

Assisted Dying

The need to protect a fundamental human right

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Dear Special Joint Committee on Physician-Assisted Dying:

I would like to offer a few thoughts on what is arguably the most important issue with respect to personal freedom that the present government will have occasion to deal with.

1. Whereas suicide is a legal act in Canada, it is irrational that assisting someone to perform a legal act should itself be illegal. Therefore relevant regulations should not be part of the Criminal Code, where they can be made so complex that in practice they will in effect prevent such assistance being provided.

Like abortion, suicide should not be a matter of concern to the public, but only to the person involved and such physicians or other health care providers as they choose to consult.

2. In *Carter vs Canada* the Supreme Court referred to “grievous and irremediable” conditions. These terms are not easily defined and in some degree subjective, so it would defeat the intent of the ruling to try and create a list of such conditions. Each case must be assessed on its own merit, and essentially defined by the patient according to what is intolerable to them, not to the doctor or the government.

It is often proposed, usually by those with a vested interest, that the universal availability of modern palliative care would eliminate the need for assisted dying. What these people fail to accept is that for

many people, the very thought of requiring palliative care is reason to seek assistance in dying. Palliative care may be able to diminish pain, nausea, dyspnoea etc., but “grievous” and “intolerable” are not restricted to physical symptoms. To many, the prospect of living without dignity, privacy, independence or purpose constitutes more than sufficient reason to seek assisted dying.

3. Advance requests for assisted dying must be accepted as valid. One of the “grievous and intolerable” states for which assisted dying is wanted is senile dementia, and since by general agreement only people who are mentally competent can give consent, this remedy will be arbitrarily denied in the case of dementia unless it was given while the patient was still competent. If advance directives are not accepted, many will end their own lives sooner than they would otherwise wish in anticipation of the onset of dementia.
4. “Competence” can be debatable, given there are those (including psychiatrists) who argue that anyone who wishes to end their life, regardless of their circumstances, is by definition not competent, ie “anyone who doesn’t agree with me is obviously crazy”. To protect people from this fate, I would propose an assumption of competence, and those who dispute it must prove their argument to an impartial authority. In particular the right to die should not be denied to those below an arbitrary age. Each case must be impartially judged on its own merits.
5. Doctors have the right of refusal to participate because of conscientious objection, but they also have an ethical professional duty not to abandon their patient, and to arrange for transfer to

another doctor or a third party referring agency . The Canadian Charter recognizes freedom of religion, but this implies freedom *from* religion, ie no one can deny someone else their rights based on a personal religious value.

6. To ensure access, especially in remote regions, provision of assisted dying should not be restricted to doctors, but extended at least to other licensed healthcare professionals such as pharmacists and nurse-practitioners. In many cases all that is being asked is access to the appropriate prescription drug.
7. Publicly funded healthcare institutions including hospitals, hospices and longterm care facilities must be required as a condition of their funding to provide assisted dying on their premises.

In summary, I would propose that in a free society, every individual's life is their own, and can be terminated at a time and for a reason of their choosing. We often hear of a need to "protect the most vulnerable", but protect them from what? From my perspective, that duty includes protecting them, at their request, from an intolerable life and a slow and grievous death.

I thank the committee for their consideration of these thoughts.

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