

**Medical Assistance in Dying:  
A Policy Solution to Suffering, but what's the question?**

**A Brief Submitted to:**

**Special Joint Committee on Medical Assistance in Dying**

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## **Medical Assistance in Dying: A Policy Solution to Suffering, but what's the question?**

As Parliament considers whether there is an adequate degree of system preparedness to massively expand eligibility for medical assistance in dying (MAiD) through provisions that would enable access solely on the basis of a mental health condition we strongly urge a pause. MAiD has become a policy solution still in search of a considered policy question.

From the beginning MAiD has operated in a policy vacuum, adopted as a solution to perceived intolerable suffering, but without the necessary substantive policy analysis for its practice, one that determines the life and death of Canadian citizens. Neither its policy objectives, nor the costs and benefits of different options for achieving those objectives have been clearly identified or subjected to the rigorous analysis and public debate that should be considered essential given its impact on Canadians, the health care system and our society as a whole.

This is not to say that various criteria, administrative procedures and guidance for this intervention have not been adopted and developed by Parliament and provincial/territorial legislatures, regulatory authorities and professional bodies. They have, but without a consideration and agreement on clear policy objectives, much less a weighing of different options for achieving those objectives.

### **MAiD in a Policy Vacuum**

During public and Parliamentary debates leading up to the adoption of the original *Criminal Code* amendments for MAiD in 2016 and subsequently, the primary justification for MAiD has been that people who feel they suffer intolerably from a disability-related condition (any condition which falls under the legislated eligibility criteria of “grievous and irremediable medical condition” is by definition a disability) deserve to have the opportunity for state assisted termination of their lives. However, the concern to address suffering shows up only once in the legislative objectives articulated in the 2016 and 2021 *Criminal Code* amendments related to MAiD. The preamble to Bill C-14 states:

*Whereas the Parliament of Canada recognizes the autonomy of persons who have a grievous and irremediable medical condition that causes them enduring and intolerable suffering and who wish to seek medical assistance in dying;*

Legitimate concerns about “suffering” of Canadians have predominated the debates. How could people who are suffering be denied access to MAiD? And if people are unable to consent in the future, at a time when they are suffering intolerably, shouldn't they have access? And what about people with mental health issues that seem treatment-resistant, what about their suffering? And minors who are suffering shouldn't they have access too? And, as two

bioethicists at the University of Toronto argue in the [Journal of Medical Ethics](#), shouldn't people who experience intolerable suffering from poverty and other social determinants also have access to MAiD. They suggest that:

*A harm reduction approach acknowledges that the recommended solution is necessarily an imperfect one: a 'lesser evil' between two or more less than ideal options.*

This is the problem with the current debate – for certain groups, the assumption is that there are really only two options to suffering – either living with it or getting access to MAiD. Surely, before we consider expanding MAiD, a deeper policy analysis considering how to address suffering in Canadian society is required. Without it, arguments like those published in the *Journal of Medical Ethics* will come to seem reasonable. Maybe they are. Maybe access for non-terminal conditions, for access solely on the basis of a mental health condition, for people who cannot consent, for people who suffer intolerably from stigma, poverty, and homelessness, is justified. But we need a policy framework to address suffering in Canadian society that outlines the policy options, weighs them against a set of accepted values and norms – autonomy, equality, inclusion, among others – and arrives at a reasoned set of criteria. We simply aren't there yet.

### **Suffering on the Rise**

Levels of suffering and their catastrophic social effects will continue to rise dramatically in the coming years. Needed social and health care investments have not kept pace with an aging population and the increasing proportion of people living with pain-related, mental health and other disabilities and long chronic health conditions. Geopolitical and climate volatilities will increasingly and disproportionately affect the security and well-being of Canadians, and demographic, cultural, economic and technological trends will continue to erode familial and communal resilience in the face of adversity. These converging population trends are associated with disproportionate levels for these groups of isolation and loneliness; lack of social, housing, and other supports; poverty; and unemployment among the affected groups. The depths and causes of suffering among these population groups are compounded for people who live with disability and marginalized identities – Indigenous, racialized, migrant, gender-based, and/or 2SLGBTQ+.

As such, suffering is becoming structural in Canadian society, yet MAiD has emerged as the only coordinated and coherent response.

### **Considering Policy Options**

Before adopting MAiD as Canada's most coherent response to suffering we urge a 'stepping back' to consider the range of options and to weigh them against criteria rooted in Canada's *Charter* values and human rights commitments, including those in the *UN Convention on the Rights of Persons with Disabilities*.

In the absence of a comprehensive, human rights-respecting legislative and institutional response to suffering, there has been growing investment in health care policy, research, education, practice guidelines and institutional architecture for implementing MAiD. Further expansion cannot be justified, especially in light of growing concern expressed by human rights experts domestically and internationally and a steady flow of concerning case reports. This trajectory cannot proceed without a broader policy discussion of other possible responses to suffering in Canadian society and its anticipated dramatic increasing prevalence in coming decades.