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Dr. Henry Morgentaler, Proponent of Safe Abortions in Canada, Dies at 90

By **ROBERT D. McFADDEN**

Dr. Henry Morgentaler, Canada's most heralded and vilified abortion doctor, who was assaulted and imprisoned for defying restrictive laws but who won the landmark Canadian Supreme Court decision that legalized abortion nationally in 1988, died on Tuesday at his home in Toronto. He was 90.

Carolyn Egan, who is with the [Ontario Coalition for Abortion Clinics](#), told The Associated Press that members of Dr. Morgentaler's family confirmed the death.

In a country known for tolerance and free medical care for all citizens, Dr. Morgentaler was for decades at the center of battles between powerful interests like the Roman Catholic Church, which opposed abortion for any reason short of saving an endangered mother's life, and women's groups that contended that the decision not to bear a child is a personal one.

Dr. Morgentaler, a Polish-born socialist who survived Nazi death camps at Auschwitz and Dachau and emigrated to Canada after World War II, basically founded the Canadian abortion-rights movement in the late 1960s. Over the years he opened abortion clinics in major cities across the country, trained hundreds of doctors to perform abortions and said that he personally performed tens of thousands of them.

He was threatened with death, attacked with garden shears, roughed up by a mob, caricatured as a baby butcher, splashed with ketchup and accused of fomenting violence. He escaped injury when one of his clinics was firebombed. After several abortion doctors were shot, he began wearing bulletproof vests and installed bulletproof windows at home.

From his perspective, anti-abortion laws violated a woman's right to control her body and imposed untold suffering on unwanted children to assuage the sensibilities of religious moralists, and he refused to shut up or be discreet.

His clinics were picketed by protesters and raided by the police. He was arrested four times for performing illegal abortions and acquitted each time by jurors, who accepted his defense that the operations were necessary for the patients' mental or physical health.

At the time, Canadian prosecutors were allowed to appeal jury verdicts — a practice discontinued — and one of his early acquittals was reversed in Quebec. He was in prison 18 months in prison, but had a heart attack and was released after 10 months



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acquittal was overturned in Ontario, and his appeal went to Canada's Supreme Court.

In 1988, the court struck down Canada's federal abortion law as unconstitutional. It held in *R. v. Morgentaler* that Canada's criminal code, which allowed hospital abortions only if a committee of three doctors had concluded that a continued pregnancy would endanger the mother, denied women the right of "life, liberty and security of the person," as guaranteed in Canada's Charter of Rights and Freedoms.

"Forcing a woman by threat of criminal sanctions to carry a fetus to term unless she meets certain criteria unrelated to her own priorities and aspirations is a profound interference with a woman's body and thus an infringement of security of the person," Chief Justice Brian Dickson wrote in a 5-to-2 ruling that threw out Dr. Morgentaler's conviction.

While specific issues were different, the Canadian ruling, like the United States Supreme Court's in *Roe v. Wade* in 1973, recognized a woman's right to make her own childbearing decisions. But in Canada's 10 provinces, laws and customs varied widely, and for years after winning his landmark case Dr. Morgentaler challenged provincial restrictions and payment practices.

He looked like an aging hippie: gray-bearded and balding, ascetic eyes behind horn-rimmed glasses, a gentle smile and delicate hands for subtle work. His extraordinary thinness was a lifelong reminder of near starvation as a youth in a Polish ghetto and the concentration camps that reduced him to a skeleton.

Dr. Morgentaler, who received many humanitarian awards, underwent heart bypass surgery in 2006 and stopped performing abortions. By then, Canadian women in most cities, though not in many rural areas, had access to publicly financed abortions in hospitals and clinics. Only New Brunswick refused to pay for clinic abortions — in violation of the Canada Health Act.

He was born Henryk Morgentaler on March 19, 1923, in Lodz, Poland. His parents, Josef and Golda Morgentaler, were Jewish socialists. When the Nazis invaded in 1939, his father, a textile worker and union organizer, was killed by the Gestapo. He and his mother, his brother, Mumek, and his sister, Ghitel, lived in the Lodz ghetto with little food and rampant disease for most of the war. Ghitel died there.

In 1944, Henryk, his mother and his brother were sent to Auschwitz, in Nazi-occupied southern Poland. His mother was killed there, and the brothers became slave laborers. Later they were shipped to Dachau in southern Germany. In the spring of 1945, as Allied troops closed in and Germans abandoned the camp, the brothers were liberated. They lived in refugee camps after the war. Mumek went to the United States, and Henryk studied medicine in Germany and Belgium.

In 1949, he married Chava Rosenfarb. They had two children, Goldie and Bamie, before divorcing. In 1979, he married Carmen Wernli and had a son, Yann, before a second divorce. He later married Arlene Leibovich and had a son, Benny, with her. She and his children survive him, as do several grandchildren.

Dr. Morgentaler moved to Canada in 1950, finished medical school at the University of Montreal in 1953 and for 15 years practiced general medicine in a working-class district of Montreal. He joined humanist groups and in 1967 addressed a Parliament hearing, calling for safe unrestricted abortions.

While polls showed that most Canadians believed abortion should be a woman's choice, nearly half the population was Catholic, and abortion laws were among the world's strictest. They were eased in 1969 to allow abortions approved by committees if a mother was endangered. But flaws were soon apparent. Most hospitals refused even to form committees, and red tape often delayed pregnancies beyond safe limits.

Dr. Morgentaler opened his first abortion clinic in Montreal in 1969, and soon began the odyssey that led to the landmark ruling. He won another major decision in 1993 against limits on provincial abortions. His later fights focused on public financing.

He became a household name in Canada, featured in books, articles and films: a 1984 documentary directed by Paul Cowan, "Democracy on Trial: The Morgentaler Affair"; a 2005 CTV movie, "The Henry Morgentaler Story"; and two biographies, "[Morgentaler: The Doctor Who Couldn't Turn Away](#)" (1975, 1983), by Eleanor Wright Pelrine, and "[Morgentaler: A Difficult Hero](#)" (1996, 2003), by Catherine Dunphy.

In 2008 he was inducted into the Order of Canada, one of the nation's highest honors. His selection was profoundly controversial.