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Two Statements on the Bouvia Case

Statement by Archbishop Roger Mahony on the Unanimous Ruling by the California 2nd District Court of Appeal Allowing Quadriplegic Elizabeth Bouvia to Starve Herself to Death

We have all felt the pain and anguish of the case of Elizabeth Bouvia during the past three years. A young woman, a quadriplegic, her body will never be restored to any reasonable level of normal functioning.

She has expressed an intense desire to avoid taking any nourishment of any kind. In a word, she has decided to end her life by refusing to take any type of food or nourishment. Both the hospitals and the Superior Court had declared that she did not have the right to so terminate her life.

The 2nd Court of Appeal has now ruled that the "right of privacy" affords her full protection in her decision to end all nourishment.

Since the full ruling by the 2nd Court of Appeal is not available at this writing, it is not possible to give a full critique of the issues and the Court's reasoning.

But the consistent teaching of the Catholic Church has always taught us our responsibilities in safeguarding our lives, as follows:

Intentionally causing one's own death, or suicide, is therefore equally as wrong as murder; such an action on the part of a person is to be considered as a rejection of God's sovereignty and loving plan. Furthermore, suicide is also often a refusal of love for self, the denial of the natural instinct to live, a flight from the duties of justice and charity owed to one's neighbor, to various communities or to the whole of society — although, as is generally recognized, at times there are psychological factors present that can diminish responsibility or even completely remove it.¹

The 2nd Court of Appeal has entered a realm where its competence does not lie. The gift of life is precious, and its author is God. Each one of us is guardian and custodian of that precious gift, and we do not have the "right" to end our life through direct action — such as refusing to eat. The doctors treating Elizabeth Bouvia have maintained that she could — but would not — eat solid food. Consequently, they have had to take the initiative in order to provide her nourishment through forced feeding.

The error of the 2nd Court of Appeal is found in its placing the "quality of life" as the primary criterion whereby a person lives or dies. If the reasoning of the Court prevails, and a person is legally permitted to end

his or her life because they perceive the quality of their life to be inadequate, are we far from the day when others — doctors, family members, judges — may actually “order” the mercy-killing of a person based upon the same logic?

Because of the critical nature of this case, and the future implications flowing from it, I will issue a more detailed analysis and definite guidelines to help guide us as soon as the full decision has been studied.

In the meantime, I ask all the members of our Archdiocese to pray for Elizabeth Bouvia and support her through our love. Her life is precious, she is valuable even if confined to bed and unable to move. She is our sister, and she is a member of our human family. We love you, Elizabeth, and we pray that you will accept our love and support as that strength which you need so very much.

¹ *Declaration on Euthanasia*, Vatican Congregation for the Doctrine of the Faith, June 26, 1980.

Extended Statement by Archbishop Roger Mahony on the Unanimous Ruling by the California 2nd District Court of Appeal on the Case of Elizabeth Bouvia

We have all felt the pain and anguish of the case of Elizabeth Bouvia the past few years. A young woman and a quadriplegic, her body will never be restored to normal functioning. Understandably, she finds her life full of disappointment and burden.

Several years ago, she entered a hospital allegedly for treatment. But once there, she refused to eat — an action she was quite capable of at that time, if only someone would put the food into her mouth. She made it plain, moreover, that her refusal was for a suicidal purpose: she simply wanted to end her life of misery.

The hospital authorities sought and obtained a Court order exempting them from allowing this suicidal action to be carried out under their auspices and with their assistance. The Court authorized them to force-feed her by intubation until she regained enough strength to be discharged from the hospital. Since that time, her bodily powers have further diminished. Nonetheless, she has resumed taking what nourishment she can by mouth, even though she complains that this is becoming increasingly laborious by reason of nausea and vomiting and, by reason of aspiration into her lungs, dangerous.

Now in a County hospital, she recently brought suit in a trial Court for the right to terminate intubation newly forced upon her, and to rely only on whatever nourishment she could take by mouth. The trial Court

rejected her plea, and she submitted her case to and was upheld by a Court of Appeal. During the appeal, she disavowed what was apparently her goal several years ago: to end her life. She also indicated once again her willingness now to continue to take whatever food she could take by mouth.

Immeasurable Value of Each Individual Life

Any effort, legal or otherwise, to resolve such issues, must begin with our facing the fact that the life of an innocent person cannot be measured against the burden which may inhere in it for that person or for others who must care for him. Thus, human beings have no right to decide that the very life of an innocent human being does not "measure up" properly, and therefore may be terminated as burdensome by omission or commission. This does not at all take away from the fact that we may indeed, and normally should, do all we can surgically, medically, and in any other way to eliminate pain and other burdens even if eliminating those burdens results also in a shortening of life.

Laws and judicial processes which ignore this immeasurable value of the life of each and every innocent human individual in reality undermine the very society they are supposed to serve.

For once a society decides that the human life of any one innocent individual can lose its value, and therefore that society should legally establish a person's right to suicide, we question at least implicitly and inevitably — whether we realize it or not — the value of every person's life.

And for cases of persons which a low "quality of life," but without enough mental competency (or common sense, some would add) to end their lives, we shall have shackled ourselves to a chain of logic which forces us sooner or later to the conclusion that society ought to make the decision *for* such persons.

The history of Nazi Germany exemplifies that logic, with its elimination of thousands of the "feeble-minded," the politically obtuse, and, eventually as many Jews as the Third Reich could get its hands on. One of the German judges, tried at Nuremberg for his part in these "decisions," pleaded that he never knew death sentences based on lack of "quality of life" would come to "that" — the death of millions.

In a well-known dramatization of that trial, the judge appointed by the Allied Nations responded, "Herr Werner, it came to 'that' the day you first sentenced an innocent man." So it is with judges today, as we have seen in our own nation only a few years ago when an "Infant Doe" was refused a commonplace, unburdensome, but life-saving surgery simply because the infant suffered Down's Syndrome. So it is even when one, in basic possession of one's mental powers, sentences one's self to death by way of a decision for suicide. Such decisions, and laws or judgments upholding them, invite both the degradation of individuals and murderous chaos in society.

No Duty to Add Burdens

True, a moral approach which, to the contrary, values each human life as a priceless gift can nonetheless justify not adding heavily to the burdens which already fill a patient's life. If taking food artificially, or even naturally, in a patient's honest judgment is a source of significant pain, discomfort, risk or even dehumanization *added to* what he is already experiencing or will experience from his condition, one can defend the patient's right to say "No more!"

This is a reasonable decision worthy of a human being, and nineteen hundred years of coherently developing Christian moral thinking affirm it. For it is not a decision to end one's earthly life, but to tolerate that life's passing away (as we all must someday) rather than *adding new* burdens to those already present in one's life.

Indeed, society has a right — even an obligation — to protect a patient's right to make this evaluation of the burden in a procedure and decisions which follow from it, even though at times others may disagree with a particular patient's thinking and choice in the matter. The opinion of Justices Beach, Roth and Compton recently made available appears at first to contain much which is supportive both of the moral obligation not to seek precisely to end a life and of the right to refuse procedures precisely because they significantly add burden. Elizabeth's present willingness to take whatever nourishment she can manage by mouth (even though she cannot long survive on this) would indicate *prima facie* an intent to do the same.

Dangerous Vagueness

Unfortunately, alongside these affirmations we find scattered throughout the Court's opinion ambiguities which could undermine them. To be sure, these ambiguities are found mostly in declarations of public and professional policy which the Justices merely cite. Nonetheless, the ambiguities remain.

For instance, the patient's right to "decide" is maintained repeatedly in the Court decision [cf. pages 9, 10, 11], but it is not always clear *what* the patient has a "right to decide": to aim to end life? Or merely to tolerate life's ending rather than use burdensome medical procedures?

Whether or not our legal system has constructed such a "right to decide" is, of course, a question for legal scholars. From the moral aspect, however, such a legal "right" is *morally* good law if it protects the patient's right to discern for himself how *seriously burdensome* a procedure is to him or others — *not* if the law constructs a "right to decide" precisely to aim to end one's life whether by omission or commission.

Again, just as a physician has "a commitment . . . to sustain life," *but* not by every possible means, so also he has "a commitment . . . to . . . relieve pain," [page 17] but again, *not by every possible means*. From the moral point of view, efforts aimed precisely at *shortening* life are among those

means which society should rule out. The documents the Justices use, at least in the parts they quote, do not always make this clear.

Invitations to Euthanasia

More serious, in the last third of the text of the Opinion, the Justices suddenly switch signals and begin to appeal *only* to “*quality of life*” considerations. They even allege, without any proof whatsoever, that diminished “quality of life” is the reason behind “all decisions permitting cessation of medical treatment or life-support procedures” [page 19].

For pages, no mention is made of the burdensomeness of the intubation Ms. Bouvia is rejecting. Appeal is made merely to the “hopelessness, uselessness, unenjoyability and frustration” of her *life in its present condition* [page 20]. She considers “her existence meaningless,” and cannot be faulted for so concluding [page 20]. She must be freed from “the ignominy, embarrassment, humiliation and dehumanizing aspects created by her helplessness” [page 21]. “Such a life has been physically destroyed and its quality, dignity and purpose gone” [page 20].

Such remarks would seem to indicate an ideological commitment to euthanasia, and are peculiarly out of place in a judicial opinion. Not that there is no place for ideology, religion or morality in law. But that place is to be established by the consent of the governed through their constitution or legislature, not by judicial fiat.

What seems here to be precisely an instance of legislation by judicial fiat incorporates an agnostic skepticism about a God Who gives meaning to life even in one’s suffering, and a materialistic view of man as nothing but an animal whose value depends on the condition of his body. Millions of Christians, Jews, and dedicated members of many faiths will find such views repugnant.

Moreover, in imposing this distinctly partisan doctrine about meaninglessness and valuelessness in life, the Justices would seem to ignore or even move to overthrow our perennial legal tradition regarding the State’s interest in preventing suicide. That tradition means that if a person is attempting to terminate his life, any society worth the name “human” will take what reasonable steps it can to stop him. Whether, to what extent, and how such suicidal enterprises can be detected and thwarted can rightly be debated.

The Justices’ opinion, however, cannot be read as other than an attempt actually to construct legally a “right to suicide,” — to give society’s blessing to a suicidal effort — and to authorize (and someday oblige?) medical professionals and others to assist in it. “A desire to terminate one’s life is probably the ultimate exercise of one’s right to privacy,” the Court writes [page 23]. In particular, Justice Compton in his concurring opinion seems to reveal and revel in the euthanasic thinking of the Court, and with an obvious logic the other two Justices side-stepped, blatantly argues for suicide, not only by omission, but by commission, that is, by drugs and procedures aimed to kill.

Summary

Society must find a way effectively to recognize both the inviolable sanctity of each innocent human life, and at the same time, the right of a patient not to have additional burdens heaped upon him in the miseries he is already experiencing. To achieve this moral balance, it is necessary to distinguish clearly between, on the one hand, the burdens inherent in the patient's very life, and on the other hand, burdens which a particular procedure will add.

Only such a balanced approach, truly respectful of all that is most profoundly human, would allow for the Elizabeth Bouviere of this world to choose to allow death to come more quickly rather than to be subjected to intubation and other truly burdensome, though life-extending, procedures over a significant period of time.

Thus, while true moral justification can be found for Elizabeth's refusal of intubation, any society concerned with a truly and ethically human approach to the problems of the dying must reject the reasoning evidently behind the Court's decision. As Justice Compton notes (approvingly!), that reasoning simply applauds and further extends "the deviation from that part of the oath" of Hippocrates by which physicians have sworn for hundreds of years never to perform abortions [page 2 in his concurring opinion].

The Court's reasoning is an open invitation to suicide, euthanasia, and worse — perhaps eventually the elimination even of those who do not want to die. As such, it does a profound disservice to society and dramatically weakens society's commitment — to value and protect all human life as a primary goal of the human community.
