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# The Legalization of Euthanasia and Assisted Suicide: *An inevitable slippery slope*

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# Summary

This paper makes the case for the prohibition of euthanasia and assisted suicide. Rather than requiring the legalization of these troubling practices, international law robustly protects the right to life – particularly for the most vulnerable. The threat posed by a number of legislative proposals across Europe is highlighted through the example of those countries which have already gone down this road. An investigation into the developments in Belgium, Canada, and the Netherlands shows that where euthanasia and assisted suicide are legalized, the number of people euthanized, and the number of qualifying conditions increase with no logical stopping point. The paper concludes by refuting the main arguments relied upon in support of legalization.

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# Table of Contents

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<b>1) Introduction</b> .....	<b>1</b>
<b>2.) Overview of laws and current proposals</b> .....	<b>2</b>
<b>3.) Terminology</b> .....	<b>5</b>
<b>4.) Legal competences in the area of euthanasia</b> .....	<b>8</b>
United Nations .....	8
The European Union .....	9
Parliamentary Assembly of the Council of Europe .....	10
Medical Associations.....	10
European Court of Human Rights Jurisprudence.....	12
<b>5.) Examples of countries where euthanasia has been legalized</b> .	<b>16</b>
Belgium .....	16
The Netherlands .....	19
Quebec/Canada.....	21
<b>6.) Legal safeguards and controls: a slippery slope</b> .....	<b>23</b>
<b>7.) Refuting the main arguments for legalizing euthanasia</b> .....	<b>26</b>
The Right to “Die with Dignity” .....	26
Respect for Individual Autonomy .....	27
Euthanasia does not harm others .....	29
Euthanasia is properly regulated.....	29
Economic pressure .....	30
<b>8.) Conclusion</b> .....	<b>31</b>

## **1) Introduction**

This brief presents the main legal provisions and arguments in favour of the prohibition of euthanasia and assisted suicide under the following headings:

- (1) With such an aim, this document first gives a short overview of current proposals for the introduction of euthanasia or assisted suicide in Europe.
- (2) Second, it clarifies the terminology used.
- (3) Third, it determines to whom belong the legal competences in the area, and recites the positive wording that exists in international law concerning the right to life of all persons.
- (4) Fourth, it illustrates with national experiences how this area is regulated.
- (5) Fifth, it shows how legalization of euthanasia inevitably leads to further liberalization with no logical stopping point.
- (6) Sixth, it outlines and answers the main arguments in favour of legalization. This brief will mainly focus on Europe, although examples beyond the European continent will be drawn occasionally.

## 2.) Overview of laws and current proposals

The legalization of euthanasia and assisted suicide is currently being discussed and proposed in a number of countries in Europe. The legalized intentional killing of a patient or the direct assistance by a doctor in suicide are the subject of heated debate internationally. The jurisdictions that have legalized both assisted suicide and euthanasia include the Netherlands in 2002,<sup>1</sup> Belgium in 2002,<sup>2</sup> Luxembourg in 2009,<sup>3</sup> and Canada in 2016.<sup>4</sup> Euthanasia has been legal in Colombia<sup>5</sup> since 2015. Assisted suicide is legal in Switzerland (1942),<sup>6</sup> Germany (2015),<sup>7</sup> and certain US States including California, Oregon, Washington, Vermont and Montana.<sup>8</sup>

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<sup>1</sup> Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002 <<http://www.euthanasia.ws/documentos/Leyes/Internacional/Holanda%20Ley%202002.pdf>> accessed 6 February 2017 - The act codified some previous medical practice in the Netherlands.

<sup>2</sup> The Belgian Act on Euthanasia of May, 28<sup>th</sup> 2002 <<http://www.ethical-perspectives.be/viewpic.php?LAN=E&TABLE=EP&ID=59>> accessed 6 February 2017.

<sup>3</sup> Loi du 16 mars 2009 sur l'euthanasie et l'assistance au suicide <<http://legilux.public.lu/eli/etat/leg/memorial/2009/46>> accessed 5 February 2017.

<sup>4</sup> Loi C-14 du 17 juin 2016 sur l'aide médicale à mourir <<http://www.parl.gc.ca/HousePublications/Publication.aspx?Mode=1&DocId=8384014&Col=1&Language=F>> accessed 7 February 2017.

<sup>5</sup> Katlyn Babyak, 'Colombia opens its doors to euthanasia' *World* (2015) <[https://world.wng.org/2015/07/colombia\\_opens\\_its\\_doors\\_to\\_euthanasia](https://world.wng.org/2015/07/colombia_opens_its_doors_to_euthanasia)> accessed 5 February 2017.

<sup>6</sup> Alison Langley, 'Suicide Tourists' Go to the Swiss for Help in Dying' *The New York Times* (2003) <<http://www.nytimes.com/2003/02/04/world/suicide-tourists-go-to-the-swiss-for-help-in-dying.html>> accessed 5 February 2017; Code penal Suisse, Article 115 <<https://www.admin.ch/opc/fr/classifiedcompilation/19370083/201401010000/311.0.pdf>> accessed 7 February 2017.

<sup>7</sup> By way of deduction, assisted suicide was never forbidden in Germany. The impunity of assistance of suicide followed the legal principle that assistance to an act (suicide) that is itself not punishable under law cannot be punishable either. The Act to Criminalize Commercial Assisted Suicide, adopted by the German Bundestag on 6 November 2015, has explicitly condoned and raised unprecedented awareness on the possibility of physician-assisted suicide as long as it is not commercial. <<http://dip21.bundestag.de/dip21/btd/18/053/1805373.pdf>> accessed 7 February 2017.

<sup>8</sup> Penney Lewis, 'Assisted dying: What does the law in different countries say?' *BBC News*

The debate on the end of life has made its way onto the political agenda across Europe. Most recently, the Finnish Parliament was set to debate euthanasia following a citizen's initiative,<sup>9</sup> which has passed the requisite 50,000 signatories required to trigger a parliamentary debate. Spain's Congress of Deputies is also set to debate<sup>10</sup> new legislation that would permit assisted suicide in certain circumstances, following the presentation of a bill to Congress by Unidos Podemos (UP), a coalition of the communist party and the party Podemos, in January 2017. The Spanish proposal explicitly excludes the right to conscientious objection for doctors.<sup>11</sup> In Portugal, following a petition delivered to Parliament by the Direito a Morrer com Dignidade (Right to Die with Dignity) movement and signed by over 8,000 people, the Portuguese Parliament initiated a debate on euthanasia in February 2017.<sup>12</sup> In Italy, the debate on euthanasia was recently initiated by an Italian celebrity disc jockey who travelled to Switzerland for assisted suicide after being left blind and tetraplegic in a car crash.<sup>13</sup> The Italian Parliament opened the debate in March 2017. Moreover, in Belgium and the Netherlands, legislative proposals aiming to expand the availability of euthanasia suggest extending euthanasia on the grounds of being 'tired of life'<sup>14</sup>

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(2015) <<http://www.bbc.com/news/world-34445715>> accessed 5 February 2017.

<sup>9</sup> Paul Russell, 'Finland set to debate euthanasia' *Bio Edge* (2017)

<<https://www.bioedge.org/bioethics/finland-set-to-debate-euthanasia/12139>> accessed 6 February 2017.

<sup>10</sup> 'El Congreso aprueba abrir el debate sobre la ley de muerte digna', *Heraldo*, 28 March 2017, <<http://www.heraldo.es/noticias/nacional/2017/03/28/el-congreso-aprueba-abrir-debate-sobre-ley-muerte-digna-1167019-305.html>> accessed 3 April 2017.

<sup>11</sup> 'Proposición de Ley Orgánica sobre la eutanasia', Unidos Podemos, 18 January 2017 <https://laicismo.org/wp-content/uploads/2017/01/PL-sobre-la-eutanasia-Unidos-Podemos-2017.pdf> accessed 8 May 2017.

<sup>12</sup> 'Parlamento inicia debate sobre eutanásia', RTP Noticias, 1 February 2017 <[https://www.rtp.pt/noticias/pais/parlamento-inicia-debate-sobre-eutanasia\\_n979900](https://www.rtp.pt/noticias/pais/parlamento-inicia-debate-sobre-eutanasia_n979900)> accessed 3 April 2017.

<sup>13</sup> 'DJ's assisted suicide stirs up Italy euthanasia debate', BBC News, 28 February 2017 <<http://www.bbc.com/news/world-europe-39117472>> accessed 3 April 2017.

<sup>14</sup> 'Netherlands may extend assisted dying to those who feel 'life is complete'', *The Guardian*, 12 October 2016 <<https://www.theguardian.com/world/2016/oct/13/netherlands-may->

(Netherlands); perform euthanasia on patients who are unable to express their will<sup>15</sup> (Belgium); delete the expiration date (currently five years) of advanced directives (Belgium); and oblige doctors to refer patients to other doctors when they do not wish to administer euthanasia<sup>16</sup> (Belgium).

In France, the Parliament rejected legalizing euthanasia and assisted suicide in January 2016 and a compromise was reached through adopting an amendment of the *Claeys Leonetti* legislation<sup>17</sup> that allows doctors to keep terminally ill patients sedated until death. In the UK, Lord Joffe introduced assisted dying bills in the House of Lords unsuccessfully in 2003, 2004 and 2005. In 2009, Lord Falconer proposed changing the law so that people would not be prosecuted for helping relatives travel to overseas suicide facilities to die. The proposal was defeated. Most recently in 2015, the House of Commons rejected Lord Falconer's second attempt to introduce an assisted dying bill, with 330 MPs voting against and 118 in favour.<sup>18</sup> Other countries like Sweden are having a public debate on the possibility of legalizing assisted suicide and euthanasia. There appears to be a coordinated movement across Europe that aims to achieve legalization of assisted suicide and euthanasia across the continent.

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allow-assisted-dying-for-those-who-feel-life-is-complete> 3 April 2017.

<sup>15</sup> Proposition de loi modifiant la loi du 28 mai 2002 relative à l'euthanasie en ce qui concerne les personnes atteintes d'une affection cérébrale et devenues incapables d'exprimer leur volonté, 10 avril 2015 <<http://www.lachambre.be/FLWB/PDF/54/1013/54K1013001.pdf>> accessed 3 April 2017.

<sup>16</sup> Proposition de loi modifiant la loi du 28 mai 2002 relative à l'euthanasie en ce qui concerne la durée de validité de la déclaration anticipée, 10 avril 2015, <<http://www.lachambre.be/FLWB/PDF/54/1014/54K1014001.pdf>> accessed 3 April 2017.

<sup>17</sup> LOI n° 2016-87 du 2 février 2016 créant de nouveaux droits en faveur des malades et des personnes en fin de vie, <<https://www.legifrance.gouv.fr/eli/loi/2016/2/2/AFSX1507642L/jo/texte>> accessed 3 April 2017.

<sup>18</sup> CARE, 'Euthanasia: The History' <<https://www.care.org.uk/our-causes/sanctity-life/euthanasia-history>> accessed 24 April 2017.

### 3.) Terminology

Euthanasia comes from the Greek words, *Eu* (good) and *Thanatos* (death) and means 'good death'.<sup>19</sup> Various terms describe euthanasia relative to the role of the person who administers it and relative to the "level of consent" of the person being euthanised.

*Euthanasia* consists in an act or omission that intentionally ends the life of a person ostensibly in order to release him or her from suffering.<sup>20</sup> It should be noted that *palliative* care, may employ sedation that can, in extreme cases, have the unintended side effect of hastening the natural death of the patient. This is not euthanasia because of the intention behind the act.

*Active euthanasia* occurs when medical professionals, or another person, deliberately cause the patient to die.<sup>21</sup> It consists in oral or intravenous administration of a substance or combination of substances that will induce death.<sup>22</sup>

*Euthanasia by omission* or passive euthanasia consists in refusing to give life-preserving treatment for the purpose of hastening death, as a primary end.<sup>23</sup> Euthanasia differs categorically from treatment aimed at

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<sup>19</sup> Merriam Webster, 'Euthanasia' <<https://www.merriam-webster.com/dictionary/euthanasia>> accessed 5 February 2017.

<sup>20</sup> European Institute of Bioethics, 'End of Life: let's agree on semantics', teaching card n12, 2016 <[http://www.ieb-eib.org/fr/pdf/fiche\\_didactique-2017-en-mots-fin-de-vie.pdf](http://www.ieb-eib.org/fr/pdf/fiche_didactique-2017-en-mots-fin-de-vie.pdf)> accessed 3 April 2017.

<sup>21</sup> BBC, 'Ethics guide' <[http://www.bbc.co.uk/ethics/euthanasia/overview/activepassive\\_1.shtml](http://www.bbc.co.uk/ethics/euthanasia/overview/activepassive_1.shtml)> accessed 4 February 2017.

<sup>22</sup> European Institute of Bioethics, 'End of Life: let's agree on semantics', teaching card n12, 2016 <[http://www.ieb-eib.org/fr/pdf/fiche\\_didactique-2017-en-mots-fin-de-vie.pdf](http://www.ieb-eib.org/fr/pdf/fiche_didactique-2017-en-mots-fin-de-vie.pdf)> accessed 3 April 2017.

<sup>23</sup> Ibid.



relieving the patient's condition where, as an unintended side effect, the patient's life may be shortened.<sup>24</sup>

*Non-voluntary euthanasia* occurs where the patient is unable to give consent (e.g. if the patient is unable to communicate). Another person takes the decision on their behalf.<sup>25</sup>

*Assisted suicide* differs from euthanasia in that it is the patient him- or herself who performs the act, whether by releasing a substance intravenously or by swallowing a lethal product. If this act is assisted by a physician, it is called *physician-assisted suicide or PAS*.<sup>26</sup>

*Palliative sedation* is a medical technique that aims to decrease a patient's awareness in order to diminish the perception of physical pain deemed as unbearable. Sedation, which can be more or less deep, and can even lead to complete loss of consciousness, is normally reversible and intermittent. *Terminal sedation* is deep sedation induced and maintained until the patient dies. Terminal sedation is an *ultima ratio* in pain management, at the very final stage of a patient's life and when the patient presents with symptoms that resist all other forms of treatment.<sup>27</sup> It is important to note that sedation, whether terminal or temporary, is part of pain management and palliative care. Its goal is to relieve the patient's suffering while respecting the natural process that leads to death. It is,

<sup>24</sup> ProLife Alliance, 'Euthanasia' <<http://www.prolife.org.uk/wp-content/uploads/pdfs/Euthanasia.pdf>> accessed 24 April 2017.

<sup>25</sup> BBC, 'Ethics guide' <[http://www.bbc.co.uk/ethics/euthanasia/overview/activepassive\\_1.shtml](http://www.bbc.co.uk/ethics/euthanasia/overview/activepassive_1.shtml)> accessed 4 February 2017; ProLife Alliance, 'Euthanasia' <<http://www.prolife.org.uk/wp-content/uploads/pdfs/Euthanasia.pdf>> accessed 24 April 2017.

<sup>26</sup> European Institute of Bioethics, 'End of Life: let's agree on semantics', teaching card n12, 2016 <[http://www.ieb-eib.org/fr/pdf/fiche\\_didactique-2017-en-mots-fin-de-vie.pdf](http://www.ieb-eib.org/fr/pdf/fiche_didactique-2017-en-mots-fin-de-vie.pdf)> accessed 3 April 2017.

<sup>27</sup> Institut Européen de Bioéthique, 'Les soins palliatifs' (2008) <<http://www.ieb-eib.org/fr/document/les-soins-palliatifs-32.html>> accessed 5 February 2017.

therefore, fundamentally different from euthanasia with no intention to kill a patient.

Aggressive life-sustaining treatment consists in implementing disproportionate means in order to extend the life of a patient at the end of his life. The decision to stop existing therapeutic treatment is sometimes, misleadingly, called passive euthanasia or euthanasia by omission. However, foregoing aggressive life-sustaining treatment and therefore allowing a person to die stands in contrast to the practices of euthanasia which intentionally end the life of a patient.<sup>28</sup>

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<sup>28</sup> Ibid.

#### 4.) Legal competences in the area of euthanasia

No international institution is competent to legislate on the matter of euthanasia. In the absence of an international agreement or binding treaty obligation the competence to legislate on the matter pertains exclusively to national parliaments. However, helpful language can be found in international law, non-binding international resolutions, and international jurisprudence that rather supports the right to life of all persons as being incompatible with the practice of euthanasia and assisted suicide. As demonstrated in the most notable legal provisions below, international human rights law upholds the right to life. This right to life cannot, by definition, include a right to the diametrically opposed outcome. It is evident that a so-called 'right to die' has no basis in international human rights law.

##### United Nations

The International Covenant on Civil and Political Rights (ICCPR), Article 6(1): '[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.'<sup>29</sup>

The Convention on the Rights of the Child (CRC), Article 6(1): 'every child has the inherent right to life'.<sup>30</sup>

The Convention on the Rights of Persons with Disabilities (CRPD), Article 10: 'States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.'<sup>31</sup>

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<sup>29</sup> The ICCPR was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 23 March 1976.

<sup>30</sup> The CRC was adopted by the United Nations General Assembly on 20 November 1989 and entered into force on 2 September 1990.

<sup>31</sup> The CRPD was adopted by the United Nations General Assembly on 13 December 2006, and entered into force on 3 May 2008.

Moreover, rather than recognizing a 'right to die', UN treaties implicitly reject this notion by including strong protections for the sick, disabled, and elderly – the people most often affected by the legalization of euthanasia and assisted suicide. For example, Article 23 of the CRC recognizes: '[a] mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.'

Alongside the absence of a 'right to die' within international treaties, the bodies in charge of interpreting these treaties have never produced any analysis or opinion lending support for euthanasia or assisted suicide.

On the contrary, UN treaty monitoring bodies have expressed concerns regarding the practice of euthanasia, despite its legality in only a small minority of countries. For example, the Concluding Observations of the Human Rights Committee on the Netherlands state: '[t]he Committee remains concerned at the extent of euthanasia and assisted suicides in the State party. The Committee reiterates its previous recommendations in this regard and urges that this legislation be reviewed in light of the Covenant's recognition of the right to life'.<sup>32</sup>

## **The European Union**

Article 2 of the European Charter of Fundamental Rights recognizes that 'everyone has the right to life.'

The EU only has the power to legislate where competence has been conferred on it by the EU treaties. Where the treaties do not confer

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<sup>32</sup> Ninety-sixth session, (CCPR/C/NLD/CO/42), 5 August 2009, at § 7.

competence, they remain with the Member States.<sup>33</sup> The EU treaties determine that health policy belongs to the Member States:

Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care.<sup>34</sup>

This excludes the possibility of harmonizing national legislation in the field of health policies (even assuming it could be contended that this is the sphere into which it would fall). The regulation of it falls within Member States' competences, and EU institutions cannot therefore take any direct action in this area.

### **Parliamentary Assembly of the Council of Europe**

In 1999 the Parliamentary Assembly of the Council of Europe, comprised of national parliamentarians from 47 nations stated that Member States should 'respect and protect the dignity of terminally ill or dying persons in all respects [...] by upholding the prohibition against intentionally taking the life of terminally ill or dying persons'.<sup>35</sup>

In 2012, the Assembly reaffirmed its categorical opposition against any form of legalized euthanasia: '[e]uthanasia, in the sense of the intentional killing by act or omission of a dependent human being for his or her alleged benefit, must always be prohibited'.<sup>36</sup>

### **Medical Associations**

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<sup>33</sup> Treaty on the European Union, Article 5(2).

<sup>34</sup> Article 168 (7) TFEU.

<sup>35</sup> Recommendation 1418 (1999) § 9).

<sup>36</sup> Resolution 1859 (2012) § 5.

The World Medical Association (WMA) has consistently and categorically refused to condone or accept the practice of euthanasia and assisted suicide as a justifiable medical activity:

Euthanasia, that is the act of deliberately ending the life of a patient, even at the patient's own request or at the request of close relatives, is unethical. This does not prevent the physician from respecting the desire of a patient to allow the natural process of death to follow its course in the terminal phase of sickness.<sup>37</sup>

Physicians-assisted suicide, like euthanasia, is unethical and must be condemned by the medical profession. Where the assistance of the physician is intentionally and deliberately directed at enabling an individual to end his or her own life, the physician acts unethically. However the right to decline medical treatment is a basic right of the patient and the physician does not act unethically even if respecting such a wish results in the death of the patient.<sup>38</sup>

BE IT RESOLVED that:

The World Medical Association reaffirms its strong belief that euthanasia is in conflict with basic ethical principles of medical practice, and

The World Medical Association strongly encourages all National Medical Associations and physicians to refrain from participating in euthanasia, even if national law allows it or decriminalizes it under certain conditions. In 2013, at its 194th World Medical

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<sup>37</sup> WMA Declaration on Euthanasia, adopted by the 39th World Medical Assembly, Madrid, Spain, October 1987 and reaffirmed by the 170th WMA Council Session, Divonne-les-Bains, France, May 2005, and the 200<sup>th</sup> WMA Council Session, Oslo, Norway, April 2015.

<sup>38</sup> WMA Statement on Physician-Assisted Suicide, adopted by the 44th World Medical Assembly, Marbella, Spain, September 1992 and editorially revised by the 170th WMA Council Session, Divonne-les-Bains, France, May 2005.

Association Council Session in Bali, Indonesia, the WMA, reaffirming a number of earlier resolutions and affirmations (from 1987 onwards to 2005), resolved that it reaffirms its strong belief that euthanasia is in conflict with basic ethical principles of medical practice, and strongly encourages all National Medical Associations and physicians to refrain from participating in euthanasia, even if national law allows it or decriminalizes it under certain conditions.<sup>39</sup>

### European Court of Human Rights Jurisprudence

The European Court of Human Rights (ECtHR) has been asked a number of times to consider possible breaches of Articles 2 (right to life), 3 (prohibition of torture) and 8 (right to respect for private and family life) of the Convention regarding the legal prohibition of euthanasia as well as the limits of the law within the countries where it is legalized.

The Court has repeatedly affirmed that a 'right to die' is not contained in the foregoing Articles.

In the case of *Pretty v. United Kingdom*,<sup>40</sup> Diane Pretty was suffering from a motor-neurone disease and wanted her husband's assistance in committing suicide. UK law regards assistance in suicide as a crime.<sup>41</sup> She asked the Director of Public Prosecutions to agree not to prosecute her husband. After her request was refused and her appeal failed in the House of Lords, she took the case to the ECtHR. The Court ruled that there is no 'right to die' under the Convention and that countries are not in breach of the Convention if their national legal order prescribes prosecution for aiding or abetting suicide. Furthermore, the Court upheld

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<sup>39</sup> WMA Resolution on Euthanasia, reaffirmed with minor revision by the 194<sup>th</sup> WMA Council Session, Bali Indonesia, April 2013 <<http://worldrtd.net/sites/default/files/newsfiles/WMA%20Resolution.pdf>> accessed 9 May 2017.

<sup>40</sup> *Pretty v. the United Kingdom*, no. 2346/02, ECHR 2002 III.

<sup>41</sup> Section 2(1) of the Suicide Act 1961.

that the right to life (Article 2) cannot be read as to include the exact opposite, a so-called 'right to die':

Article 2 cannot, without a distortion of language, be interpreted as conferring the diametrically opposite right, namely a right to die; nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life. The Court accordingly finds that no right to die, whether at the hands of a third person or with the assistance of a public authority, can be derived from Article 2 of the Convention.<sup>42</sup>

The Court was also asked to examine whether prohibiting euthanasia amounts to torture as prohibited under Article 3 of the Convention. The Court reasoned that, because it was not the State itself that was inflicting any kind of ill-treatment nor was it withdrawing adequate medical care, Article 3 was not engaged. Furthermore, it emphasized that Article 3 must be read in harmony with Article 2 of the ECHR:

Article 2 of the Convention is first and foremost a prohibition on the use of lethal force or other conduct which might lead to the death of a human being and does not confer any right on an individual to require a State to permit or facilitate his or her death.<sup>43</sup>

The attempt to create a 'right to die' under Article 8 also failed. In *Pretty*, while the Court accepted that Article 8 could be read as including the 'choice to avoid what [the applicant] considers will be an undignified and distressing end to her life'<sup>44</sup> ultimately no violation of Article 8 was

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<sup>42</sup> *Pretty v. United Kingdom* (2002) 35 E.H.R.R. 1 §§ 39-40.

<sup>43</sup> *Ibid.*, § 54.

<sup>44</sup> *Ibid.*, § 67



found. The Court held that the 'law in issue' (the State's prohibition on assisted suicide) had the legitimate aim of protecting vulnerable people.<sup>45</sup>

Although subsequently in *Haas v. Switzerland*,<sup>46</sup> the Court recognized that an individual's decision on how and when to die may fall within the scope of Article 8,<sup>47</sup> the Court concluded that there may be a legitimate interest in protecting individuals from exercising their autonomy, for example, to protect individuals from harm, and especially, to protect vulnerable persons.<sup>48</sup>

The most recent case of *Lambert and Others v. France*<sup>49</sup> referred to the French Conseil d'Etat judgment from 24 June 2014<sup>50</sup> to discontinue Vincent Lambert's artificial nutrition and hydration. Mr. Lambert was left tetraplegic following a road traffic accident in 2008. In 2013, a decision was made to withdraw his nutrition and reduce his hydration. The applicants, Lambert's parents, half-brother and sister lodged an application to the ECtHR. They advanced arguments that to withdraw the artificial nutrition and hydration from Mr. Lambert would constitute a breach of the Member State's obligation to protect life under Article 2 of the Convention, and that such a course could amount to a breach of Articles 3 and 8.

By twelve votes to five, the Grand Chamber held that implementing the Conseil d'Etat's judgment would not constitute a violation of Article 2 (right to life). The ECtHR held that, in relation to life supporting treatments, Member States are to be afforded a wide margin of appreciation. However, this margin of appreciation is not unlimited, and the Court reserves the power to review whether or not the State has complied with

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<sup>45</sup> *Ibid.*

<sup>46</sup> *Haas v. Switzerland*, no. 31322/07, 20 January 2011, ECHR 2011.

<sup>47</sup> *Ibid.*, § 51.

<sup>48</sup> *Ibid.*, § 56.

<sup>49</sup> *Lambert and Others v. France*, [GC] no. 46043/14, 5 June 2015.

<sup>50</sup> Conseil d'Etat, M. Vincent Lambert, 24 Juin 2014.

its obligations under Article 2. In this case the ECtHR seemed content to assess artificial nutrition and hydration as 'life sustaining treatment'. This interpretation has been widely criticized as undermining both the wording and spirit of Article 2 of the Convention.

## **5.) Examples of countries where euthanasia has been legalized**

Wherever euthanasia has been legalized, a steep increase in the number of cases and an extension of possible reasons for euthanasia can be observed.

### **Belgium**

The Belgian act legalizing euthanasia for adults and ‘emancipated minors’ was passed on 28 May 2002.<sup>51</sup> It came into effect on 3 September 2002. Belgium became the second country in the world to do this after the Netherlands.

In February 2014, Belgian legislators extended the law by making their country the world's first to allow euthanasia of suffering children without any age limit.<sup>52</sup> At present parental consent is required.

The Belgian act stipulates that those seeking euthanasia must be conscious and legally competent at the moment of making the request to end their lives and must be in a condition of durable and unbearable physical or mental suffering that cannot be alleviated. The request must be voluntary. The physician must inform the patient about their medical condition, and possible therapeutic treatments, including palliative care. The physician must have several conversations ‘spread out over a reasonable period of time’ with the patient in which he ‘comes to the belief that there is no reasonable alternative to the patient’s situation.’ He must

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<sup>51</sup> The Belgian Act on Euthanasia of May, 28th 2002 <<http://www.ethical-perspectives.be/viewpic.php?LAN=E&TABLE=EP&ID=59>> accessed 6 February 2017.

<sup>52</sup> Loi modifiant la loi du 28 mai 2002 relative à l'euthanasie, en vue d'étendre l'euthanasie aux mineurs, 28 Février 2014.

‘consult another physician about the serious and incurable character of the disorder’.<sup>53</sup>

After performing euthanasia, the physician is required to report the case for review to the Federal Control and Evaluation Commission.<sup>54</sup> The Commission determines whether the ‘euthanasia was performed in accordance with the conditions and procedure stipulated in the Act’. In case of irregularities, the Commission can ask the physician for additional information and send the case to the judicial authorities.<sup>55</sup> However, under the leadership of Dr. Wim Distelmans, the co-chair of the Commission, only one case was referred to the judiciary for investigation in the estimated 15,000 cases since the legalization of euthanasia in 2002. The first case was referred in 2014: the euthanasia of a healthy, 85 year old lady, grieving about the death of her daughter from a heart attack. Her euthanasia was filmed and recorded in a documentary by the Australian SBS TV Network.<sup>56</sup>

The 2002 Act stipulates that the Commission is to draw up a report to the legislature every two years. According to the most recent report, covering the years 2014-2015, since 2002, 12,726 persons have been officially euthanized in Belgium, over 2000 in 2015 alone. The Commission admits that there is an unknown number of unreported cases and a recent study suggests that the real number is approximately 35% higher.<sup>57</sup>

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<sup>53</sup> The Belgian Act on Euthanasia of May, 28th 2002, Section 3, para 1-2. The doctor is required to consult an *additional* practitioner if death is not anticipated in the near future.

<sup>54</sup> The Belgian Act on Euthanasia of May, 28th 2002, Section 5.

<sup>55</sup> The Belgian Act on Euthanasia of May, 28th 2002, Section 8.

<sup>56</sup> Brett Mason, Calliste Weitenberg, ‘Allow me to Die’, 24 November 2015, SBS News <<http://www.sbs.com.au/news/dateline/story/allow-me-die>> accessed 25 April 2017.

<sup>57</sup> Rapport de la Commission d'évaluation euthanasie 2016 <<http://www.ieb-eib.org/fr/document/rapport-de-la-commission-devaluation-euthanasie-2016-465.html>> accessed 5 February 2017.

The diseases invoked to administer euthanasia were due to generalized or severely mutilated cancers (67.7%). Other reasons included polypathologies (9.7%), which are symptoms of old age such as eye sight or hearing impediments; diseases of the nervous system (6.9%); of the circulatory system (5.2%); mental and behavioral disorders (3.1% or 124 individuals) and respiratory diseases (3.1%).<sup>58</sup> The Commission emphasizes that '[t]he most notable increase is that of the euthanasia of patients suffering from dementia'.<sup>59</sup> As illustrated by these statistics, euthanasia is increasingly requested by and performed on persons who are not physically ill but show symptoms of old age, as well as by persons who suffer from dementia or who experience mental health problems.

An open letter by 65 Psychiatrists and university professors has openly criticized the practice of euthanasia for psychological suffering due to the impossibility to assess the incurability of such conditions.<sup>60</sup>

In June 2015 a study found that life-ending drugs were used 'with the intention to shorten life without explicit request' in 1.7% of all deaths in Belgium in 2013.<sup>61</sup>

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<sup>58</sup> *Ibid.*

<sup>59</sup> Commission fédérale de Contrôle et d'Évaluation de l'Euthanasie, 'Septième rapport aux Chambres législatives, années 2014- 2015' <<https://www.lachambre.be/kvvcr/showpage.cfm?section=/flwb&language=fr&cfm=/site/wwwcfm/flwb/flwbn.cfm?lang=F&legislat=54&dossierID=2078>> accessed 3 April 2017.

<sup>60</sup> Mercatornet, 'Belgian doctors call for end to euthanasia for mental suffering', 10 December 2015 <<https://www.mercatornet.com/careful/view/belgian-doctors-call-for-end-to-euthanasia-for-mental-suffering/17325#sthash.hllSd7XY.dpuf>> accessed 24 April 2017.

<sup>61</sup> Raphael Cohen-Almagor, 'First Do No Harm: Intentionally Shortening Lives of Patients without Their Explicit Request in Belgium' (2015), *Journal of Medical Ethics*, <<http://www.hull.ac.uk/rca/docs/articles/First%20Do%20No%20Harm%20-%20Shortening%20Lives%20of%20Patients%20without%20Their%20Explicit%20Request%20in%20Belgium.pdf>> accessed 6 February 2017.

## The Netherlands

The law on euthanasia is governed by the 'Termination of Life on Request and Assisted Suicide Act' of 10 April 2001. It entered into force on 1 April 2002.<sup>62</sup>

It states the need for a 'voluntary and well-considered' request. The patient's suffering should be 'lasting and unbearable', the patient should be informed about his/her situation and prospects, the physician and patient must 'hold the conviction that there was no other reasonable solution', an independent physician must be consulted, and the life has to be ended, or the suicide must be assisted, 'with due care.'<sup>63</sup>

Minors may request euthanasia from the age of 12, although the consent of the parents or guardian is mandatory until they reach the age of 16. Sixteen and seventeen-year-olds do not need parental consent in principle, but their parents must be involved in the decision-making process.<sup>64</sup>

In cases of termination of life on request and assisted suicide, doctors notify a regional review committee which assesses whether the physician has acted in accordance with the requirements of due care.<sup>65</sup>

Commencing in 2003, the Dutch Euthanasia Commission has published annual reports. In 2016, 6091 euthanasia and assisted suicide cases were recorded, amounting to 4% of all deaths.<sup>66</sup> These numbers do

<sup>62</sup> Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002 <<http://www.euthanasia.ws/documentos/Leyes/Internacional/Holanda%20Ley%202002.pdf>> accessed 6 February 2017.

<sup>63</sup> Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002, Article 2 (1).

<sup>64</sup> Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002, Article 2 (2), (3), (4).

<sup>65</sup> Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002, Article 8.

<sup>66</sup> Regionale Toetsingcommissies Euthanasie, RTE, 2016 <<https://www.euthanasiecommissie.nl/actueel/nieuws/2017/april/12/jaarverslag>>

not include the unreported cases. A Lancet study assessing the reporting of cases between 1990 and 2010 estimates that 23% of all assisted deaths were unreported in the Netherlands.<sup>67</sup>

In 2016, 68% of cases concerned patients with cancer; 5% with cardiovascular disease; 6.7% with neurological disorders; 3.5% with pulmonary disorders; 2% with dementia; 1% with other psychiatric conditions; 9.3% for other reasons, and 4% for multiple geriatric syndromes.

There is a notable increase in euthanasia cases for dementia. In 2012, 41 persons affected by dementia were euthanised. By 2016, this number had trebled, accounting for 141 people. Concerning euthanasia for psychiatric conditions, 60 people were euthanised in 2016, a sharp rise in contrast to the 14 individuals in 2012.

The Report also highlights the increasing involvement of the doctors from the so-called “End of Life Clinics” which euthanised around 400 people in 2016 against 107 in 2013). These controversial facilities are discussed further in section 7, but here it suffices to draw attention to the fact that they play a significant role in ending the lives of people affected by dementia (accounting for 33% of the cases), psychiatric disease (62%) and pathologies due to age (27%).<sup>68</sup>

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aangeboden> accessed 24 April 2017; Schadenberg, ‘Dutch euthanasia deaths jumped another 10% last year’, Life Site News, 2017 <<https://www.lifesitenews.com/opinion/netherlands-2016-euthanasia-deaths-increase-by-another-10>> accessed 20 July 2017.

<sup>67</sup> Onwuteaka-Philipsen et al. ‘Trends in end-of-life practices before and after the enactment of the euthanasia law in the Netherlands from 1990 to 2010: a repeated cross-sectional survey’, *The Lancet*, 2012 <<http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2812%2961034-4/abstract>> accessed 24 April 2017.

<sup>68</sup> Regionale Toetsingcommissies Euthanasie, RTE, 2016 <<https://www.euthanasiecommissie.nl/actueel/nieuws/2017/april/12/jaarverslag-aangeboden>> accessed 24 April 2017.

## Quebec/Canada

In the province of Quebec, an Act concerning “end-of-life care” was adopted by the National Assembly on 5 June 2014. A Federal Government challenge to this Act failed following the Supreme Court’s subsequent ruling in *Carter v. Canada* of February 2015.<sup>69</sup> The Quebec Court of Appeal upheld the Act with it coming into force on 10 December 2015 after the Supreme Court ruled that adults with grievous and irremediable medical conditions are entitled to physician-assisted suicide.<sup>70</sup>

The Act allows a person to request euthanasia (euphemistically called ‘medical aid in dying’). The patient needs to be ‘of full age and capable of giving consent to care’, be ‘at the end of life’, ‘suffer from a serious and incurable illness’, ‘be in an advanced state of irreversible decline in capability’, and ‘experience constant and unbearable physical or psychological suffering which cannot be relieved in a manner the patient deems tolerable’.<sup>71</sup>

On 17 June 2016,<sup>72</sup> a bill to legalize and regulate euthanasia and assisted suicide passed nation-wide in the Canadian Parliament. Under Canadian law, individuals qualify if they are at least 18 years of age, ‘have a grievous and irremediable medical condition’, ‘have made a voluntary request for medical assistance in dying’ and ‘they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.’

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<sup>69</sup> *Carter v. Canada* (Attorney General), 2015 SCC 5; See also ‘*Carter v. Canada: The Supreme Court of Canada’s Decision on Assisted Dying*, Parliament of Canada’, 7 October 2015 <<http://www.lap.parl.gc.ca/content/lop/ResearchPublications/2015-47-e.html#a3>> accessed 8 May 2017.

<sup>70</sup> Act respecting end-of-life care, Assented to 10 June 2014, Bill no. 52.

<sup>71</sup> *Ibid*, Chapter IV, Division II, Article 26.

<sup>72</sup> An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying), Assented to June 17 2016, BILL C-14.



Grievous and irremediable medical conditions are further defined as being 'serious and incurable', causing the person to be in 'an advanced state of irreversible decline in capacity' with 'natural death ... reasonably foreseeable.' In Canada, the person providing or administering the lethal substance must be a medical practitioner or a nurse practitioner.<sup>73</sup>

Doctor and nurse practitioners have assisted the deaths of more than 1324 Canadians since the law was passed. The actual number of deaths is probably significantly higher because several provinces could not, or would not, provide complete data. Quebec, which was the first province to adopt a law, provided no data whatsoever. In Canada, no control mechanism is in place yet.<sup>74</sup>

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<sup>73</sup> *Ibid.*, sections 241(2), (3).

<sup>74</sup> Nicole Ireland, '1,300 Canadians have died with medical assistance since legalization — here's one man's story' *CBC News* (2017) <<http://www.cbc.ca/news/health/medically-assisted-dying-canadians-rob-rollins-1.4056700>> accessed 26 April 2017.

## 6.) Legal safeguards and controls: a slippery slope

The 'slippery slope' argument asserts that one exception to a law is followed by more exceptions until a point is reached that would initially have been considered unacceptable.<sup>75</sup>

In all jurisdictions in which euthanasia or assisted suicide, or both, have been legalized, regulations were put in place to prevent abuse. These measures have included, among others, explicit consent by the person requesting euthanasia, mandatory reporting of all cases, administration only by physicians, and consultation by a second or third physician. There is evidence to show that these laws and safeguards are regularly ignored and transgressed, and that transgressions are not followed with prosecutions<sup>76</sup>

Research shows that in Belgium about 50% of all euthanasia cases are never officially declared, accurate reporting would significantly increase the numbers in the official reports.<sup>77</sup> Dr. Marc Cosyns stated in an interview with Flemish newspaper *De Standaard*, published on 5 January 2014 that he generally doesn't declare his cases despite being under a legal obligation to do so, because he considers euthanasia to be a 'normal medical procedure.'<sup>78</sup>

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<sup>75</sup> J. Pereira, 'Legalizing euthanasia or assisted suicide: the illusion of safeguards and controls' (2011) NCBI <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3070710/>> accessed 8 February 2017.

<sup>76</sup> *Ibid.*

<sup>77</sup> Raphael Cohen-Almagor, 'First do no harm: pressing concerns regarding euthanasia law in Belgium' (2013) *International Journal of Law and Psychiatry*.

<sup>78</sup> Michael Cook, 'Belgium and the Majesty of the Law' (Mercatornet, 2014) <<https://www.mercatornet.com/careful/view/13344>> accessed 19 July 2017.

The existence of End of Life Clinics<sup>79</sup> in the Netherlands shows that euthanasia is offered today as a medical service with a specialized service provider, trivializing the fact that the 'service' consists in intentionally killing a person without offering any medical care or therapeutic alternatives. The ever-widening interpretation of the legal criteria for euthanasia is legitimizing their very existence. Inversely, their existence is enticing more and more people to take avail of their services which is in turn resulting in some pressure for the legal criteria to widen even more.<sup>80</sup> The End of Life Clinics were created in the Netherlands with a view to offering euthanasia to people who fall within the scope of the law, but whose doctor is either unable or unwilling to administer it. The clinics' 'services' are provided by mobile teams and usually work with people who are terminally ill, suffering with dementia, psychiatric disorders or elderly people suffering from multiple yet non-fatal conditions. Patients are killed in the 'comfort' of their own homes.

Prof. Theo Boer, a Dutch ethicist, and a nine-year-member of a Netherlands regional euthanasia review committee writes that the law presupposes (but does not require) an established doctor-patient relationship, in which death might be the end of a period of treatment and interaction. However doctors working in an End of Life Clinic have only two options: administer life-ending drugs or sending the patient away. On average, these physicians see a patient three times before administering drugs to end their life.<sup>81</sup>

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<sup>79</sup> NPO, 'End of Life Clinic' <<http://www.nposales.com/end-of-life-clinic/>> accessed 4 February 2017.

<sup>80</sup> Jeanne Smits, 'Growing number of mentally ill Dutch choosing to be killed at euthanasia clinic' (LifeSiteNews, 2015) <<https://www.lifesitenews.com/news/growing-number-of-mentally-ill-dutch-choosing-to-be-killed-at-euthanasia-cl>> accessed 4 February 2017.

<sup>81</sup> Alex Schadenberg, 'Dutch ethicist - "Assisted Suicide: Don't Go There" (Euthanasia Prevention Coalition, 2014) <<http://alexschadenberg.blogspot.co.at/2014/07/dutch-ethicist-assisted-suicide-dont-go.html>> accessed 4 February 2017.

In 2007, Prof. Boer was convinced that 'there doesn't need to be a slippery slope when it comes to euthanasia. According to Prof. Boer a good euthanasia law, in combination with a euthanasia review procedure, provides the basis for a stable and relatively low number of euthanasia procedures'. In 2014, however, he changed his position after having reviewed thousands of euthanasia cases. He wrote a public appeal to the British House of Lords warning: 'We were wrong, terribly wrong'.<sup>82</sup> He mentioned the escalation in numbers of euthanasia demands, the development of End of Life Clinics, the shift in patients who receive euthanasia (i.e. more cases of loneliness, depression, and bereavement), and the development from an exception in law to public opinion considering euthanasia a 'right', with corresponding duties on doctors to act.

Looking at the developments in Belgium and the Netherlands, it seems inevitable that the availability of legalized euthanasia stirs demand. Demand originally limited to cases of extreme physical suffering quickly expands to non-extreme physical suffering, mental and psychological suffering, and even to cases of physically healthy people with symptoms of old age.

With such developments, it seems justifiable to ask whether the availability of on request euthanasia does eventually not turn into a duty not to be a burden on society, the family and the health care system in case of illness, suffering and ongoing medical care.

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<sup>82</sup> Theo Boer, 'Assisted dying: don't go there' Daily Mail (UK), 9 July 2014.

## 7.) Refuting the main arguments for legalizing euthanasia

### The Right to “Die with Dignity”

The compassionate argument for a ‘good death’ is one whereby supporters of euthanasia believe that respect for human dignity demands an end to the suffering of a particular person, even if this means the intentional ending of his or her life. It is argued that the option of choosing euthanasia is required to respect the ‘dignity’ of suffering people.

However, dignity is intrinsic to the human person not dependent on the person’s circumstances. The 1948 Universal Declaration of Human Rights enshrined this principle in its preamble: ‘recognition of the *inherent* dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world’.

The vulnerable are becoming victims of a ‘euthanasia culture’. Legalizing euthanasia leads directly to the creation of a ‘duty to die’ when one’s life becomes a burden on society. This is a form of direct harm to patients and a violation of their inherent dignity.

Furthermore, the availability of euthanasia is likely to lead to less, instead of more and better, training of doctors in pain management.<sup>83</sup> The goal of palliative care is to ease suffering and improve the patient’s quality of life. While 98% of the pain can medically be controlled today, more than

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<sup>83</sup> Eric Vermeer, ‘Apaiser en fin de vie’ (Institut Européen Bioéthique, 2015) <<http://www.ieb-eib.org/fr/document/apaiser-la-douleur-en-fin-de-vie-402.html>> accessed 7 February 2017.

65% of cancer patients still die in pain, because doctors lack the necessary training.<sup>84</sup>

Recent studies show that patients who receive palliative care report improvement in pain, improved communication with patients' healthcare providers and family members, as well as improved emotional support, among other benefits.<sup>85</sup> To uphold the inherent dignity of each human life, we need to further invest into palliative care.

### **Respect for Individual Autonomy**

In medical ethics and medical law, patient autonomy is a central concept. Patients generally have the right to refuse treatment even if this refusal leads to their death. It is therefore argued that people should also have the right to determine the moment of their death if they are in a situation which is unbearable, and without prospect of improvement.<sup>86</sup>

This is troubling for a number of reasons. Firstly, the 'choice' of euthanasia is never autonomous. It always involves a counterpart, the doctor or nurse, who needs to assist or carry it out and the autonomy of the patient frequently clashes with the autonomy of the doctor who refuses to intentionally kill.

Secondly, the steepest increase in euthanasia requests comes from patients who have been diagnosed with dementia.<sup>87</sup> Some of them

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<sup>84</sup> Ibid.

<sup>85</sup> National Institute of Nursing Research, 'Palliative care, the relief you need when you're experiencing the symptoms of serious illness' (2011).

<sup>86</sup> Guy A.M. Widdershoven, 'Beyond Autonomy and Beneficence; The Moral Basis of Euthanasia in the Netherlands' *Maastricht University*, <<http://www.ethical-perspectives.be/viewpic.php?TABLE=EP&ID=52>> accessed 6 February 2017.

<sup>87</sup> Senay Boztas, 'Netherlands sees sharp increase in people choosing euthanasia due to 'mental health problems' *The Telegraph* (Amsterdam, 2016)

were diagnosed with the illness but had not yet suffered fully from the symptoms. Nevertheless an increasing number of such patients asked for their life to be ended out of fear of future suffering and loss of autonomy.<sup>88</sup> It is questionable whether one can really speak of an autonomous choice when a person is in a situation of fear, vulnerability, and the onset of a serious mental health condition.

In a similar manner to suicide, the choice of euthanasia has deep implications on others around the person concerned including family, friends, and colleagues. According to the UK charity *Survivors of Bereavement by Suicide*<sup>89</sup>, a suicide can even affect people who didn't know the person who died.

Finally, the existence of consent does not necessarily mean that human dignity is thereby respected. For instance, although a trite example, in the French case of *Commune de Morsang-sur-Orge*, the Conseil d'Etat ruled that the 'sport' of 'dwarf throwing' was in breach of respect for human dignity and banned it, even though the persons of short stature involved consented.<sup>90</sup> In the name of humanity, a society needs to protect the vulnerable.<sup>91</sup>

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<<http://www.telegraph.co.uk/news/2016/05/11/netherlands-sees-sharp-increase-in-people-choosing-euthanasia-du/>> accessed 6 February 2017.

<sup>88</sup> Simon Caldwell, Relaxation of Dutch rules opens euthanasia to dementia sufferers, 2016 <<http://www.catholicerald.co.uk/news/2016/01/12/relaxation-of-dutch-rules-opens-euthanasia-to-dementia-sufferers/>> accessed 8 May 2017.

<sup>89</sup> Survivors of Bereavement by Suicide, <<http://uk-sobs.org.uk/suicide-bereavement/how-suicide-can-affect-you/how-suicide-affects-others/#Stranger>> accessed 24 April 2017.

<sup>90</sup> CE Ass., 27 Octobre 1995, Commune De Morsang-sur-Orge, <<http://www.conseil-etat.fr/Decisions-Avis-Publications/Decisions/Les-decisions-les-plus-importantes-du-Conseil-d-Etat/27-octobre-1995-Commune-de-Morsang-sur-Orge>> accessed 7 February 2017.

<sup>91</sup> Not Dead Yet, 'Not Dead Yet UK launches 'The Resistance Campaign' (2010) <<http://notdeadyet.org/2010/06/not-dead-yet-uk-launches-resistance.html>> accessed 6 February 2017.

### **Euthanasia does not harm others**

This argument says that euthanasia is a private, individual choice. It doesn't infringe the rights or freedoms of someone else, and therefore doesn't negatively impact on anyone else or society.

However, such an argument ignores the harm inflicted upon family members, friends, the medical staff, and society at large (as discussed above). The foundational societal value of respect for human life is damaged. In the words of American philosopher, Daniel Callahan: '[e]uthanasia is an act that requires two people to make it possible and a complicit society to make it acceptable.'<sup>92</sup>

### **Euthanasia is properly regulated**

This public policy argument says that euthanasia can be safely regulated by government legislation. This is covered in more detail in section 6, above.

Yet, looking at the developments in Belgium and the Netherlands, it is clear that the availability of legalized euthanasia stirs the demand. As discussed in section (f) the original criteria quickly expand to include mental and psychological states. The examples of legalized euthanasia show that legal restrictions and safeguards do not prevent abuse.

In the words of Dutch ethicist Prof. Theo Boer, 'whereas assisted dying in the beginning was the odd exception, accepted by many – including myself – as a last resort... [P]ublic opinion has shifted

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<sup>92</sup> Margaret Somerville, 'Would Euthanasia damage doctors?' (Mercatornet, 2009).  
<[https://www.mercatornet.com/articles/view/would\\_euthanasia\\_damage\\_doctors/](https://www.mercatornet.com/articles/view/would_euthanasia_damage_doctors/)  
accessed 7 February 2017>.



dramatically toward considering assisted dying a patient's right and a physician's duty'.<sup>93</sup> He insists that not even the Review Committees, despite trying to keep euthanasia within the limits of the law, have been able to halt these developments. Once legalized, there is no logical stopping point to euthanasia.

### **Economic pressure**

It is undeniable that there are huge economic implications at stake. A study by the Canadian Medical Association Journal from January 2017<sup>94</sup> shows that if euthanasia became more widely available, it would considerably unburden the public health care budget, potentially reducing the annual health care spending across Canada by between \$34.7 million and \$138.8 million, significantly exceeding the \$1.5–\$14.8 million in direct costs associated with its implementation.<sup>95</sup>

Concerns over a link between economic pressure and the legalization of euthanasia is shared by disability groups. For example, the UK-based association 'Not Dead Yet' warns:

[d]isabled and terminally ill people fear that calls to legalize assisted suicide and euthanasia are likely to intensify. Our concerns are heightened by the current economic climate and calls from politicians from all parties for cuts in public services. We, and our families, rely upon such services to live with dignity.... We face a bleak situation as calls for assisted suicide to be lawful are renewed, whilst vital services are being withdrawn or denied.<sup>96</sup>

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<sup>93</sup> Theo Boer, 'Dutch Experiences on Regulating Assisted Dying', *Catholic Medical Quarterly*, [2015] 65(4), 25.

<sup>94</sup> Aaron J. Trachtenberg, 'Cost analysis of medical assistance in dying in Canada' (CMAJ 2017) <<http://www.cmaj.ca/content/189/3/E101.full>> accessed 7 February 2017.

<sup>95</sup> *Ibid.*

<sup>96</sup> Not Dead Yet, 'Resistance Charter 2010: Protecting the lives of disabled & terminally ill people' <<http://notdeadyetuk.org/>> accessed 7 February 2017.

## **8.) Conclusion**

Without exception, the experience of legalized euthanasia shows that a slippery slope is unavoidable. No matter how apparently strict the law is designed to be, it is bound to fail to protect the vulnerable members of society as well as medical practitioners and society at large. The abovementioned examples show the inherent dynamic of a growing demand for euthanasia, once legalized. Furthermore, laws and safeguards are regularly ignored and transgressed in all the jurisdictions where euthanasia has been legalized, and those transgressions are rarely prosecuted even when they come to light. The mere existence of such a law is an invitation to see assisted suicide and euthanasia treated as a normal part of healthcare. It is therefore essential to oppose any pressure for legalization of euthanasia based both on principled and pragmatic considerations.



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