

Supreme Court of Canada Ruling *Carter v. Canada (Attorney General)*

Will legalize euthanasia AND assisted suicide.

The Court ruled that physicians may provide euthanasia (administer lethal drugs) or assisted suicide (prescribe lethal drugs or help a patient to take lethal drugs) in certain circumstances. Patients do not have to be terminally ill.

Carter criteria for euthanasia/assisted suicide.

The patient must be

- an adult (not defined: probably 18 and older)
- competent (able to make medical decisions)
- clearly consenting (no advance directive)

The patient must have a grievous, irremediable medical condition (including illness, or disease, or disability)

- that causes enduring suffering that is intolerable to the individual

- that cannot be alleviated *by any treatment acceptable to the patient.*

“Enduring suffering that is intolerable” is defined solely by the patient.

Any serious medical condition becomes legally “irremediable” if a patient refuses treatment, even if the condition would be alleviated or cured by the treatment.

The Supreme Court ruling and freedom of conscience and religion

What the judges said

“In our view, *nothing* in the declaration of invalidity which we propose to issue would compel physicians to provide assistance in dying. . . we note - as did Beetz J. in addressing the

topic of physician participation in abortion in *R. v. Morgentaler* - that a physician's decision to participate in assisted dying is a matter of conscience and, in some cases, of religious belief.” (Emphasis added)

What the judges did *not* say

The judges did *not* say that every physician or hospital is obliged to provide or facilitate euthanasia or assisted suicide, or that particular physicians or hospitals have such obligations.

They did *not* say that patients have a right to demand that every physician or hospital provide or facilitate euthanasia or assisted suicide, or to demand that particular physicians or hospitals do so.

Reconciling rights claims

The judges said that the rights of patients and physicians “will need to be reconciled,” but did not say how this should be done. Only two legal rights - one for patients and one for physicians - can be clearly derived from the case.

Eligible **patients** have a legal right not to be obstructed by the state in seeking euthanasia and assisted suicide in accordance with the law.

Physicians have a legal right not to be obstructed by the state in providing euthanasia and assisted suicide in accordance with the law.

Eligible patients and willing physicians might also make a legal claim for government assistance in connecting with one another. The government can provide that assistance without forcing objecting physicians or institutions to become involved. One of the simplest and most obvious ways to do this is to have willing physicians identify themselves to professional regulatory authorities.

Objecting physicians and institutions are

willing to advise patients of their position, provide information about treatment options and provide continuing medical care. They will also cooperate in transfers requested by patients who have found a willing physician. This is standard procedure in other jurisdictions where euthanasia and assisted suicide are legal.

Special Joint Committee on Physician Assisted Dying and Bill C-14

A Special Joint Committee of the House of Commons and Senate issued a report recommending changes to the law to implement the *Carter* decision. The Committee urged that a new law should expand the grounds for euthanasia and assisted suicide beyond those set by the Supreme Court.

Based on the report, the government has introduced Bill C-14 in the House of Commons. Eligibility criteria in the bill are more restrictive than what was proposed by the Committee.

However, in accordance with the Committee’s recommendations, in the Preamble of Bill C-14 the government promises to explore the provision of euthanasia and assisted suicide to children and adolescents, to incompetent persons on the basis of advance directives, and as therapies for mental illness.

Bill C-14 will allow euthanasia/assisted suicide to be provided only by medical practitioners and nurse practitioners.

Freedom of conscience and religion

Witnesses told the Special Joint Committee that, for reasons of conscience, religion and/or professional judgement, some physicians, health care workers and institutions will not kill patients or help them to commit suicide, nor facilitate homicide or suicide by referral. The

Canadian Medical Association assured the Committee that, despite this, there are more than enough physicians willing to provide and/or refer for the services.

Ordering people to kill

Nonetheless, the Special Joint Committee urged that provincial governments

a) force physicians unwilling to kill patients or help them commit suicide to find someone willing to do so; and

b) force all publicly funded facilities like hospices and hospitals to kill patients or help them commit suicide, even if groups operating the facilities are opposed to participating in homicide and suicide.

The College of Physicians and Surgeons of Ontario (CPSO) has ordered objecting physicians to arrange for patients to be killed or helped to commit suicide by someone else. A number of groups have made it clear they want this policy of coercion to extend to all health care workers and publicly funded institutions.

This assumes that the state can legitimately compel people to be parties to homicide or suicide - even if they believe that to be wrong - and punish them if they refuse.

Nothing of the kind was stated or implied by the Supreme Court of Canada. This is not a reasonable limitation of fundamental freedoms, but an attack on freedom and human dignity. It is also profoundly dangerous. If the state can demand that citizens must kill people or arrange for them to be killed, what can it not demand?

Bill C-14 allows coercion

In view of this, the Protection of Conscience Project urged the federal government to prohibit

anyone from being forced to become a party to homicide or suicide. The federal government has the power to do this.

The federal government can prevent Canadians from being forced to kill people or arrange for people to be killed. It can enact a law stating that no one can be forced to be a party to homicide or suicide.

Bill C-14 does not do this. Bill C-14 allows coerced participation in killing to continue.

Refusing to participate in killing

Physicians and health care workers who object to euthanasia and assisted suicide for reasons of conscience, religion or professional judgement are willing to provide patients with information about treatment options, including euthanasia and assisted suicide, and provide continuing medical care. They will also cooperate in transfers requested by patients who have found a willing provider.

However, objectors will not kill patients or help them commit suicide, and many will not arrange for them to be killed or helped to kill themselves by referral or similar means.

Their refusal is not a violation of fundamental freedoms, but an assertion of their essential humanity. It deserves the protection of law.

This pamphlet may be downloaded from the Project website and copied for distribution.

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Issues of Conscience

Following Orders

Forcing physicians, health care providers and hospitals to kill or arrange killing of patients.



Protection of Conscience Project
Service - not servitude.
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