

The right to die

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The Sue Rodríguez case

On September 30, 1993, Canada's Supreme Court denied Sue Rodríguez the right to die with the assistance of a health-care professional. She had lateral amyotrophic sclerosis, an incurable disease characterized by progressive muscular paralysis ending with death by asphyxiation in a maximum period of three years.

Her specific request was that a health-care professional provide her with the adequate technological means to painlessly end her life when she chose to do so, and that the person assisting her not be prosecuted under the law for having helped someone die. By the narrow margin of four votes in favor and five opposed, the court decided against her.

Her illness was diagnosed in August 1991, when she was almost forty years old. In November of 1992 she asked the federal government that when health-care workers help incurably ill people commit suicide, such actions not be considered illegal. In December of the same year Sue Rodríguez took her case to the Supreme Court of British Columbia, where she lived. The court denied the right to assisted suicide on two occasions, after the first decision was appealed.

In March 1993 the Canadian Parliament rejected an initiative to consider the legalization of euthanasia

and assisted suicide, with 25 votes in favor and 140 against. In May of that year Sue Rodríguez took her case to the Canadian Supreme Court.

She based her argument on Article Seven of the Bill of Rights and Liberties, which protects each person's right to life, liberty and security, but in September the case was lost. John Sopinka, one of the judges who voted no, argued that the duty of the Bill of Rights and Liberties is to protect the "sanctity of life."

Sue died on February 12, 1994, defying the court's decision. According to police, the cause of death was assisted suicide. Her family and friends avoid speaking of the events and refuse to name the doctor involved. Svend Robinson, Member of Parliament from the New Democratic Party, also ignored the court's decision and was one of the two people with Sue at the moment of her death.

The case of Sue Rodríguez received widespread attention from the media, government officials, academics and grass-roots organizations. The press made her one of 1993's most popular personalities and called her case the most important event of the year at the Supreme Court.

For his part, Minister of Justice Allan Rock asserted that the court's decision regarding Sue Rodríguez' petition made a reevaluation of the government's position on euthanasia

necessary. Nation-wide doctors' organizations called a public debate, and the academic milieu defined the right to die and assisted suicide as "the most important moral question of the '90s."

Newspapers were filled with letters for and against Sue Rodríguez' right to die; meanwhile, Erwin Kirckhahn, a 51-year-old man with the same illness, invited reporters to his public suicide as a way of protesting the court's decision. He later retracted his invitation and said he would commit suicide privately. Kirckhahn died several months later of natural causes.

Organizations' view of the case

From the beginning, Sue Rodríguez received moral and economic support from the Right to Die Society of Canada, the British Columbia Coalition of People with Disabilities and the Dying with Dignity group, among others.

These organizations defend the desire of a patient to die in order to end an incurable illness, uncontrollable pain or suffering. They argue that the quality of life should be considered when medical treatment is provided. The people who provide such treatment should take into account the degree of suffering it will cause a patient, instead of attempting to prolong life under any circumstance.

These organizations affirm that the individual should have control over their death, in the same way that they should have control over their life. They defend the right to die in a dignified manner and at a time chosen

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The objective of this essay is to show the contradiction between laws regarding euthanasia and assisted suicide and the reality of daily life in Canada.

by the person in question. As Sue Rodríguez herself put it two days before the court's final decision, "If I can't decide about my own death, whose body is it? Whose life is it?"

These groups also consider it discriminatory against the physically handicapped that they are not allowed to seek assistance to do what other people can do without help (commit suicide).

On the other side, organizations supporting the Supreme Court decision against Sue Rodríguez included the Evangelical Protestant church, the Roman Catholic church, Alliance for Life, Campagne Québec-Vie (Quebec Life Campaign) and Pacific Physicians for Life. Some give purely religious arguments, such as that only God has the right to take life. They state their opposition to the "culture of death" and the "destruction of the human race." Indeed, Pope John Paul II celebrated the court's decision against Sue Rodríguez.

Other organizations, above all those of doctors opposed to euthanasia and assisted suicide, oppose these practices due to the impact that they might have on medical services. They argue that euthanasia and assisted suicide could become a way to save on medical expenses, at the cost of the most vulnerable patients.

Implications of the Sue Rodríguez case

Beyond the groups that demonstrated in an organized way in favor or against assisted suicide in the case of Sue Rodríguez, opinion polls show that three out of four Canadians are in favor of the freedom to choose the time of one's own death.

An anonymous poll carried out among doctors across the country by the newspaper *La Presse* found that more than 60 per cent favored legalizing euthanasia. The Canadian Medical Association also reported that 60 per cent of Canadian doctors favor euthanasia and assisted suicide.

Nevertheless, pro-life groups are very effective in making themselves heard around these questions. The same is true with abortion, where despite the fact that three fourths of Canadian society favors a woman's right to choose what happens with her own body, groups opposed to abortion rights act in such a determined way that it seems as if they speak for all Canadians.

This has immobilized officials in the face of calls to legalize abortion. According to some analysts, it is likely that the same will happen with euthanasia and assisted suicide. Thus one of the effects of the Sue Rodríguez case is to shed light on contradictions between the laws that govern Canadian citizens and majority opinion.

A second effect is that the many unreported cases of euthanasia and assisted suicide carried out under poor conditions have begun to be a topic of discussion. The theme of euthanasia inevitably arose at the annual congress of the Canadian Medical Association in August 1993. Doctor Baodway, among others, stated that euthanasia is practiced daily in Canada, even though doctors don't talk about it.

Russel Ogden, a post-graduate student at Simon Fraser University, made public a report on cases of assisted suicide in Canada between 1980 and 1993. He speaks of the risks that assisted suicides run when helped by unqualified persons. The most serious is inadequate administration of medications, which can cause irreversible brain damage or a comatose state where the patient does not die. As eloquently stated by Ruth Lehman, a woman who decided to commit suicide, it is time that these subjects to come "out of the closet" in order to be openly aired.

Both effects make it urgent that governmental initiatives adapt the laws to the reality of Canadians' everyday life. Some tendencies in that direction can now be seen. For example, in October 1993 the reporter Anne Mullens received a grant to

study the legal framework which should be adopted regarding euthanasia and assisted suicide.

In the same month, during his electoral campaign, Canadian Prime Minister Jean Chrétien said he favored discussion in the Parliament on the right to die, repeating this several days after the death of Sue Rodríguez. In August 1993 Noel Doig, president of the ethics committee of Canada's Medical Association, stated that his organization would examine the question of euthanasia and assisted suicide over the course of a year, defining their position and making suggestions on regulations. Finally, on January 20, 1994 Senator Joan Neiman asked the Senate to form an ethics committee to study the question of euthanasia and assisted suicide. One month later the Minister of Justice, Allan Rock, promised to introduce the debate into Parliament.

In British Columbia, on November 4, 1993 a series of guidelines were formulated for dealing with future cases of assisted suicide. The province did not depenalize euthanasia or assisted suicide, but the new guidelines give judges greater freedom to decide whether doctors involved in cases of euthanasia or assisted suicide should be charged with a crime. A doctor may now prevent their patient from experiencing emotional or physical pain, even if that action causes death, without penal risk. The new law declares that human life should be protected, but not "at any cost." It permits the doctor the decision to allow death with dignity.

Yet it must not be forgotten that cases like that of Sue Rodríguez, whom the Supreme Court denied the right to die, will happen again if Parliament fails to take a clear position on euthanasia and assisted suicide. As Svend Robinson said a few days after Sue Rodríguez' death: "The politicians can't continue hiding behind the courts and a law that was written in 1892." ❧