

Canada court says suicide laws unconstitutional

15 June 2012, by JEREMY HAINSWORTH

(AP) - A British Columbia Supreme Court judge ruled Thursday that Canadian laws banning doctor-assisted suicide are unconstitutional.

B.C. Supreme Court Justice Lynn Smith declared the laws invalid, but also suspended her ruling for one year to give Canada's federal Parliament time to draft legislation with her ruling in mind.

Canada's federal government is expected to appeal the decision. The case will likely go to the Canadian Supreme Court.

Smith also allowed the ailing Gloria Taylor, 64, to seek a physician-assisted suicide during the one-year period if she wants. Taylor was diagnosed in 2009 with

Lou Gehrig's disease, also known as amyotrophic lateral sclerosis or ALS, which is rapidly progressive and invariably fatal.

Smith said the provisions in Canada's constitution infringe on Taylor's rights to life, liberty and security of persons.

She said the laws are discriminatory for those who are grievously ill or physically disabled who want to have some control over their circumstances at the end of their lives.

Countries are increasingly wrestling with the issue of [assisted suicide](#) as their populations age.

It has been illegal in Canada to counsel, aid or abet a suicide, an offence carrying a maximum prison sentence of 14 years.

Grace Pastine of the British Civil Liberties Association called it a major victory for individual rights at the end of life.

"The court has recognized that Canadians who are seriously and incurably ill have the right to request

a physician to assist them in a dignified and human manner," she said.

Pastine said Taylor released a statement in which she said she was deeply grateful knowing that she'll have a choice at the end of her life and that it allows her to approach her death with dignity.

Dr. Will Johnson, Chair of the Euthanasia Prevention Coalition, called it a "radical" decision but noted Parliament will have a say.

"We're disappointed but not surprised at the radical nature of this decision today which essentially legalizes assisted suicide and euthanasia in Canada," Johnson said.

"We think this judgment decided to minimize and to disregard a lot of the evidence of harm in other jurisdictions where assisted suicide and euthanasia has been practiced."

It has been nearly 20 years since another person with Lou Gehrig's disease, Sue Rodriguez, gripped Canada with her court battle for the right to assisted suicide. She lost her appeal but took her own life with the help of an anonymous doctor in 1994, at the age of 44.

In the latest case, Taylor's lead lawyer, civil liberties defender Joe Arvay, argued to the court that assisted suicides were taking place despite the ban, a practice he likened to the illegal "back-alley abortions" of the past.

As she began her court fight in December 2011, Taylor was confined to a wheelchair in constant pain with hands that barely work.

Taylor said she has challenges with everyday living, unable to alone perform basic household tasks and personal care such as bathing.

Opponents argue that allowing assisted deaths

could lead to abuses of the elderly and infirm. Johnston of the Euthanasia Prevention Coalition of Canada fears people could be pushed toward death when their lives are no longer convenient for others. Only last year Parliament voted 228-59 against changing the law to allow doctors to help people die "once the person has expressed his or her free and informed consent to die."

Supporters draw support from the Royal Society of Canada, the country's senior scholarly body. Its panel of professors and specialists in medical ethics and health law said in a report issued Nov. 15 that assisted death in Canada should be regulated and monitored rather than criminalized.

It said assisted suicide or voluntary euthanasia is legal in the Netherlands, Belgium, Luxembourg, Switzerland, and the U.S. states of Oregon, Washington and Montana, while in England and Wales the policy does not stipulate that every case must be prosecuted.

Associated Press Writer Rob Gillies in Toronto contributed to this report.

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APA citation: Canada court says suicide laws unconstitutional (2012, June 15) retrieved 7 November 2022 from <https://medicalxpress.com/news/2012-06-canada-court-suicide-laws-unconstitutional.html>

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