

Complete Analysis of Bill C-384

An act to amend the Criminal Code (right to die with dignity)

On May 13, 2009 Francine Lalonde MP (BQ - La Pointe-de-l'Île) introduced Bill C-384: *An Act to amend the Criminal Code (right to die with dignity)*.

Previously, Lalonde introduced Bill C-562 (June 2008) and Bill C-407 (June 2005). Bill C-384 is identical to Bill C-562 while Bill C-407 was very similar.

Lalonde's husband Guy Lemarche is the communications director of the euthanasia lobby group - *l'Association québécoise pour le droit de mourir dans la dignité (AQDMD)*.

Bill C-384 would amend subsections 222(7) and subsection 241(2) of the Criminal Code.

Euthanasia is a deliberate act undertaken by one individual with the intention of ending the life of another individual to relieve that person's suffering, where the act is the cause of death. (*Of Life and Death* - 1995)

Bill C-384 legalizes euthanasia by amending subsection 222(7) of the Criminal Code. Section 222 is the homicide provision within the criminal code.

Assisted suicide is the act of intentionally killing oneself with the assistance of another who provides the knowledge, means or both. (*Of Life and Death* - 1995)

Bill C-384 legalizes assisted suicide by amending subsection 241(2) of the criminal code. Section 241 is the assisted suicide provision within the criminal code.

Bill C-384 amends the Criminal Code by adding to subsections 222(7) and 241(2) exceptions whereby the law is circumvented.

Bill C-384 states that *the person must be at least eighteen years old*. It may be unconstitutional because it limits what is determined by the bill to be appropriate medical treatment only based on the age of the individual. Since the constitution recognizes that everyone is equal under the law, it may be unconstitutional to limit the rights of individuals, based on age, without good reason.

Bill C-384 states that the individual is eligible: *"after trying or expressly refusing the appropriate treatments available that they continue to experience severe physical or mental pain without any prospect of relief."*

The bill states that an individual is eligible for intended death if they experience severe physical pain without any prospect of relief.

Physical pain can always be mitigated. Modern palliative care has substantially improved over the past 30 years. Medicine has not solved every concern with pain and symptom management, but the concept of experiencing physical pain without any prospect of relief is a sign of a patient who has not been appropriately cared for and not a justifiable reason for intended death.

Bill C-384 directly threatens the lives of people with disabilities and/or people with chronic conditions. People with disabilities and chronic conditions are often perceived as being without any prospect of relief. These same people will usually view their life experience differently from those who are making judgements on their quality of life.

The Bill states that an individual is eligible for intended death if they experience severe mental pain without any prospect of relief.

Chronic depression and mental pain are always treatable. One must question the concept of intending the death of an individual who experiences chronic depression or mental pain because you can never be sure that the individual is competent to consent. The bill states that you must only "appear to be lucid."

Bill C-384 does not require that medical practitioners refer individuals with mental pain to a specialist.

Since an individual is eligible *if they have refused appropriate treatments that are available*, how can a medical practitioner determine that the mental pain has no prospect of relief if the individual can refuse appropriate treatments?

The bill states that the individual is eligible for intended death *if they suffer from a terminal illness*.

Bill C-384 does not define terminal illness.

Many people live with a terminal illness but are not actively dying. Bill C-384 qualifies an individual for an intended death when they are diagnosed.

Bill C-384 states that the individual is eligible for intended death if: *"the person has provided a medical practitioner, **while appearing to be lucid**, with two written requests more than 10 days apart expressly stating the person's free and informed consent to opt to die."*

The assumption that someone is competent when they *"appear to be lucid"* is questionable. To appear to be lucid cannot be considered an appropriate

measure for competency. In other words, Bill C-384 would allow an intended death upon someone who may not actually be competent.

Making two written requests more than 10 days apart is designed to prove the lasting intent of the individual. It is an illusion because the individual who makes the request only needs to "appear to be lucid".

Bill C-384 states that if: *"the person has designated in writing with free and informed consent, before two witnesses with no personal interest in the death of the person, **another person to act** on his or her behalf with any medical practitioner **when the person does not appear to be lucid.**"*

This means that an individual can have an intended death if they have made the request in a valid advanced directive.

It is unclear whether the individual who does the act of intended death of the incompetent individual must be a medical practitioner. Because the bill states that *another person can act on his or her behalf with any medical practitioner*, it is unclear whether or not the act referred to is the intended death or consenting to the intended death.

Bill C-384 requires that *written confirmation of the diagnosis has been received from at least two medical practitioners*. In the state of Oregon, people who are denied assisted suicide from their physician will seek intended death through Compassion & Choices. **In 2008, 53 of the 60 assisted suicide deaths in Oregon were facilitated by the lobby group Compassion & Choices.**

Bill C-384 requires *"the medical practitioner to assure that there are no reasonable grounds to believe that the written requests for euthanasia and assisted suicide were made under duress or while a person was not lucid."*

This is designed to guarantee that the individual is mentally competent. It is an illusion because the individual making the request only needs to *"appear to be lucid."*

Bill C-384 requires that *"the medical practitioner has informed the person of the consequences of the request for euthanasia or assisted suicide and of the alternatives that are available to the person."*

This is designed to guarantee that the individual is aware of the available options. It is an illusion because the individual is not required to try effective treatments and there is no requirement to refer the individual to a palliative care specialist.

Bill C-384 requires *"the medical practitioner to act in the manner indicated by the person and that the person may revoke their request at any time."*

This simply means that a individual may change their mind at any time. It is an illusion because the bill allows for an intended death after the individual is deemed incompetent, as long as the individual had requested an intended death while being competent.

Bill C-384 requires *"the medial practitioner to provide the coroner with a copy of the written confirmations of the diagnosis that were received from at least two medical practitioners."*

This is a common "after-the-fact" reporting system that exists in other jurisdictions where intended death has been legalized. After-the-fact reporting is a safeguard for the medical practitioner and not the individual who has already died.

Bill C-384 defines medical practitioner as a duly qualified person by provincial law to practice medicine. **The definition of medical practitioner is not limited to a physician.**

Final comments

Society cannot legislate autonomy and choice in relation to acts that intentionally and directly cause death. No statutes that allow for intended can protect vulnerable people from the subtle pressure to "choose" death.

Legalizing euthanasia and/or assisted suicide is always wrong because:

It directly and intentionally threatens the lives of the most vulnerable members of society. The lives of people with disabilities and chronic conditions, people who live with depression and mental illness, and others are directly threatened by intended death.

It establishes intended death as a treatment option for problems that are properly solved by effective and compassionate medical care.

It changes the trust relationship between the medical practitioner and the patient.

Canadians must tell their member of parliament to vote against Bill C-384.

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