

## CANADIAN COURTS GRIND SLOWLY ON EUTHANASIA

### THE RASOULI CASE

On December 10, EPC legal counsel Hugh Scher, presented our intervention arguments before the Supreme Court of Canada in the *Rasouli* case.

The case concerns Hassan Rasouli, a man diagnosed as being in a persistent vegetative state (PVS) in October 2010. His doctors wished to withdraw the ventilator without the family's consent because the doctors considered the ventilator to be "futile care".

The Rasouli family applied to the court for an injunction to prevent the

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### THE CARTER CASE

Kay Carter traveled to Switzerland and died by assisted suicide at the Dignitas suicide clinic in January 2010. The Carter family in BC began their court challenge by claiming that Kay Carter had been denied the "right to die" in Canada. They claimed that Kay's daughter and son-in-law technically broke the law by helping Kay travel to Switzerland to die by assisted suicide.

Justice Lynn Smith decided that the *Carter* case had the "right to be

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### THE LEBLANC CASE

The lawyer for Ginette Leblanc (Leblanc is living with ALS) filed the notice of claim in November 2011 petitioning the court to strike down the law that protects Canadians from assisted suicide and to allow a limited form of euthanasia.

EPC and *Vivre dans la Dignité* (Quebec) were granted joint intervener standing in the *Leblanc* case. *Leblanc* was originally scheduled to be heard from December 11 – 14, 2012. The case has now been rescheduled to

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### IN MEMORIAM: DR. ANDRÉ BOURQUE

André Bourque, the founding President of *Vivre dans la Dignité* (Living with Dignity) in Quebec died suddenly on December 29, 2012.

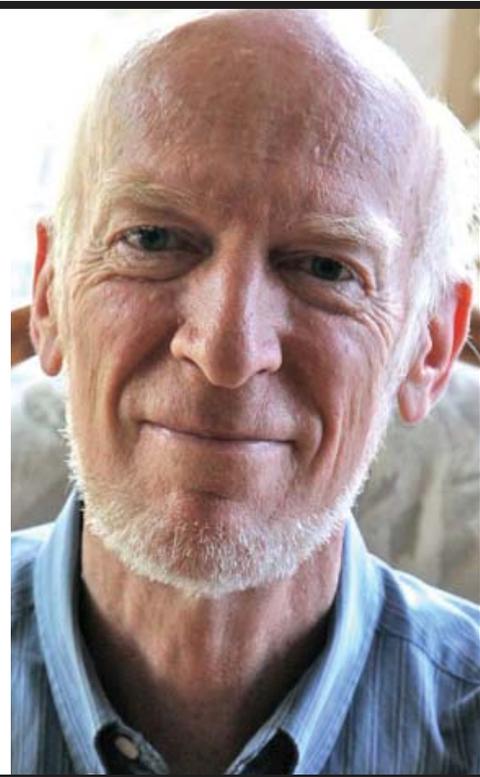
Dr. Bourque was Chief of General Medicine at CHUM for many years and an associate professor at the University of Montréal.

Living with Dignity stated: "(We) had the immense privilege of benefiting from Dr. Bourque's tireless work and wonderful example from the founding of the network in 2010.

He was known and respected for his profound humanity and his ability to rally others to our common cause."

Dr. Patrick Vinay, palliative care specialist and vice-president of Living with Dignity stated: "Dr. Bourque was a man of action, a man of great thoughtfulness, who was at the forefront of defending the rights of the sick and the most vulnerable and ensuring they receive care appropriate to their condition at all times."

EPC executive director Alex Schadenberg offered condolences to Dr. Bourque's family. Schadenberg declared: "Dr. Bourque was a caring and compassionate man and a talented leader. He was a great man who will be missed."



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EUTHANASIA PREVENTION COALITION "LEBLANC LEGAL FUND".

### NINE REASONS EUTHANASIA IS WRONG

1. **When the patient and the family get proper support, demand for euthanasia disappears.** Patients who express the wish to die usually need comfort, are depressed or their pain and symptoms are not being well managed. Often the request comes from the exhausted family; the patient himself has not asked that their death be hastened. Mostly, when the patient and the family get more support, the demand disappears.
2. **There is always a way out without euthanasia, even in the most complex cases.** Proposing euthanasia shows a lack of confidence in the progress of medical science. There are no limits imposed on the physician's means of relieving pain. There are no taboo issues about death in the medical profession. The questioning of life-prolonging treatment, the withdrawal of useless or disproportionate treatment and the refusal of treatment by autonomous patients are daily events in clinical practice, addressed calmly and openly by practising physicians.
3. **People who have not asked to die will be put to death.** There are individuals who seriously or insistently ask for euthanasia or assisted suicide. They are very few in number. These requests are usually rooted in their personality and the need they feel to control their life—and their death. Changing the law to satisfy the demand of such a small number of people would imperil the lives of a much greater number.
4. **Accepting that giving death could be a solution to one problem opens the door to giving death to a hundred others.** Once it is accepted, physicians find themselves confronted with the requests of the disabled and the chronically ill, then with the requests of patients with psychological problems and then with the fate of severely handicapped new-borns—who have not asked to die. Euthanasia becomes a “treatment option.”
5. **Decriminalization of euthanasia and assisted suicide would create unwarranted pressure on the chronically ill.** The possibility of euthanasia distorts social attitudes toward the seriously ill, the disabled and the old.
6. **A person is not valueless because he or she is chronically dependant or dying.** Neither disease, nor physical or mental decline, nor pain, nor suffering, nor loss of autonomy can undermine the fundamental value of the human being. The solution is to ensure competent palliative approach, respect, support and tenderness.
7. **Giving patients the right to die means giving doctors the right to kill.** Decriminalization of euthanasia and assisted suicide depends entirely on the participation of the medical profession. Putting to death becomes just another treatment option; this would erode people's bond of confidence in the profession as a whole.
8. **Euthanasia promotes suicide.** Suicide is never without repercussions on other people and society as a whole. The medical response to a person's attempted suicide has always been to come to the person's aid; it should remain so. The physician who participates in suicide is promoting suicide at a societal level.
9. **Euthanasia has been prohibited by the medical profession for more than two thousand years.** The Hippocratic prohibition on euthanasia and assisted suicide... has been a core value for the generations of physicians who have adhered to it. It is imbued with wisdom and compassion and deserves to be vigorously defended.

These 9 arguments are taken from a brief presented to the Collège des Médecins du Québec, on August 30, 2009, by Joseph Ayoub, M.D., André Bourque, M.D., Catherine Ferrier, M.D., François Lehmann, M.D. and José Morais, M.D. The brief can be found at <http://www.cqv.qc.ca/?q=en/node/369>

## NEWS FROM AROUND THE GLOBE

### AUSTRALIA

**South Australia** faces two more attempts to legalize euthanasia. Similar to the State of Vermont, every legislative session in South Australia can count on at least two bills designed to legalize euthanasia.

The bill by MP Steph Key would legalize euthanasia as a part of end-of-life care decisions and could be requested within a “Living Will.” The bill by MP Bob Such would legalize euthanasia in a similar manner to the rules in Oregon and Washington State.

### EUROPE

A court in **Ireland** ruled unanimously against assisted suicide in a judgement on January 10. Wife of euthanasia lobby leader Tom Curran, Marie Fleming, who lives with MS, had pleaded her case in December.

The court ruled against her, upholding the assisted suicide law in Ireland.

A group of legislators in **Belgium** announced their intention to widen access to euthanasia. They will introduce a bill to extend euthanasia to children and to people with dementia or Alzheimer's.

The current euthanasia law in Belgium is being significantly abused and any widening of the law will certainly lead to greater abuse. Three studies published in 2010 found that:

1. 32% of all euthanasia deaths were being done without request.
2. Nurses are euthanizing their patients. Belgium law specifically allows doctors only.
3. 47% of the euthanasia deaths were not being reported.

A December report in **France** decided that euthanasia should not be legalized in France but assisted suicide may be legalized. The report stated that euthanasia was "a radical medical gesture" that crossed "a forbidden barrier" – and was both impractical and immoral"

EPC has organized meetings on February 18/19 with anti-euthanasia leaders in **Europe** to establish EPC – Europe. These meetings stem from

the success of the First European Symposium on Euthanasia and Assisted Suicide in September 2012 in **Scotland**.

## NORTH AMERICA

The euthanasia lobby has stacked committees to conduct studies on the legalization of euthanasia. The majority of the presentations to the **Quebec** committee opposed euthanasia, and yet the report stated that Quebecers wanted euthanasia to be legalized.

On November 6, voters in **Massachusetts** defeated an assisted suicide ballot measure (Question 2) by 51% to 49%. This was an important victory: the assisted suicide lobby had chosen Massachusetts as the most likely state to legalize assisted suicide based on nation-wide polling data.

A recent NPR poll of 3000 Americans claimed that 55% of respondents supported assisted suicide. EPC responded, saying that two months before the November 6 vote, a Massachusetts poll indicated that 68% of the respondents supported the legalization of assisted suicide. When people were informed about problems with assisted suicide, they became more likely to oppose it.

In **Montana**, two bills will be introduced. The first will attempt to legalize assisted suicide, which of course we will oppose. The second bill will recodify the assisted suicide law, and will fully prohibit assisted suicide in Montana.

The same political debate occurred in Montana in 2011, when both bills were defeated. The Montanans Against Assisted Suicide have been working for two years to build support, and expect that their bill will be passed.

**Vermont** Governor Peter Shumlin has, once again, promised to legalize assisted suicide. Vermont has had a continuous barrage of bills attempting to legalize assisted suicide. Shumlin plans to balance the Vermont budget and has suggested cuts in Healthcare spending. True Dignity Vermont will once again lobby against assisted suicide.

The **New Hampshire** assisted suicide lobby is pushing a two-prong approach. They have introduced another bill to legalize assisted suicide. They also introduced a motion to have a study conducted on the issue of assisted suicide.

A bill to legalize assisted suicide has been presented in **Connecticut**.

In **New Jersey**, a bill has been introduced to legalize assisted suicide. The bill is designed to become a voter initiative in the next election.

In **Hawaii**, Compassion & Choice argued that a 1909 medical access bill legalized assisted suicide. Hawaii's Attorney General stated that the 1909 law does not allow assisted suicide. The Hawaii Medical Association re-affirmed their opposition to assisted suicide.

In **New Mexico**, Compassion & Choices has launched a court case that is similar to the *Carter* case in BC. The case will be heard in March 2013.

## Exposing Vulnerable People



to Euthanasia and Assisted Suicide

Alex Schadenberg

### New EPC Publication

*"Using already existing studies, Schadenberg has uncovered the shocking truth about euthanasia in Belgium, the lives lost and the deep threat to others. His work demonstrates unequivocally that we must never follow this Belgian pathway to the easy killing of people whose lives are not valued by those who do the killing."*

Kevin Fitzpatrick, *Not Dead Yet, UK*

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### ... Rasouli from page 1

doctors from withdrawing the ventilator. Justice Himel ruled the injunction unnecessary, as the doctors were already required to obtain consent before withdrawing the ventilator.

The doctors appealed the decision, arguing before the Ontario Court of Appeal that they did not require consent to withdraw treatment that they considered to be futile. EPC argued that consent was necessary because withdrawing the ventilator represented a change in the “treatment plan”. We argued that the ventilator was not futile, and was fulfilling its purpose.

The Ontario Court of Appeal unanimously decided that the doctors were required to obtain consent before withdrawing life-sustaining treatment because it represented a change in the treatment plan. They also unanimously decided that treatment which is truly futile, e.g. treatments that are not working or that lack reasonable hope of benefit, could be withdrawn without consent. The decision found that the ventilator was not futile because it was doing what it was designed to do, i.e., enabling Mr. Rasouli to breathe. A family could use this decision to refuse withdrawal of fluids and food.

The doctors appealed the decision to the Supreme Court of Canada. EPC has obtained intervener standing in the case. Hassan Rasouli was also re-diagnosed as not being in a PVS state and has gained a limited capacity to communicate with others.

The case was heard by the Supreme Court on December 10. We await a decision in the next few months.

### ... Carter from page 1

heard” but noted that there was nothing pressing about the case.

The BC Civil Liberties Association (BCCLA), who represent the Carter family, then attached Gloria Taylor to the case. Justice Smith then decided to fast-track the case because Ms. Taylor, a woman who was living with ALS, might not have long to live. On June 15, 2012 Justice Smith published her decision that asserted:

1. Section 241 of the Criminal Code (assisted suicide) was unconstitutional because it denied equality to people with disabilities who are incapable of killing themselves by suicide.
2. A limited form of Euthanasia (lethal injection) should be legalized to enable a person with a disability to die, when the person is unable to do it to themselves.
3. Parliament had one year to legalize assisted suicide and a limited form of euthanasia, or the law would simply be struck down.
4. While it remained technically illegal, Ms. Taylor was given a constitutional exemption to die by euthanasia or assisted suicide.

Justice Minister Rob Nicholson appealed the decision. The BC Court of Appeal will hear the case March 4-8.

EPC believes that Justice Smith erred by implying that there is a “right to suicide” in Canada and by deciding that there is no reasonable evidence that vulnerable groups are at risk when euthanasia and/or assisted suicide are legalized. EPC and EPC-BC filed our factum in late December.

### ... LeBlanc from page 1

be heard from March 25 - 28, 2013 in Trois Rivières Quebec. EPC and Vivre dans la Dignité submitted its factum to the court in early December.

We anticipate that the Supreme Court of Canada will join the *Carter* and *LeBlanc* cases to make a single ruling.

## Take Action

### Sign

### The Declaration of HOPE

The Declaration of HOPE is a project of EPC in conjunction with HOPE Australia. The Declaration states clearly what we support and what we oppose, and proposes a positive position to deal with euthanasia and assisted suicide. The Declaration of Hope has been printed on the back of my letter.



**To sign, please go  
to the web site below:**

**[www.declarationofhope.ca](http://www.declarationofhope.ca)**

Use all the means at your disposal to email, tweet, post and facebook this address to your contacts. Ask your friends and family to sign, too!