

Canada

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Canada (2015-)

History of legalisation

On 21 April 2010 the Canadian House of Commons [defeated](#) *Bill C-384 An Act to amend the Criminal Code (right to die with dignity)* by 228-59.¹

The Quebec National Assembly passed an "[An Act respecting end-of-life care](#)" by a vote of 94-22. It came into effect on 10 December 2015. This Act permits euthanasia on the request of an adult who is "*at the end of life; with a serious and incurable illness; and in an advanced state of irreversible decline in capability*".²

On 6 February 2015 the Supreme Court of Canada in [Carter v Canada \(Attorney General\)](#) declared that provisions in the Canadian Criminal Code making it an offence to aid or abet suicide "unjustifiably infringe" section 7 ["*Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.*"] of the Charter of Rights and Freedoms "*and are of no force or effect to the extent that they prohibit physician-assisted death for a competent adult person who (1) clearly consents to the termination of life and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition.*" The declaration was suspended for a year, giving the opportunity for the Parliament to amend the offending laws by providing a scheme for physician assisted suicide.

The core paragraph in the judgement reads that "*The right to life is engaged where the law or state action imposes death or an increased risk of death on a person, either directly or indirectly. Here, the prohibition deprives some individuals of life, as it has the effect of forcing some individuals to take their own lives prematurely, for fear that they would be incapable of doing so when they reached the point where suffering was intolerable. The rights to liberty and security of the person, which deal with concerns about autonomy and quality of life, are also engaged. An individual's response to a grievous and irremediable medical condition is a matter critical to their dignity and autonomy. The prohibition denies people in this situation the right to make decisions concerning their bodily integrity and medical care and thus trenches on their liberty. And by leaving them to endure intolerable suffering, it impinges on their security of the person.*"³

The argument based on the right to life is specious as it takes no account of the inevitability that a law permitting euthanasia will result in [wrongful deaths](#) based on medical errors, coercion, discrimination against or differential treatment of the disabled and mentally ill and suicide contagion.⁴

¹ <http://openparliament.ca/bills/votes/912/>

² <http://legisquebec.gouv.qc.ca/en/pdf/cs/S-32.0001.pdf>

³ <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>

⁴ https://www.australiancarealliance.org.au/wrongful_categories

The argument from liberty, if pressed to its logical conclusion, would require a law permitting assisted suicide or euthanasia on request by any person, including a minor, with capacity.

The argument from security is based on [a false claim](#) that pain and other physical symptoms cannot be relieved by best practice palliative care.⁵

In response to the Supreme Court judgment, the Canadian parliament passed [Bill C-14](#) which came into effect on 17 June 2016 and legalised euthanasia and assisted suicide on request for any adult who has “*a serious and incurable illness, disease or disability*”; is in “*an advanced state of irreversible decline in capability*”; and whose “*natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining*”.⁶

“Death be reasonably foreseeable”

The Canadian law required that “death be reasonably foreseeable”. The decision of the Ontario Superior Court of Justice in [AB v Attorney General of Canada](#) delivered on 19 June 2017, in paragraph 81, interpreted this requirement as **not requiring any connection whatsoever** between the underlying conditions for which euthanasia is sought and the reasonable foreseeability of death – which can be based simply on advanced age. The woman in this case was 79 years old.⁷

On 11 September 2019, the Quebec Superior Court, in the case of *Truchon c. Procureur général du Canada*, [invalidated](#) the relevant provisions in the Canadian law which limiting euthanasia to cases where “natural death has become reasonably foreseeable” and the Quebec law which required that the person be “at the end of life”. The effect of this decision was suspended for six months.

The Canadian Government introduced [Bill C-7](#) into the House of Commons in February 2020 to give statutory effect to the decision. The Bill passed with some amendments and became law on 21 March 2021.

From that date there is no longer a requirement that death be reasonably foreseeable.

Increase in numbers

In July 2021 the [Second Annual Report on Medical Assistance in Dying in Canada](#) was published. It stated that there had been 7,595 reported cases of euthanasia and assisted suicide in 2020, bringing the total of such deaths since legalisation to 21,589.

In July 2020, the [First Annual Report on Medical Assistance in Dying in Canada](#) was published covering data to the end of 2019.⁸ This report stated that there were 5,631 cases of euthanasia and

⁵ https://www.australiancarealliance.org.au/access_to_palliative_care

⁶ https://laws-lois.justice.gc.ca/PDF/2016_3.pdf

⁷ <https://www.canlii.org/en/on/onsc/doc/2017/2017onsc3759/2017onsc3759.pdf>

⁸ <https://www.canada.ca/content/dam/hc-sc/documents/services/medical-assistance-dying-annual-report-2019/maid-annual-report-eng.pdf>

assisted suicide under the Canadian law in 2019, but this number was revised up to 5,660 in the Second Annual Report.

The number of cases each year doubled in 3 years from 2,838 in 2017, the first full year of legalisation, to 5,660 in 2020 with annual increases of 57.8% (2017 to 2018); 26.4% (2018 to 2019) and 34.2% (2019 to 2020).

“Less than seven” cases in both 2019 and 2020 were assisted suicide. Canadian practice overwhelming uses euthanasia. The 2019 report states that “providers are less comfortable with self-administration [assisted suicide] due to concerns around the ability of the patient to effectively self-administer the series of medications, and the complications that may ensue”.⁹

Cases numbers increased by 57% from 2017 to 2018; by 26% from 2018 to 2019 and by 35% from 2019 to 2020.

In 2020 euthanasia and assisted suicide accounted for 2.45% of all deaths in Canada, with provincial rates highest in British Columbia (3.84%), Quebec (3.04%) and Prince Edward Island (2.69%).

Unreported cases

There was a discrepancy of 171 cases of euthanasia between the number of official reports received (1493) and the number of cases reported by institutions (1664) in Quebec for June 2017 to March 2018, suggesting a failure by physicians to report in 10.3% of euthanasia cases.

Failure to comply with the legal processes

According to the report for 10 Jun 2017 to 31 March 2018, six per cent of all forms reporting euthanasia in Quebec are received late and 42% of all forms received have insufficient information and require follow up requests.

Even after repeated requests for further information there is insufficient information to conclude whether or not the act of euthanasia complies with the law in 5% of cases.

In a further 5% of cases (62 cases out of 1374 for which a final assessment has been made) there was a failure to comply with the law, including:

- 29 cases in which the consulting physician was not independent from the physician who carried out euthanasia. However, this has been addressed by officially slackening the interpretation of the requirements for independence!
- 9 cases in which the physician who performed euthanasia **did not ensure that the request for euthanasia was voluntary, informed and persistent**
- 6 cases in which the consulting physician examined the person before a request for euthanasia was formally made
- 5 cases in which the approval was **countersigned by an unqualified person**

⁹ Ibid. p. 19

- 5 cases in which the person **did not have a serious and incurable illness**
- 4 cases in which the person did not have the required Quebec health insurance
- 2 cases in which the person **was not at the end of life**
- 2 cases in which the physician **failed to verify that all the conditions for euthanasia were met.**

In summary of these 62 cases at least 23 could be characterised as possible wrongful deaths.

The situation continued in the period April 2018-March 2019 including:

- 2 cases in which the physician who performed euthanasia **did not ensure that the request for euthanasia was voluntary, informed and persistent**
- 1 case in which the approval was **countersigned by an unqualified person**
- 1 case in which the countersigning doctor was a family member of the first doctor
- 3 cases of euthanasia for a fracture of the hip (the Commission comments: hip fracture is not a serious and incurable disease)

Underlying conditions

Very limited data is provided on the “main condition” for which euthanasia is performed.

In 2020, for 7.8% of cases the “main condition” is reported as “multiple comorbidities” and a further 8.7% as “other conditions”, that is other than cancer, cardiovascular, respiratory, neurological or other organ failure.

The 2020 report comments “Multiple comorbidities and other conditions combined encompassed a wide range of conditions including diabetes, osteoporosis, osteoarthritis and fractures. Frailty was also commonly cited (nearly 3.0% of all cases).” Note that these are not terminal conditions, despite the requirement for death to be reasonably foreseeable still supposedly being in force in 2020.

It is startling to think that 227 Canadians were lethally injected in 2020 because they were frail.

Although 69.1% of cases of euthanasia in Canada in 2020 involved a person with cancer only 1.3% of clinicians administering euthanasia gave their specialty as oncology. Additionally, 12% of all cases involved some consultation with an oncologist. This means that in 2020, at least 4,120 Canadians were euthanased because they had cancer with no discussion with an oncologist about this course of action.

The majority (65%) of those administering euthanasia were primarily engaged in family medicine.¹⁰ Oddly, given euthanasia is not yet officially permitted in Canada for psychiatric conditions, 0.6% of cases of euthanasia were administered by psychiatrists.

The 2019 report also notes that among those administering euthanasia were “a small number of practitioners identifying themselves as “MAID Providers.” While this specialty is not officially recognized by medical certifying bodies in Canada, it may be considered a functional specialty by

¹⁰ <https://www.canada.ca/content/dam/hc-sc/documents/services/medical-assistance-dying-annual-report-2019/maid-annual-report-eng.pdf> p.29

some providers when MAID is the primary focus of their practice.”, that is doctors whose primary practice is euthanasia.

The 2020 report notes that the second opinion on eligibility was given by a nurse practitioner in 8% of cases.

Short time between initial request and euthanasia being performed

Section 29 (c) of the [Quebec law](#) requires that before performing euthanasia the physician must verify “*the persistence of suffering and that the wish to obtain medical aid in dying remains unchanged, by talking with the patient at reasonably spaced intervals given the progress of the patient’s condition*”.¹¹

Until it was repealed from 21 March 2021, Section 241.2 (3) (g) of the Canadian Criminal Code required a physician to “*ensure that there are at least 10 clear days between the day on which the request was signed by or on behalf of the person and the day on which the medical assistance in dying is provided or — if they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the person’s death, or the loss of their capacity to provide informed consent, is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstance*”.

Nonetheless according to [a study](#) of euthanasia at three institutions in Quebec the median number of days between the request for euthanasia and the patient’s death was just 6 days.¹²

This study also found that in 32% of cases a palliative care consultation only took place less than 7 days before euthanasia was requested and in a further 25% of cases it took place on the same day or AFTER euthanasia was requested. This suggests that euthanasia is being routinely provided to people before they have had a chance to experience the full effect of palliative care to relieve their suffering and concerns.

Of 7,384 people killed by euthanasia in Canada in 2020 for whom data is available on the length of time between first request and when euthanasia was administered some 34.3% or 2,532 people were euthanased in less than 10 days of first requesting it. For 905 of these people the only justification given for the haste with which euthanasia was performed was that loss of capacity to consent was imminent.¹³

This raises real questions about the validity of the original request. If a person is on the verge of losing capacity what degree of certainty can there be that the person currently has full capacity?

In the period April 2018 to March 2019 in Quebec, 40% of people were euthanased less than 10 days after making a request. However, only 11% of people had a prognosis of less than 2 weeks to live.

¹¹ <http://legisquebec.gouv.qc.ca/en/pdf/cs/S-32.0001.pdf>

¹² <https://jme.bmj.com/content/early/2018/11/22/medethics-2018-104982>

¹³

https://d3n8a8pro7vhmx.cloudfront.net/australiancarealliance/pages/104/attachments/original/1563421395/MAiD_Stats_for_Ontario_as_of_June_30_2019.pdf?1563421395

Under the revised law from 21 March 2021 there is no longer any required waiting period for any person whose death is said to be “reasonably foreseeable”. Same day request and lethal injection is acceptable.

In other cases, a 90-day waiting period is specified but if the two assessing practitioners think that loss of decision making capacity is imminent this can be waived entirely.

Advanced directive

Euthanasia can now (since 21 March 2021) be provided on the basis of an advanced directive to persons who have lost decision making capacity. This is not supposed to be done if the person resists or refuses by "words, sounds or gestures". However, this requirement is undermined by a provision that "involuntary words, sounds or gestures made in response to contact do not constitute a demonstration of refusal or resistance".

Reasons for requesting euthanasia

A [study from an Ontario hospital](#) reported that those who received euthanasia tended to be white and relatively affluent and 95% of them indicated that loss of autonomy was the primary reason for their request. Other common reasons included the wish to avoid burdening others or losing dignity and the intolerability of not being able to enjoy one’s life. Few patients cited inadequate control of pain or other symptoms.¹⁴

The [2020 annual report](#) states that “Loss of ability to engage in meaningful life activities (84.9%) followed closely by loss of ability to perform activities of daily living (81.7%), and inadequate control of pain, **or concern about it** (57.4%) were the most frequently reported descriptions of the patient’s intolerable suffering.” Disturbingly 35.9% reported as a reason for their euthanasia request “Perceived burden on family, friends or caregivers” and 18.6% reported “Isolation or loneliness”.¹⁵

A voluntary request?

The [2020 annual report](#) states that in “**nearly** all cases where” euthanasia “was provided, practitioners reported that they had consulted directly with the patient to determine the voluntariness of the request for” euthanasia. Table 6.2 indicates that “nearly all” means 99.2% of the 7384 cases for which this information was provided. This means that in 59 cases the practitioner who administered euthanasia did NOT consult directly with the person he or she euthanased to “determine the voluntariness of the request”.¹⁶

¹⁴ <https://www.worldrtd.net/sites/default/files/newsfiles/MAID%20protocol%20Canada%20hospital.pdf>

¹⁵ <https://www.canada.ca/content/dam/hc-sc/documents/services/medical-assistance-dying/annual-report-2020/annual-report-2020-eng.pdf>

¹⁶ Ibid., p. 28

No Disability Support or Palliative Care

In [2020](#) there were 126 cases in which palliative care was NOT accessible if needed (up from 91 cases in 2019 – an increase of 38.5%) and 332 cases where disability support services were needed but NOT received.

“Disability support services could include but are not limited to assistive technologies, adaptive equipment, rehabilitation services, personal care services and disability based income supplements.” The 2020 report admits that, even for those who were reported as having received disability support services, the data “does not provide insight into the adequacy of the services offered”.

Disability – the story of Candice Lewis

Candice Lewis is a 25 year old Canadian woman who happens to have cerebral palsy.

In [September 2016 Candice](#) went to the emergency room at Charles S. Curtis Memorial Hospital in St. Anthony after having seizures.¹⁷

Dr. Aaron Heroux told her she was very sick and likely to die soon. He offered her assisted suicide. The doctor also proposed assisted suicide for Candice to her mother Sheila Elson.

This offer was repeated despite both Candice and her mother making it clear that this was not an option Candice would consider. Dr Heroux told Sheila she was being selfish by not encouraging her daughter to choose assisted suicide.

Candice describes how bad it made her feel that a doctor was offering her assisted suicide.

More than [twelve months later Candice had recovered well](#) and her health was much improved. Candice wasn't having any seizures, was now able to feed herself, walk with assistance, use her iPad. She was more alert, energetic and communicative. She was able to walk down the aisle as a bridesmaid at her sister's wedding in August 2017. She was doing what she loved most, painting and being with her family.¹⁸

Candice and her mother Sheila have been interviewed by Kevin Dunn, who is producing a film on euthanasia and assisted suicide called Fatal Flaws. The film of the interview can be viewed [here](#).¹⁹

There are several take home lessons from Candice's experience:

- Doctors can [get the prognosis wrong](#).²⁰ Candice was told she was dying but is flourishing twelve months later. A wrong prognosis can lead to assisted suicide or euthanasia. A life can be thrown away needlessly;

¹⁷ <http://www.northernpen.ca/news/local/st-anthony-mother-claims-physician-assisted-death-was-wrongly-offered-for-her-daughter-25491/>

¹⁸ <http://www.northernpen.ca/community/candice-lewis-seeing-her-condition-improved-83812/>

¹⁹ <https://youtu.be/hB6zt43iCs8>

- People with a disability already suffer discrimination in health care. When assisted suicide and euthanasia are legal, [people with a disability are more at risk](#) of being offered death as a solution because doctors and others consider that they would be better off dead²¹;
- Once doctors are authorised by the law to provide assisted suicide and euthanasia some of them will feel empowered to offer it to anyone they think would be better off dead. This undermines patients' trust in doctors and can cause great distress.

Sadly, Candice has since passed away from natural causes.

Financial issues: Denied assisted living but offered assisted suicide

[Roger Foley](#), who has a crippling brain disease, has been seeking support to live at home. He is currently in an Ontario hospital that is threatening to start charging him \$1,800 a day. The hospital has told Roger that his other option is euthanasia or assisted suicide under Canada's medical assistance in dying law.²²

Practitioners frequently killing patients

Of the 1274 physicians and 71 nurse practitioners who euthanased people in 2020, some 200 of them did so 10 times or more.

Conclusion

Canada's court ordered experiment with euthanasia continues to spin out of control with significant rates of failure to comply with the legal requirements and processes. No action appears to have been taken in response to identified cases, contrary to the law, of killing people who did not have a serious and incurable condition. People with disabilities are being harassed to choose assisted suicide against their will. Some are not provided with needed disability support services.

²⁰ https://www.australiancarealliance.org.au/a_wrong_prognosis_part_1

²¹ https://www.australiancarealliance.org.au/better_off_dead

²² https://www.australiancarealliance.org.au/canada_assisted_suicide_not_assisted_living