



Protection of Conscience Project

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Submission to the Standing Committee on Justice and Human Rights Parliament of Canada (2 May, 2016)

I. Introduction

- I.1 The Protection of Conscience Project does not take a position on the acceptability of euthanasia or physician assisted suicide or the merits of legalization of the procedures. The Project's concern is to ensure that health care workers who object to providing or participating in homicide and suicide for reasons of conscience or religion are not compelled to do so or punished or disadvantaged for refusal.
- I.2 The arguments supporting this submission are more fully set out in the Project's submission to the parliamentary Special Joint Committee.

II. Coerced complicity in homicide and suicide

- II.1 *Carter* should not be understood to mean that a learned or privileged class, a profession or state institutions can legitimately compel people to be parties to homicide or suicide - and punish them if they refuse.
- II.2 This is not a reasonable limitation of fundamental freedoms, but a reprehensible attack on them and a serious violation of human dignity. From an ethical perspective, it is incoherent. From a legal and civil liberties perspective, it is profoundly dangerous.
- II.3 Other countries have demonstrated that it is possible to provide euthanasia and physician assisted suicide without suppressing fundamental freedoms. None of them require "effective referral," physician-initiated "direct transfer" or otherwise conscript objecting physicians into euthanasia/assisted suicide service.

III. Criminal legislation

- III.1 By virtue of the subject matter of Bill C-14 (homicide and suicide), the federal government has jurisdiction in criminal law.
- III.2 The use of criminal law is justified to prevent and to punish particularly egregious violations of fundamental freedoms that also present a serious threat to society, such as unlawful electronic surveillance, unlawful confinement and torture.
- III.3 Coercion, intimidation or other forms of pressure intended to force citizens to become parties to homicide or suicide is both an egregious violation of fundamental freedoms and a serious threat to society that justifies the use of criminal law. For this reason, the Project proposes an amendment to Bill C-14, set out in Appendix "A."

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- III.4 The proposed amendment is an addition that does not otherwise change the text of Bill C-14. Nor does it touch the eligibility criteria proposed by *Carter*, nor the criteria or procedural safeguards recommended by the Special Joint Committee or Provincial-Territorial Expert Advisory Group. It simply establishes that, as a matter of law and national public policy, no one can be compelled to become a party to homicide or suicide, or punished or disadvantaged for refusing to do so.

Appendix “A”

Proposed amendment adding 241.5 to Bill C-14

Compulsion to participate in inflicting death

241.5(1) Every one commits an offence who, by an exercise of authority or intimidation, compels another person to be a party to inflicting death by homicide or suicide.

Punishing refusals to participate in inflicting death

241.5(2) Every one commits an offence who

- a) refuses to employ a person or to admit a person to a trade union, professional association, school or educational programme because that person refuses or fails to agree to be a party to inflicting death; or
- b) refuses to employ a person or to admit a person to a trade union, professional association, school or educational programme because that person refuses or fails to answer questions about or to discuss being a party to inflicting death.

Intimidation to participate in inflicting death

241.5(3) Every one commits an offence who, for the purpose of causing another person to be a party to inflicting death

- (a) suggests that being a party to inflicting death is a condition of employment, contract, membership or full participation in a trade union or professional association, or of admission to a school or educational programme; or
- (b) makes threats or suggestions that refusal to be a party to inflicting death will adversely affect
 - (i) contracts, employment, advancement, benefits, pay, or
 - (ii) membership, fellowship or full participation in a trade union or professional association.

Definitions

241.5(4) For the purpose of this section,

- a) “person” includes an unincorporated organization, collective or business;
- b) “inflicting death by homicide or suicide” includes medical assistance in dying as defined in Section 241.1, and attempted homicide and suicide.

Punishment

241.6(5) (a) Every one who commits an offence under subsection (1) is guilty of an indictable offence and liable to imprisonment for life.

(b) Every one who commits an offence under subsection (2) is guilty of an indictable offence and liable to imprisonment for ten years.

(c) Every one who commits an offence under subsection (3) is guilty of an indictable offence and liable to imprisonment for five years.