



Brief on Bill C-7: An Act to Amend the Criminal Code (Medical Assistance in Dying)

November 11, 2020

Dear Justice Committee,

LifeCanada is a national association of local and provincial educational groups across Canada that exist to promote the value of human life, to serve our members, and to advocate for the most vulnerable members of society. We represent approximately 60 member organizations and over 10,000 individuals in Canada.

LifeCanada and those we represent believe that the dignity of human life is not a subjective reality, but an inherent aspect of our human nature that must be upheld in law, as one of its primary objectives. **Of the many institutions in our society, the duty of affirming and protecting human life falls on both law and medicine.**

We thank you for the opportunity to contribute a brief to the Justice Committee that is currently hearing testimony regarding the proposed Bill C-7, An Act to amend the Criminal Code (medical assistance in dying). We hope that the following thoughts might help to bring some clarity on this issue, and to accurately articulate the concerns of the many constituents that we represent.

1. Promise of Parliamentary Review

We note at the outset that Canada's legislation on Medical Aid in Dying, adopted in 2016, mandated an official Parliamentary review of the law within five years of its passage. Given the profound public policy change that the legislation represented, and the way it impacted the living and dying of many Canadians, provision for such a review was most sensible.

We are extremely concerned that the government has proposed major changes in the law without having first carried out the aforementioned review. In order to avoid putting the cart before the horse, the envisioned Parliamentary committee should be established and carry out its important review work before voting on any new legislation.

We are aware of the timeline requirements of the Superior Court of Quebec decision on MAID in *Truchon v. Attorney General of Canada*. In our view it was ill-advised that the federal government did not appeal the decision, for that might have allowed a Parliamentary committee time to carry out its review.

We wish to point out that it is nevertheless not too late for Parliament to give a balanced study of Medical Aid in Dying before considering new legislation. In fact, we call on Parliament to invoke Section 33 (the "notwithstanding clause") of the Charter of Rights that would preserve its liberty to be exempt, at least for a time, from court orders such as *Truchon*. Strictly speaking, Bill C-7 is not legally necessary. We see its introduction as having been premature.

We note too that the Parliamentary review of MAID was to include an examination of the state of palliative care in the country. Palliative care can make an enormous practical difference in alleviating the suffering of the sick and dying, and often help obviate requests for MAID.

A Parliamentary review could and should include investigation of the extent to which Canadians have good access to palliative care as an alternative to procured death. Surely that issue is relevant to whether MAID should be legally expanded as Bill C-7 would allow. Surely any consideration of assistance in dying should also consider measures of assistance in living.

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By pre-empting the due consideration of palliative care and similar support measures, Bill C-7 is premature and should be withdrawn.

A Parliamentary review of MAID should entail a fair-minded assessment of the pros and cons of the law's implementation since 2016. It should not proceed on the assumption that an expansion of medically assisted death is warranted. Nor in our view should it exclude consideration of the ethical foundations of the law.

2. Going beyond *Truchon* vs Attorney General of Canada

We are extremely troubled that the proposed legislation goes well beyond what *Truchon* stipulated, i.e. waiving the restriction that a person be close to natural death. There was certainly no legal need for Bill C-7 to do so. Moreover, its facilitation of MAID, for example by eliminating the 10-day waiting time for those whose death is foreseeable, or by reducing the requirement for two independent witnesses to a MAID application, increase the likelihood of abuse among vulnerable persons. So too does its provision that those close to death need not consent to MAID immediately before it is administered.

Bill C-7's expansion of medically assisted death beyond what *Truchon* exacted raises the question of whether a pro-euthanasia mindset is not at work therein. Those who call for such provisions to be rolled back have a good case.

As for *Truchon*'s central holding, we note how, at the time Bill C-14 was introduced in 2016, various polls showed that most Canadians were not at all ready to allow assisted death for persons not suffering from terminal illness. We expect this is still largely the case. Therefore, if Parliament were to invoke the notwithstanding clause of the Charter in order to carefully consider whether to go beyond what C-14 provided, such an approach would be well supported by Canadians.

We also echo the concerns of those who object that an expansion of MAID to include non-dying persons with disabilities or chronic illnesses sends a harmful societal message implying that the lives of such individuals may have less value than others. Parliament should not ignore such concerns pertinent to so many Canadians, even if that should mean circumventing, for the time being at least, the Quebec Superior Court's ruling.

We note how Bill C-7 requires applicants whose natural death is not imminent to be advised of counselling services, mental health and disability support services, community services and palliative care. The patient must also be offered consultations with relevant professionals who provide those services. However, unlike in other jurisdictions that allow assisted death for such persons, there is no requirement that such services actually be tried before MAID is arranged. That is a serious deficiency in the bill, that only makes it more likely that distressed and vulnerable individuals who might have been helped to live will unnecessarily be helped to end their lives.

We note how C-7 would require non-dying applicants to have a 90 day waiting period before MAID would be administered. Such a provision would seem at first to allow a good amount of time for services like those mentioned above to be considered by the patient. However, as some advocates for persons with person with chronic illness or disability have stated, in practice a 90 day wait period may be insufficient for relevant services to be accessed and tried. [<https://www.cbc.ca/news/opinion/opinion-medical-assistance-in-dying-maid-legislation-1.5790710>]

If Bill C-7 remains as is and is adopted, some of the more vulnerable members of our community might die prematurely. C-7 is, therefore, arguably discriminatory. [Lemmens, *ibid.*]

With much disappointment we note how, among the deficiencies of the existing legislation that the proposed bill does not remedy, or even address, is the safeguarding of conscience rights for medical professionals who do not wish to participate in MAID.

With its foreseen expansion of assisted death to those whose death is not reasonably foreseeable, Bill C-7 would foreshadow a significant growth in the number of Canadians likely to resort to MAID. That means physicians could face an increasing volume of requests from patients. It is an unacceptable blind spot that the conscience rights of those who play such a vital role in the health and well-being of Canadians should be overlooked. Surely medically assisted death services should not be imposed upon health professionals. In any legislation it considers, Parliament should act to correct this blind spot.

3. Conclusion

As we see it, a major premise of Bill C-14 adopted four years ago was that some lives are not worth living. Such a notion when incorporated into law has enormous implications for a society. Among concerns it raises is the risk that, over time, “some” will tend in practice to evolve, both culturally and in law, to encompass more and more individuals with disease or disability. Some of the provisions of Bill C-7, such as its extension of MAID to those whose death is not reasonably foreseeable and its dropping the requirement that qualifying persons need not consent at the time death-inducing drugs are administered, certainly do ring alarm bells about a slippery slope taking effect. So too does advocacy to allow mental illness, for instance, as a qualifying condition.

We believe that if accepted by Parliament, Bill C-7 will have serious ramifications for all Canadians, today and in the decades to come. We agree with the ethicist and legal scholar Margaret Somerville who wrote in objection to the original Bill C-14 (Canadian Press, Feb. 6/15):

"This is not an incremental change but a seismic shift in one of our most important foundational values – respect for human life at both the individual and societal levels. I believe that future generations will look back on this ruling, in light of its future consequences, as one of the important, harmful and regrettable ethical, legal and public policy decisions of the 21st century."

Dr. Theo Boer, professor of health care ethics and a member of the Euthanasia Review Committee for the Dutch Government warned that laws fostering Medical Aid in Dying create a strong sense of entitlement among the population.

"Whereas the law sees assisted suicide and euthanasia as an exception, public opinion shifts towards considering them rights, with corresponding duties on doctors to act. (The law) obliges doctors who refuse to provide assisted dying to refer their patients to a ‘willing’ colleague. Pressure on doctors to conform to patients’ (or in some cases relatives’) wishes can be intense."

Bill C-7 paves the way for this type of ‘death on demand’ and does not protect or even prohibit people who are not terminally ill but who want to die, from requesting and receiving death at the hand of a physician. **Will the law protect physicians and the patients themselves against the growing ideology that sees requests for death as a universal right?**

Respectfully submitted,

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