided that the Belgium euthanasia protocols contravene Article 2 of the European Convention on Human Rights.

In their media release ADF stated:

> The Court held that there was a violation of Article 2 of the European Convention on Human Rights that everyone's right to life shall be protected by law. This judgment was with regard to the way in which the facts surrounding de Troyer's euthanasia were handled by Belgium's Federal Commission for the Control and Evaluation of Euthanasia and the promptness of a criminal trial following de Troyer's death. It did not, however, rule that there was any violation of Belgium's legislative framework for the practice of euthanasia.
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> Per the Court, "taking into account the crucial role played by the Commission in the a posteriori control of euthanasia, the Court considers that the control system established in the present case did not ensure its independence". It thus found that Belgium failed to fulfil its positive procedural obligation under Article 2 of the Convention both because of the lack of independence of the Commission and due to lack of promptness of the criminal investigation. The holdings that there was no violation of Belgium's legislative framework and no violation of Article 2 for the conditions of the euthanasia were five votes to two.

The ADF media release explained the case.

> The facts of the case highlight the myriad dangers that arise when euthanasia is legalized, and make clear that even legal "safeguards" are not sufficient to protect the right to life when the practice of intentionally ending a life is available under the law.
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> In this case, Tom's mother was able to approach the country's leading euthanasia advocate who, despite being a cancer specialist, ultimately agreed to euthanize her. Over a period of just a few months, she made a financial payment to his organization and was referred by him to see other doctors who were also part of the same association despite a requirement for

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Euthanasia is Not a Hypothetical "Slippery Slope" but a Clear and Present Danger

By Gordon Friesen, President of the Euthanasia Prevention Coalition

From the very beginning of the assisted suicide debate, the elephant in the room has always been the so-called "disability community", because this very diverse group contains large numbers of people who would logically be eligible for Medical Assistance in Dying (MAID); many of whom have followed the question closely; who understand first-hand the reality of medical suffering; and who are, in an overwhelming majority, opposed to the legalization of assisted death.

No one has been able to explain why a special exception to the protections of the Criminal Code should be made for people who want no such thing. I use the word "protections" because that is what the homicide prohibitions really are (or rather were): *no person might be killed or assisted to kill themselves by another, and no person might suffer from another's suicidal suggestion*. Removing those protections from any specific group is like removing the life-preserver from selected boating enthusiasts. Their lives become more dangerous.

Now it is possible that a special and dangerous accommodation be made for people who understand the risk and claim it as a lucid privilege. However, in the present case, this also involves imposing that same risk upon a much larger number of people against their will. Clearly this is an important contradiction that should be taken seriously. But nothing of the sort has been done.

To blithely claim that there can be effective safeguards is simply ridiculous. The life-preserver IS the boater's "safeguard" and that is what has been removed. It is at once interesting and distressing to see how numerous persons have attempted to rationalize these facts in order to support their own fixed prejudice in favour of assisted death.

In order to avoid charges of Straw Man arguments, I will take as an example the specific words of Douglas W. Heinrichs, an American psychiatrist who wrote the article, "The Case for Medical Aid in Dying: Part 3" that was published by the *Psychiatric Times* on September 6, 2022.

Tellingly, in his series of three articles, the disabled arguments were reserved for the "Slippery Slope" section, which is to say: fears of hypothetical difficulties which may or may not arise in the future. Heinrichs is therefore implicitly stating that the disabled person does not experience direct harm from legalization; that their misgivings are currently imaginary. Heinrichs wrote:

> "Spokespersons for the disability community have raised concerns that if MAID were extended to individuals based on pain, suffering, or dignity-depriving dysfunction, it could lead to a judgment that individuals with disabilities have lives not worth living and result in pressure for those individuals to request MAID."

On the contrary! Legalization of MAID does not "lead to" anything. The offer of assisted death to people living with severe medical conditions is a RESULT of a pre-existing judgment ("that such individuals have lives not worth living"). For if the political majority did not think such lives were worthless, the option of assisted death would never have been created for them in the first place.

What MAID really does is create a conduit for the actualization of that prejudice. The harms, therefore, are not hypothetical, but real and immediate.

As for "pressure to request MAID", Heinrichs on several occasions uses phrases like "undue influence" and "excessive external pressure" to which the potential MAID client should not be subject. But why the adjectives? Is there a pressure to die that is NOT excessive?

Clearly, for Dr. Heinrichs, there must exist a category of "reasonable" suicidal suggestion. And that of course is the whole point: from the moment that assisted death is legalized, one specific group of people is exposed to the dangers of suicidal suggestion. And that group is targeted, not because they want to be, but because a widely held atavistic prejudice declares that they SHOULD be.

Saskatchewan 811 Health Line Stops Promoting Euthanasia

CBC News Saskatchewan published an article by reporter Laura Sciarpelletti on September 19 that the Saskatchewan Health Authority 811 helpline removed the link to the Medical Assistance in Dying ("MAiD"/euthanasia) program.

According to the *CBC News* report, Everett Hindley, Saskatchewan's Minister of Mental Health, sent out a message stating, "It does not make sense to greet people with a message that could potentially imply that suicide is an option." Hindley's office confirmed with *CBC News* that it was their office that directed that euthanasia be removed from the 811 helpline. Hindley's office stated that they were contacted by "a mental health and suicide prevention advocate for whom suicide is a deeply personal issue."

Donovan Maess, *CTV News Regina* Multi-Media Journalist, spoke to Senator Denise Batters, who is a well-known mental health advocate, reporting that she stated, "Hearing that health line message, I knew it was very problematic and needed to change. When I contacted the minister, he agreed." Batters told Maess that, "We need to be providing people with mental illness with better treatment. We need to offer people real resources and real help, not just an easier way to access suicide."

It is good news that the Saskatchewan government has removed euthanasia (MAiD) from the 811 health helpline.

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independent opinions in the case of individuals not expected to die soon. The same doctor that euthanized her is also co-chair of the Federal Commission charged with approving euthanasia cases after the fact, including this one, demonstrating a clear conflict of interest. Despite Belgium euthanizing an average of seven people per day, the Commission has only ever referred one case for further investigation.

Euthanasia in Belgium has been legal since 2002. The law specifies that the person must be in a "medically futile condition of constant and unbearable physical or mental suffering that cannot be alleviated, resulting from a serious and incurable disorder caused by illness or accident".

Mr. Mortier's mother was physically healthy, and her treating psychiatrist of more than 20 years doubted that she satisfied the requirements of the Belgian euthanasia law. Neither the oncologist who administered the injection nor the hospital informed him that she was even considering euthanasia. Mr. Mortier found out the day after she was euthanized when the hospital asked him to make the necessary arrangements.

Tom Mortier stated in the media release:

> "My mother suffered from severe mental difficulties, and coped with depression throughout her life. She was treated for years by psychiatrists, and sadly, she and I lost contact for some time. It was during this time that she died by way of lethal injection..."
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> ..."This marks the close of this terrible chapter, and while nothing can alleviate the pain of losing my mother, my hope is that the ruling from the Court that there was indeed a violation of the right to life puts the world on notice as to the immense harm euthanasia inflicts on not just people in vulnerable situations contemplating ending their lives, but also their families, and ultimately society".

Robert Clarke, the ADF lawyer who represented Mortier, stated why this is a positive precedent-setting decision:

> "This ruling serves as a stark reminder. It is clear that the so-called 'safeguards' failed because intentional killing can never be safe. We must be unfailing in our commitment to advocating for the right to life and the truth that people have inherent dignity no matter their age or health condition."

California Assisted Suicide Law Violates the Conscience Rights of Doctors

U.S. District Judge Fernando Aenlle-Rocha for the Central District of California ruled that California Senate Bill (SB) 380, which passed last year to amend the End of Life Option Act that legalized assisted suicide in California violates the First Amendment rights of doctors by requiring them to participate in assisted suicide. Aenlle-Rocha also granted a preliminary injunction barring the state from compelling health care providers to document a patient's request for assisted suicide.

An article by Mimi Nguyen Ly published by *The Epoch Times* on September 7 stated:

> The original 2015 law allowed a patient to receive drugs to end their life if two doctors certify that the patient has six or fewer months to life and is mentally competent to make the decision, and if the patient has verbally requested the life-ending drugs on two occasions at least 15 days apart, as well as later providing a written request and confirming their intention to die by signing a form 48 hours before self-ingesting the life-ending drugs.
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> SB 380 allowed patients to make the two verbal requests for the life-ending drugs at least 48 hours apart—that is, 2 days instead of 15 days—and eliminated the written request and the final attestation.

SB 380 required a doctor who opposes assisted suicide to document a request for assisted suicide and that request was considered the first of two of the required requests. Therefore doctors who oppose assisted suicide were required to participate in the act.

The Judge agreed that the law required doctors who oppose assisted suicide to participate in the law. Nguyen Ly reported:

> Aenlle-Rocha noted in his ruling on Sept. 2: "The ultimate outcome of this requirement is that non-participating providers are compelled to participate in the Act through this documentation requirement, despite their objections to assisted suicide.
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> The judge wrote that the Christian doctors "have demonstrated they are likely to suffer a violation of a constitutional right absent an injunction," and have established that "they are likely to succeed on their Free Speech claim" because the documentation requirement under SB 380 "exceeds merely managing medical records—it imposes an affirmative documentation requirement."

The case has not ended, but this decision is a great victory for conscience rights. Judge Aenlle-Rocha recognized that SB 380 violated the rights of physicians who oppose assisted suicide and he granted an injunction to prevent the egregious parts of the law from forcing physicians to participate in assisted suicide.

Last April a California federal judge also rejected a case designed to permit euthanasia within California's assisted suicide act. Lonny Shavelson, a doctor that solely focuses on assisted suicide and Sandra Morris, who lives with ALS, argued that the state's assisted suicide law discriminated against people who had difficulty self-ingesting the lethal assisted suicide drugs and to remedy the situation the state needed to permit euthanasia (lethal injection) in those cases.

Maria Dinzeo reported on June 22 for *Courthouse News* that:

> A federal judge said he cannot allow an Americans with Disabilities Act carve out to California's assisted suicide law that would let doctors assist people too weak or disabled to ingest end-of-life medication, finding that such a provision would "fundamentally alter" the law from conferring the ability to take your own life to having a doctor do it for you.

In the past few months a judge refused to permit euthanasia as part of the California assisted suicide law and another judge agreed that forcing physicians who oppose assisted suicide to participate in the act is a violation of their rights.