

2016
Living with Dignity



Recommendations for the Special Joint Committee
on Physician-Assisted Dying

Preamble

While *Living with Dignity* is totally opposed to euthanasia and assisted suicide, we are aware of the imminent Canadian legislation on this matter, and, while we in no way approve of this choice, we would still like to make our contribution to enrich the debate among legislators regarding potential issues and their social implications.

In *Carter*, the Supreme Court repeatedly reiterated that the legalization of assisted suicide inevitably involves risks for vulnerable people (para. 103, 105, 115 and 117-119). Our brief therefore lays out a series of recommendations to the *Special Joint Committee on Physician-Assisted Dying* to help guide members of Parliament in a sole effort to reduce as much as possible the inherent risks incurred by Canadians related to “physician-assisted dying.”

Above all, we want to remind members of the *Joint Committee* of their enormous responsibility for the future of Canadian society. So, in the words of Pierre Elliott Trudeau during his speech before the vote to abolish the death penalty in Canada in 1976, members of Parliament must, for their part, remember that “what [they] will actually be deciding, when [they] vote on this bill, is not merely how the law of the land will be written, but also whether some human beings will live or die.”¹

Living with Dignity

Citizen network with more than 4,500 members who believe in a society where each and every person has the opportunity to live with dignity and in solidarity, which ensures an end of life that is natural and respectful of the individual.

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¹ http://ici.radio-canada.ca/nouvelles/dossiers/peinedemort/pop_3a_2.html [in French only]

Recommendations

I - Maintain exceptional use

Should the government decide to legalize euthanasia and assisted suicide, they should remain exceptional measures for exceptional cases. It would be risky to present them as simple options that can be selected provided certain criteria are met. Such an approach would trivialize the act and decrease the severity of such a decision.

Should the government decide to legalize euthanasia or assisted suicide, we recommend that:

- a. physician-assisted dying remain an exceptional practice, not a health care option on the same level as others;
- b. the protection of vulnerable persons take precedence over accessibility, since it is better for access to be difficult if this can prevent accidental or unintended deaths;
- c. physician-assisted dying not be publically funded;

II - Establish strict criteria to avoid abuse

In countries where euthanasia and assisted suicide have been legalized, many abuses have occurred within the established system. The general trend is toward the expansion of eligibility criteria—by law or by judicial means—justified by allegations of discrimination against non-eligible persons under the criteria in effect. This expansion has led to two particularly dangerous abuses: euthanasia of minors and depressed persons. By allowing these two possibilities, Parliament would pave the way for justifying any request for physician-assisted dying.

Should the government decide to legalize euthanasia or assisted suicide, we recommend that:

- a. the scope of the new law be restricted to adults only, as defined under the law in each province (18 years and over in most provinces);
- b. a list of causes that cannot justify euthanasia or assisted suicide be compiled: depression, "tired of living," hopelessness, fatigue, etc.;
- c. the person requesting euthanasia or assisted suicide, as the case may be, be at the end of their life (as recorded in the patient's file by the treating physician) so as not to prejudice people with disabilities whose condition would be considered sufficient to want to die, and socially accepted as such;
- d. euthanasia or assisted suicide be reserved for people with a disease, not for people with a medical condition following an accident or persons with disabilities;
- e. the criteria established by Parliament be explicitly defined to avoid confusion and prevent the risk of misinterpretations that would lead to a multitude of legal proceedings;
- f. the examination of conditions be verified before the death of the person, not after, because death cannot be reversed;

- g. physicians who perform euthanasia or assisted suicide be required to report it in a register provided for that purpose, or face removal from their order;
- h. the law define the legal consequences for people who are convicted of an offence in the euthanasia or assisted suicide process depending on the severity of the act—from at-fault negligence to failure to report euthanasia or assisted suicide;
- i. euthanasia or assisted suicide be listed as the cause of death on death certificates;
- j. the family of a patient requesting euthanasia or assisted suicide be notified of the request in the interest of transparency and safety;
- k. the family members always have access to the written request of their relative who died from euthanasia or assisted suicide to ensure that there was free, prior and informed consent and that the eligibility criteria were met;

III – (A) Protect freedom of conscience

With individual freedom at the heart of the argument for euthanasia and assisted suicide, we believe it vital that what we seek to give one person cannot be denied another. For many doctors and other people working in the health field, to end someone’s life or to help them do so will always be a homicide—regardless of what the law says—and a democracy like Canada must respect this choice. Moreover, the act of referring a patient to a person or an institution that will agree to a request for euthanasia or assisted suicide is also still perceived by many doctors as being party to a homicide pursuant to section 21 of the Criminal Code.

With a patient’s freedom of choice upheld in the argument for physician-assisted dying, it must be recognized that this choice cannot be achieved without another person’s involvement. It is therefore not a purely personal choice. Thus, we must respect the freedom of others to choose to not participate in any way.

Should the government decide to legalize euthanasia or assisted suicide, we recommend that:

- a. physicians and/or institutions and any health care staff member have the right to refuse to perform physician-assisted dying or participate in any way or to refer a request for physician-assisted dying to a person or an authority for action;
- b. euthanasia or assisted suicide be performed by physicians only and prescribed by volunteer pharmacists who have received pre-certification;
- c. a self-referral agency be created to receive requests for euthanasia or assisted suicide from patients directly so as to enhance their autonomy and discharge health care staff members who refuse to participate in the process of a voluntary death;

III – (B) Separate physician-assisted dying from medicine²

In April 2013, the World Medical Association—with 9 million members—reaffirmed that “physicians-assisted suicide, like euthanasia, is unethical and must be condemned by the

² From the Latin *medicina* meaning “art of healing, remedy, potion.”

medical profession.”³ We therefore believe it appropriate to treat euthanasia and assisted suicide as distinct from the rest of medicine, defined as “*the science and practice of the diagnosis, treatment and prevention of disease.*”⁴

Should the government decide to legalize euthanasia or assisted suicide, we recommend that:

- a. to be legally free to turn to doctors who act on requests for euthanasia or assisted suicide, as the case may be (with volunteer physicians who are certified to do so), people who would like to request euthanasia or assisted suicide must first ask their treating physician for a pre-established certificate attesting that they have received all the care required by their condition;

IV – Promote palliative care

The demagoguery used in support of euthanasia and assisted suicide often presents a false dilemma: the choice between an agonizing death and physician-assisted dying. This approach is not only wrong but also does enormous harm to palliative care, also known as comfort care.

Should the government decide to legalize euthanasia or assisted suicide, we recommend that:

- a. the new law ensure universal accessibility to good palliative care and that this accessibility be recognized as a legal right;
- b. physician-assisted dying be completely separate from palliative care to allow physicians working in palliative care to continue their mission in accordance with their commitment not to prolong or hasten death, but to accompany patients until their natural death to preserve the trust between doctors and patients;

V – Promote free and informed consent

The issue of free and informed consent is among the criteria that will always pose great difficulty due to its subjectivity and its many aspects. Given the context in which requests for euthanasia or assisted suicide would be made (suffering, pain, etc.), it seems impossible to guarantee with no chance of error that a person gives their totally free and informed consent. Moreover, external factors such as peer pressure or the lack of proper care or comfort cannot be objectively verified. However, a number of tags can mitigate, though not erase, these risks.

Should the government decide to legalize euthanasia or assisted suicide, we recommend that:

- a. the person requesting euthanasia or assisted suicide have used the services of a specialist of their condition before making such a request;
- b. the person have had access to a consultation with a palliative care physician;

³ <http://www.wma.net/en/30publications/10policies/e13b/>

⁴ <https://en.wikipedia.org/wiki/Medicine>

- c. there be a delay between the request and its administration in order to allow the person time for further consideration.

Conclusion

The protection of vulnerable people is at the heart of our concerns. A too permissive law could have disastrous consequences for all Canadians, by creating a social mentality in which some lives are worth less than others. Suffering is always used to justify the legalization of euthanasia and assisted suicide, but its causes are rarely mentioned.

In countries where assisted suicide is already legal, studies show that the most common reasons why people seek assisted suicide do not have to do with death or even physical suffering. Rather these people come to fear depending on others, feeling unworthy in the eyes of others, being perceived as a burden or simply being abandoned.

In other words, the reasons that are given relate more to the state of their relationship with others than to the state of their health itself. We believe it is a collective responsibility to care for the most vulnerable members of society.

Members of Parliament must therefore ensure that every means be used to ensure that seniors, sick people, people with disabilities or people who are at the end of their life are entitled to adequate support. Any request for physician-assisted dying should be seen as the failure of a society lacking in solidarity.

Thank you for taking the time to consider our recommendations, and do not hesitate to contact us for further discussion.

Living with Dignity
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