The Evangelical Fellowship of Canada

Canada: The Impact of Medical Assistance in Dying on People with Disabilities

Stakeholders Report Submitted to the Committee on the Rights of Persons with Disabilities, for its 32nd Session

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The Evangelical Fellowship of Canada (EFC) is the national association of evangelical Christian denominations, churches, post-secondary institutions and organizations in Canada. Established in 1964, the EFC provides a forum for collaboration and engagement among the roughly 1.7 million Evangelicals who are part of its constituency.

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This report provides information and recommendations to the Government of Canada on the impact of Canada's medical assistance in dying (MAiD) regime on people with disabilities, its disproportionate impact on women with disabilities, and its consequences for the right to life.

Eliminate discrimination (art. 4-5)

Eligibility for euthanasia and assisted suicide, known by the sanitized term of medical assistance in dying or MAiD, has been linked to disability since the regime was passed into law in 2016. The initial legislation established eligibility for those with a "serious and incurable illness, disease or disability" whose natural death was "reasonably foreseeable." These terms are ambiguous and subjectively interpreted by healthcare practitioners. Reasonably foreseeable natural death has been defined by some medical practitioners as a prognosis of up to 10 years. In the preliminary stages of a court challenge of the law, expert testimony proposed that a person's death may be considered reasonably foreseeable if they indicate an intention to refuse treatment or stop preventive care.

In 2021, Canada passed legislation to create a second track for medical assistance in dying. This legislation (former Bill C-7) made people with disabilities or chronic illnesses eligible for euthanasia even if their natural death wasn't "reasonably foreseeable." With this change in the law, people who weren't nearing death could be eligible for euthanasia if they had a disability, putting people with disabilities outside of the protections offered to other Canadians.

An open letter to members of Parliament opposing the legislation was signed by more than 100 disability groups. They called the bill dangerous and discriminatory. They stated, "Bill C-7 sets apart people with disabilities and disabling conditions as the only Canadians to be offered assistance in dying when they are not actually nearing death."

Every major disability rights organization in Canada opposed this change in the law. Many witnesses before parliamentary committees described its negative impact on Canadians with disabilities. One example: "Physicians report that patients with disabilities are requesting MAiD upon learning that the wait time for accessible housing with the supports they require is 10 years or more." Another witness from a national disability rights organization stated, "Bill C-7 is our worst nightmare." A leading disability rights activist asked the committee, "Will you rise to the defence of human rights?"

After the legislation was passed, in a parliamentary review of its provisions, a representative from Inclusion Canada told the special joint committee, "Not a single national organization of persons with disabilities supported the expansion of MAiD, and over 200 independent, non-affiliated organizations representing persons with disabilities actively opposed the expansion." Dr. Heidi Janz, adjunct professor in disability studies, described the medical assistance in dying regime to the committee as "eugenics disguised as autonomy" and asked policymakers to stop the injustice.

In September 2024, a coalition of disability rights organizations and two individuals launched a court challenge of the provisions in the legislation which had expanded eligibility for MAiD to persons with a disability who are not dying (known as Track 2 MAiD). The coalition is arguing that providing MAiD solely on the basis of disability is discriminatory and violates rights that are guaranteed in the Canadian Charter of Rights and Freedoms.

Confidence is being placed in the adequacy of the health care system and individual practitioners to screen, protect and safeguard people. However, it should be the function of the legislation to ensure minimum standards of protection and adequate safeguards, not individual medical practitioners in a healthcare system that is in crisis.

There are disturbing reports of conversations on private forums among practitioners about whether patients in vulnerable circumstances are eligible for MAiD, such as those who are homeless or recently bereaved, people whose requests stem from a lack of support. The media coverage notes, "The controversial cases in the forums have never been disclosed through Canada's oversight system, even in an anonymized manner."

Reports like the 2024 report by Ontario's Chief Coroner shed light on areas of concern, such as patients being euthanized with untreated mental illness and suffering fuelled by poverty and marginalization.

Eligibility for euthanasia on the basis of disability endangers and devalues the lives of disabled Canadians.

The EFC recommends the Government of Canada repeal Track 2 MAiD.

We recommend adding precise definitions and objective standards to federal legislation in order to better protect patients, including a clear definition of 'reasonably foreseeable' death, such as a prognosis of less than six months until natural death.

The EFC recommends requiring a reflection period for those whose death is reasonably foreseeable. Without this kind of safeguard, a person's life could be ended on the same day a request is made. A reflection period would ensure a person doesn't make a life-ending decision on a particularly difficult day.

It is essential to have significant transparency and clear, meaningful reviews of MAiD procedures such as public reports of complaints and findings. As well, it is critical to require strict compliance with the law and clearly set out processes and consequences for non-compliance. An independent review committee or process for MAiD may be advisable.

Women with disabilities (art. 6)

Discrimination against persons with disability is implicit in Canada's MAiD regime, and government data suggests this discrimination is experienced acutely by women with disability or chronic illness. In 2023, the overall number of MAiD deaths were relatively equal between men and women (51.6% and 48.4%, respectively). However, under Track 2, among those death was not foreseeable, the ratio of women to men is significantly skewed: 58.5% of those who died by MAiD were women and 41.5% were men.

In a symposium titled "Feminism, Ableism and MAiD," which took place as part of the Feminist Legal Studies lecture series held at the Peter A. Allard School of Law at the University of British Columbia, Dr. Isabel Grant described how women are disproportionately impacted by chronic illness, poverty, male violence, social isolation and medical ableism. She argued it is not possible to separate suffering caused by disability from all the "accompaniments of disability" – such as poverty, social isolation and marginalization.

In the same symposium, Dr. Elizabeth Sheehy detailed how women are more likely than men to experience disability, to be isolated and living with fewer supports. Women with disabilities are at higher risk of intimate partner violence and sexual assault, and male violence is a cause of female disablement. Women are over-represented among low-income families and individuals in Canada, and more likely to experience food insecurity. Sheehy cautioned it is entirely predictable that women with disabilities who are poor would be offered MAiD or driven to it in disproportionate numbers because they cannot find stable safe housing, appropriate treatment or other forms of social and community support.

The existing disparity and discrimination against women under Track 2 MAiD are even more concerning given the scheduled expansion of eligibility on the basis of mental illness alone, set to take effect in March 2027.

Evidence from other jurisdictions tells us that psychiatric MAiD overwhelmingly ends the lives of women. In the Netherlands, 65% of those who received psychiatric euthanasia between 2012 and 2018 were women and 35% were men. Studies of psychiatric euthanasia in Belgium and the Netherlands indicate a clear gender gap, with women accounting for the majority (69%–77%) of those who request and receive psychiatric euthanasia.

The gender disparity for psychiatric euthanasia in the few countries where it is legal mirrors the ratio of female-male suicide attempts. While suicide attempts by men are lethal at twice the rate of those by women, women attempt suicide at twice the rate men do, but are less likely to cause themselves pain or violence in attempts to end their lives. A British Medical Journal on Mental Health study suggests that “the availability of [euthanasia and assisted suicide] in the Netherlands may render more effective the wish to die of women whose suffering from mental illness is unbearable.”

The chair of an expert panel tasked by the federal government to study MAiD and mental illness appeared before the joint parliamentary committee. When asked about this gender disparity, she remarked that the gender gap observed in Europe “doesn’t concern” her. She said, “It doesn’t concern me, in the sense that I don’t think anybody knows what it means. We can make all sorts of hypotheses about what it might mean, but nobody really knows. What I would caution you about is drawing inferences, like the one in your question with respect to male-to-female suicide ratios, because we don’t know what it means.”

Mental disorders and suicidal behaviour that are common among persons requesting psychiatric MAiD in Belgium and the Netherlands have gendered risk factors, such as gender-based violence, gender-based discrimination, poverty and social isolation.

At the Feminism, Ableism and MAiD symposium, Dr. Grant discussed how diagnoses in psychiatry are themselves gendered. Women, for example, are more than twice as likely to be diagnosed with depression. Diagnoses of PTSD, borderline personality disorder, anorexia, all of which have led to psychiatric euthanasia deaths in the Netherlands and Belgium, are also deeply gendered.

The expansion of eligibility to allow euthanasia when mental illness is the sole underlying medical condition is set to take place in Canada without any additional legislated safeguards specific to the complexities of mental health, and without any study of gender disparity in rates of euthanasia under Track 2 generally, or for psychiatric euthanasia specifically.

There is no requirement or mechanism within Track 2 MAiD to consider the impact of experiences of violence, abuse, exploitation, trauma or poverty on women’s requests for euthanasia.

The EFC recommends the Government of Canada, at a minimum, study and take steps to mitigate the risk factors of Track 2 MAiD on women, if not repeal the Track 2 provisions altogether.

We recommend Canada repeal the expansion of eligibility on the basis of mental illness alone.

Children with disabilities (art. 7)

Currently, to be eligible for MAiD in Canada, a person must be 18 years of age. However, a parliamentary committee tasked with studying MAiD recommended that Parliament proceed with expanding access to mature minors.

In its February 2023 report, the parliamentary committee recommended allowing MAiD for mature minors with no minimum age requirement. Recommendation 16 recommends “That the Government of Canada amend the eligibility criteria for MAID set out in the Criminal Code to include minors deemed to have the requisite decision-making capacity upon assessment.” The following recommendation proposes limiting MAiD for mature minors to those whose natural death is reasonably foreseeable.

Even if MAiD were initially limited to mature minors who natural death is reasonably foreseeable, there is reason to expect this limit would be challenged. The MAiD regime was initially limited to adults whose natural death was reasonably foreseeable, but quickly expanded to those who were not dying. Rather than a carefully carved out exception to criminal prohibitions under specific circumstances, MAiD is increasingly framed as a form of health care. This framing makes any limitations on access vulnerable to challenge. Expansion to minors would be especially troubling given the planned expansion on the basis of mental illness alone.

We note with great concern that the parliamentary committee heard from proponents of euthanasia for disabled infants. During the committee proceedings, Dr. Louis Roy of the Collège des médecins du Québec recommended exploring the option of euthanasia for severely disabled infants up to one year of age.

We recommend Canada maintain the current minimum age requirement for MAiD (18 years).

We recommend further that if Canada proceeds with expanding eligibility to MAiD on the basis of mental illness alone that the minimum age in such instances be raised to at least 21.

Right to life (art. 10)

Canada has seen steep increases in the number of people ending their lives via MAiD each year since the legislation was introduced. In 2016, the first full year in which MAiD was carried out, there were 1,018 MAiD deaths. In 2023, there were 15,243 MAiD deaths, almost 5% of all deaths that year. A total of 60,301 people ended their lives through MAiD from 2016-23. Dying via MAiD is not the last resort originally envisioned when the legislation was introduced. Dying by MAiD is becoming increasingly normalized.

The federal government’s report on MAiD deaths in 2023 includes 622 people with a disability or chronic illness whose death was not reasonably foreseeable, who died by MAiD (Track 2 MAiD). The source of suffering of each person whose life is ended via MAiD is recorded by their medical practitioner. Of the sources of suffering identified by those who died under Track 2 MAiD in 2023, almost half indicated that they were suffering from loneliness/isolation (47.1%) and feeling like a burden (49.2%).

The safeguards for both Track 1 and Track 2 MAiD are vague, subjective and inadequate. Track 2 MAiD for those with a disability or chronic illness whose death is not foreseeable has additional safeguards, but these are inadequate. These include a requirement to inform a patient of the means available to relieve suffering. The law does not require that a person receive these means, or that the means to relieve their suffering be available, it merely requires that a person be informed of them.

Since the change in the law, there have been many accounts of people applying for MAiD due to a lack of affordable, healthy housing or supports to live. This is unacceptable. Canada must do more to ensure that no person is accessing MAiD because of a lack of needed care or supports.

In an October 2022 interview with Global News, Dr. Naheed Dosani, a palliative care physician and assistant professor in the Department of Family & Community Medicine at the University of Toronto said, “When people are living in such a situation where they’re structurally placed in poverty, is medical assistance in dying really a choice or is it coercion? That’s the question we need to ask ourselves.”

The former UN Special Rapporteur on the rights of persons with disabilities visited Canada in 2019, prior to the legalization of Track 2 MAiD, and expressed extreme concern about the impact of Canada’s 2016 legislation on medical assistance in dying from a disability perspective. She asked the Canadian government to investigate complaints related to medical assistance in dying and to put adequate safeguards in place to ensure that people with disabilities don’t request medical assistance in dying because of the absence of community-based alternatives and palliative care. Rather than heeding the Special Rapporteur’s concerns and recommended actions, Canada proceeded with creating a second track for MAiD, making persons not dying eligible on the basis of disability.

In a 2021 letter to the Government of Canada, the Special Rapporteur expressed “grave concerns” that Canada’s expanded eligibility criteria would violate “Canada’s international obligations to respect, protect and fulfil the core rights of equality and non-discrimination of persons with disabilities.”

People with disabilities have had MAiD suggested to them by healthcare providers, sometimes repeatedly. The Canadian Association of MAiD Providers believes doctors and nurse practitioners have a professional obligation to initiate a discussion about MAiD with patients who may be eligible. The Model Practice Standard for MAiD posted by Health Canada proposes that doctors be required to advise a person of the potential for MAiD if the person may be eligible and the doctor believes it is consistent with the person’s values and goals of care.

Doctors are in a position of authority and, ideally, of trust. There is a power imbalance in the doctor-patient relationship. The sources of suffering outlined in MAiD reports clearly and consistently indicate many people who die by MAiD feel like a burden. When a clinician brings up MAID as an option, it suggests to the patient that the clinician sees their life as not worth living, or that ending their life is worth considering. The physician’s opinion is a very important factor in decision-making for many patients. The suggestion that MAID is an option is likely to be taken as a recommendation.

Given the prevalence of ableism and the power imbalance in the doctor-patient relationship, it is essential that conversations about MAiD be patient-initiated. Medical practitioners must not be the ones to suggest MAiD as an option.

We recommend Canada legislate an additional safeguard that conversations about MAiD be patient-initiated only.

Living independently and being included in the community (art. 19)

Canada’s parliamentary Special Joint Committee on MAiD heard from many witnesses on the impact of the law on people with disabilities, such as requests for hastened death because of a lack of resources, housing or support. As a representative of the ARCH Disability Law Centre testified, “At ARCH we have clients who have died by MAID, who have applied for MAID or who are contemplating MAID. This is not because they want to die; it's because they cannot get the housing, medical care, disability services or supports they need, and they are too poor to afford to purchase these services privately.”

Testifying before the House of Commons Committee on Justice and Human Rights during its study of what was then Bill C-7, Roger Foley, an Ontario resident who wanted self-directed home care rather than euthanasia or institutionalization, said, "What is happening to vulnerable persons in Canada is so wrong. Assisted dying is easier to access than safe and appropriate disability supports to live. Committee members, you cannot let this happen to me and others. You have turned your backs on the disabled and elderly Canadians. You or your family and friends will all be in my shoes one day. You cannot let this sliding regime continue."

Since the 2021 expansion, there have been many instances of people with disabilities seeking MAiD because they are unable to access or afford adequate medical or social supports, because of poverty or housing insecurity, or intolerable conditions in long term care.

A presentation by Ontario Chief Coroner Dr. Dirk Huyer indicated that more than three quarters of people euthanized in Ontario when their death wasn't imminent required disability support before their death. He is quoted as saying that people euthanized with nonterminal conditions were "more likely to live in neighborhoods where there's higher levels of residential instability, higher material deprivation and greater dependency on government support."

Health (art. 25)

Disability ethics specialist Dr. Heidi Janz cites studies that have consistently shown healthcare professionals as a group tend to substantially underestimate the quality of life of people with disabilities. Dr. Janz notes the long-standing entrenchment of medical ableism in medicine and health care. This has created challenges and risks for people with disabilities even prior to the legalization of MAiD, and these have been exacerbated under the current MAiD regime. As noted above, people with disabilities often have MAiD suggested to them by medical practitioners.

Additionally, Canada had the highest rate of organ donation by medical assistance in dying patients among four nations studied that offer this practice. Canada accounted for almost half of the total number of organ transplants after euthanasia in all four jurisdictions. The high rate of organ donation after euthanasia is particularly disturbing given that the loss of ability to engage in meaningful activities and feelings of being a burden are commonly identified as the source of the suffering leading Canadians to request MAiD. There is a risk that the option of organ donation may push these patients toward requesting MAiD in their vulnerable moments, in order to look for meaning in their life and death.

It is essential to maintain MAiD-free spaces where patients are not offered MAiD and do not feel pressured to seek it, and staff who object to MAiD are not required to participate in it. These spaces are a protection for both patients and staff.

As policy analyst and disability rights advocate Gabrielle Peters states, "we should have the right to receive medical care in places and from people who do not contemplate or participate in killing disabled people as part of a care plan. … Affirming support for the belief of 'better dead than disabled' in health care is dangerous and cruel. Canada has made disabled people a killable class, and hardly anyone has considered the impact this would have on us. This country must maintain MAiD-free health-care spaces."

The EFC recommends the Government of Canada legislate protection for MAiD-free institutions.