

# Russel Ogden: Man of Law on Right to Die

## *Charged then released for contempt of court*

**Nancy P. Swartz**

Criminologist, Russel Ogden spoke to our “Right To Die” group in Victoria, BC several years ago. He was attractive with light coloured, longish hair, and was accompanied by a film crew. I was surprised that this young man, who stood out in a sea of elderly faces, would dedicate much of his working life to documenting the movement to legalize assisted suicide. Listening to Russel speak, it became clear that he was more than an academic researcher and disinterested witness to several self-chosen deaths; he cared deeply about the human rights of the people involved. Russel had sacrificed academic security by tenaciously pursuing and exposing uncomfortable issues. I was interested in Russel because he had the admiration of RTD leaders, Brenda Hurn and Evelyn Martens, and we shared humanist perspectives about self-determination.

I learned about the movement to legalize assisted suicide when the late Evelyn Martens spoke to the Victoria Secular Humanist Association (VSHA). Members were impressed when Evelyn said no one should have to die alone. She asserted, “Competent adults have the right to choose the time and manner of their deaths to end intractable suffering.”

Some religions teach that an individual’s suffering offers a shortcut to heaven; in contrast, Humanism insists on the right to live and die, free of religious dogma. My husband Jerry and I soon joined the RTD group led by these two kind and dedicated women.

Russel Ogden, a director of the Farewell Foundation, and I met for an interview over lunch on his last trip to Vancouver Island. Russel has fine features with hair shorter than I remembered. He was pleasant but initially wary of my interview intentions. I wanted to know about his thesis and its controversy at Simon Fraser University to understand how his background has shaped his humanist perspectives.



Russel Ogen. Photo via LinkedIn.

### Controversial thesis

He said, “My thesis was the first of its kind, researching underground assistance in dying of the AIDS population in BC. It was controversial and it triggered a subpoena by the Vancouver Regional Coroner. I was briefly held in contempt of court for refusing to reveal the names of my sources; later I was released from that contempt finding.”

This was the first time a Canadian researcher had invoked a common law to protect the confidentiality of his participants. Russel said, “That set in motion a number of debates among the research ethics community.” It was controversial enough that as a graduate student, he won the 1995 Sterling Prize in support of controversy from SFU. With one other exception, the award has always gone to a faculty member.

Russel’s thesis documented 34 cases of assisted suicide and euthanasia. He said, “Many of them were botched deaths; deaths that began with

the intent of a careful and humane compassionate ending of life were in fact filled with suffering. Sometimes violence was used in an effort to conclude what was supposed to be a quick ending of life but turned into a protracted and difficult death. It revealed the desperation that people go through as they try to figure out how to end life, or how to escape detection.”

The behaviour of the SFU was egregious and hypocritical; the administration failed to defend Russel after reveling in the press coverage and accolades of this original and important research. Russel maintained, “I was defending the university’s policy on confidentiality and its requirements under the approval it gave for my research protocol.”

Although his attempt to recover legal fees from the university failed, Russel said, “The judge in the case lambasted the President and the Vice President of the university for their betrayal of academic freedom.”

Russel explained, “The coroner’s inquest was held to discover who the ‘unknown female’ was, and to determine the circumstances around her death. One of the issues around the case of the ‘unknown female’s’ death was that she had been horribly stigmatized for being a person with AIDS.” He said she had been mistreated in the hospital, for example food was left at her doorway because they thought she might be infectious. This is a death that occurred in the earlier days of the AIDS crisis when “people thought you might be able to get this virus from toilet seats, the air, and so on.” The coroner wanted to know her identity, which hospital she was in, and who was caring for her, in order to prevent other people with a similar disease from suffering the same stigma. The coroner believed that with better care others might be more likely to go on living rather than having an assisted suicide.

But there was another facet to the coroner’s investigation: “She vomited her pills and then was suffocated. If they could get enough of my

research data, then they could perhaps go for a prosecution.” Russel bitterly added, “The state is quite happy to exercise power if they can find a compassionate person who ends the life of another person, or if they can find a Morgentaler who compassionately helps a woman to bring an end to her pregnancy — bringing the weight of the law onto that individual.”

### **Criminology and voyeurism**

I wondered what sparked Russel’s interest in criminology. He said, “As an undergraduate we were introduced to the sociology of deviance with reference to the way power defines deviance. Criminology is a discipline that is quite voyeuristic. It is, as one famous criminologist said, about ‘nuts, sluts, and preverts.’”

Russel mischievously added, “To play on the misunderstanding of what’s a pervert compared to a prevert.”

Russel explained, “We are all curious about the other and we are curious about deviance. Television is an example with

crime shows such as *CSI*, *The Sopranos*, and *Dexter*; or the fetish in the last few years with programs that are looking at the sex lives of porn stars, swingers or *Big Brother* type programming. Criminology is about that type of voyeurism, looking at the other.”

Although, I rarely watch more TV than *Bill Maher* or *Rachel Maddow*, and lately *The Newsroom* (I know, they are all American shows — the CBC is analyzed in my next article), I thought criminology and journalism might have voyeurism in common, but Russel pointed out that journalism sometimes is more interested in getting out current events than analysis.

He continued, “What made criminology fascinating was the ability to look at behaviour whether it be naturism, prostitution, or drug use, and arrive at an understanding of why different societies treat these behaviours as either

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problematic or not problematic. To me that's fascinating." He added with a smile and a twinkle in his eyes, "For an undergraduate student in his 20s, it was a safe place to do voyeurism, and it was easy to rationalize because it's a legitimate academic discipline."

### **Assisted suicide**

I assumed that the right to assisted suicide was critically important to Russel because of his work with the Farewell Foundation. So I was surprised when he said, "I'm not sure that it is important to me. The whole assisted suicide issue has become my *raison d'être* as a consequence of my research and activism. But for me personally, assisted suicide is not something that I require or need. I have the means, the ability, and the knowledge to be able to end my own life without assistance. So the right to an assisted suicide is not something that I think is important. I am able to take personal responsibility for ending my own life."

Frankly, I thought that was a flippant answer from a man who appeared to be fit and in good health, but he defended his perspective. "Most people are in that same position if they take the time to acquire the appropriate knowledge. It's about autonomy, it's about self-determination, and only in exceptional circumstances would assistance actually be necessary."

"In terms of the law," he cautiously added, "The law prohibits the assistance, the counseling, and the abetting of suicide. We believe through the Farewell Foundation that people ought to be able to receive assistance when necessary, but we don't think it is as necessary as many people think. In fact, we know that people are able to end their lives without assistance. They are able to do that effectively, humanely, and safely. That is what the Foundation is focusing on. In the current legal prohibition, people can end their own lives, they can do this in the company of others, they can do it lawfully, and it can be accountable to law."

"We disagree with this particular law, but that doesn't mean we are going to break it. In the meantime for the majority of people who would like a self-chosen death, the option of being able to achieve that without assistance is a realistic option. We don't have people pounding on the door who

are severely disabled like the actress Hilary Swank in *Million Dollar Baby*; they are not coming to Farewell Foundation."

"There will be exceptional cases where somebody is disabled and cannot humanely end their own life. It would be cruel to deny that person that opportunity." But he adds that many who live in fear of becoming severely disabled, get to that state and don't impulsively act on the wish to die. He gives the example of Debbie Purdy in England and also Gloria Taylor. Russel points out that lots of people make "adaptations." Assistance for people like Gloria Taylor, with progressing debilitating diseases, might become lawful if *Carter v. Canada* succeeds. But Russel warned, "You can be assured that Parliament is going to craft legislation that is as restrictive as possible; they are not going to open the floodgates."

Russel shares powerful lessons gained in twenty years of experience in this field. He said, "People with progressive deteriorating disabilities some times say, 'I would never want to go down that road, if I ever get to be in the state where I am unable to take care of my own bodily functions I would want to be able to die.' Yet they get to the state where they can't take care of their own bodily functions, where they are diapered, and they adapt to it, and they accept care. They accept continued living." He explained that as their illness progresses, "they get to a stage where what they once thought was intolerable, actually is tolerable." Russel stresses that life-ending decisions require considerable deliberation.

He believes that suicide is a deeply intimate and personal decision and "there is no one size fits all approach." He says, "I am not about campaigning to change people's minds, some people want out, and some people are prepared to soldier on. The truly humane, respectful society allows a full menu of options including continuing life."

### **Farewell Foundation's approach**

I was curious how the Farewell Foundation differs from other right to die groups like Dying with Dignity. Russel said the Foundation is modeled after the de-medicalized model that exists for right to die organizations in Switzerland. He

said, “We are in essence a club, where members can support other members with the ending of their lives; and not necessarily with the involvement of physicians. That distinguishes us from Dying with Dignity, which specifically advocates for ‘medical aid in dying.’ The other thing is that Farewell Foundation is the first RTD organization in the world that has published and implemented specific procedures for attending at self-chosen deaths. The procedures include the reporting of those deaths to the authorities as required by law.”

Russel was pressed for time, needing to get to his next appointment, and I knew I should let him finish his lunch, but I had to ask if he saw Farewell Foundation’s issues as human rights issues, in common with women’s reproductive rights, and the right of freedom from religion. He said, “Definitely, there are parallels. Human rights are about the autonomy of the body; not just about self-determination at the end of one’s own life; but in all the aspects of living: women’s reproductive rights, whether it be the right to say no or yes to sex, with or without contraception, the right to make decisions about the morning after pill, or abortion, a late term abortion or not, all of those are self-determining kinds of decisions.” To Russel the decision “to suicide” is a personal right that should be based “on what kind of life is acceptable or unacceptable from that individual’s perspective, personal values, and beliefs.”

### **Power and politics**

We discussed how organized religion’s power in government interferes with freedom of personal autonomy. Russel said, “Certainly government and religion have a lot in common; they exist to control their populace. And both have an interest in maintaining a dominion over their people.” He continued, “Organized religion recognizes the inherent opportunities of participation in government. The apple doesn’t fall far from the tree; when people are in churches and being educated about the importance of participation, about the importance of influencing government decisions that influence people, we have to look at who those people are in the churches, and where they come from.”

He pointed out that many come from private religious schools, or relatively close-knit coherent communities, and they are networking in ways that will foster decisions to participate in government and guarantee votes for their positions in governments.

I agreed with Russel that secular humanists aren’t structured that way. He said, “Atheists are not moving in a social world in which networking encourages the accumulation of votes or provides motivation to express an ideology through the power of politics.”

Further, he gave an example of insidious religious power in politics. He said, “I suspect that BC Premier Christy Clark has shifted government’s traditional approach, becoming more public about her faith and religion, because she is quite comfortable that this approach is not a vote loser. If anything it’s a vote getter. It’s the Christians who are already likely to vote for Clark; now that she is ‘outed,’ they will be even more likely to vote for her.”

Sadly, I could not disagree with him when he declared, “On the other hand, the less faithful electorate are going to do what they usually do, which is not to show up at the polling booth. If we were to take a closer analysis of who votes, the percentage is probably significantly weighted to those that have faith as opposed to those who don’t.”

Russel added that secular humanists express strong ideological support for “right to die” champions such as Sue Rodriguez and Evelyn Martens, each named “Humanist of the Year”; but he sees little activism. He finds our inactivity puzzling considering that humanism was originally organized across Canada to support Henry Morgentaler.

### **A life of purpose**

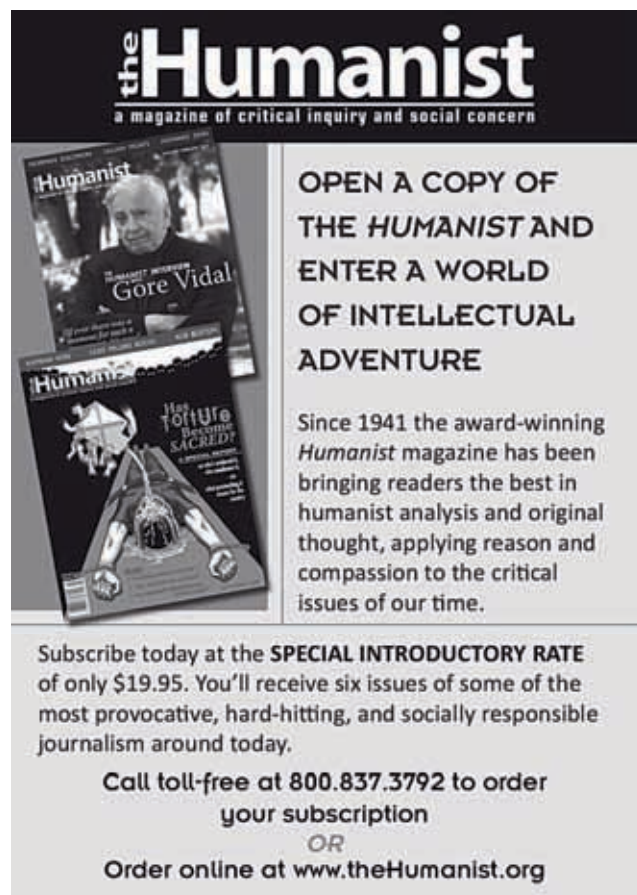
Penticton, B.C. had only one radio station during the early 1970s, and Russel grew up listening to *The World Tomorrow* with Garner Ted Armstrong and Herbert W. Armstrong at 9 PM every night at bedtime. He read their literature and even went to Sunday school with his evangelical friends. He found it “entertaining and interesting ... going to sleep to some fire and brimstone



preaching stories.” However, Russel never bought any of it — anymore than another young person reading Superman comic books believes in an actual Superman. Of his parents he says, “My activism in this work is a worrisome thing for my parents sometimes. I think that they would like me to have a quieter life.” He softly adds, “From my perspective, I think my life has some purpose.” *Humanist Perspectives* agrees.

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## Guns and politics in Canada

David McLaren

**T**he gun is now a part of Canadian politics. Richard Henry Bain killed one person and injured another at the PQ rally Tuesday 4 September. He was ill, it seems, and a recluse, like many of those who suddenly, unexpectedly, tragically, erupt into violence.

It's tempting to leave it there, at the feet of a mad man. But, like so many other, similar mad men, Mr Bain has tapped into something deeper and darker in our national psyche. Some old business we've left unfinished.

He's English, and when he yelled "the English are waking up" he tainted the next four years of politics in Québec. We must be careful that the blood he spilled does not stain us in 'the rest of Canada'.

I remember, now, my last visit to Québec. I chatted with two students from the Université de Québec about the federal election. The conversation was polite. It was pure Canadian *curtesie*, to use the old English word, *politesse* to use the French ... tough stands argued bravely, with honour and a smile. Their wit and their charm were disarming, and typically Canadian.

Is it still true? It's only been a year. Have the hate-filled politics of our neighbour to the south finally infected us?

Among us there are some, both mad and bad, who pick up the threads of political discord and act in ways that unravel the social fabric and test our national character.

But whenever rage overwhelms reason we are all of us bereft and bloodied. Let us ignore all calls to arms. And heed our national impulse to disarm.

(© David McLaren September 6, 2012)

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