

IN THE SUPREME COURT OF CANADA

BETWEEN:

LEE CARTER, HOLLIS JOHNSON, DR. WILLIAM SOICHET, THE BRITISH
COLUMBIA CIVIL LIBERTIES ASSOCIATION and GLORIA TAYLOR

APPELLANTS
(Respondents/Cross-Appellants)

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT
(Appellant/Cross-Respondent)

AND:

ATTORNEY GENERAL OF BRITISH COLUMBIA

RESPONDENT
(Appellant)

[Style of Cause Continued on Inside Cover]

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FAREWELL FOUNDATION FOR THE RIGHT TO DIE and
ASSOCIATION QUÉBÉCOISE POUR LE DROIT DE MOURIR DANS LA DIGNITÉ

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OVERVIEW

1. Farewell Foundation for the Right to Die (“FF”) and Association Québécoise pour le Droit de Mourir dans la Dignité (“AQDMD”) generally support the Appellants’ challenge to the prohibition against assisted self-chosen death. However, FF/AQDMD take the position that this Court should declare ss.241(b) and s.14 of the *Criminal Code* to be of no force and effect, without qualification, and that ss. 21, 22, 222 and s.241(a) of the *Code*, which do not infringe ss.7 or 15 of the *Charter*, should not be declared to be invalid.
2. FF/AQDMD say that the Appellants’ detailed definition of “physician-assisted dying”, which in effect limits the circumstances that would entitle a person to assistance, does not fully respect the right to liberty. In particular, FF/AQDMD challenge the constitutional validity of the requirement imposed by the trial judge that to receive assistance, a physician must validate the person as having “a terminal illness”, being “near death”, having “no hope of recovery”, having a “material disability”, having a “serious illness” and being in “a state of advanced weakening capacity”. Restrictions of this kind may be a compassionate compromise, but are barriers to autonomy and the right to self-determination.
3. If such restrictions are to be imposed on autonomy, they should be enacted by Parliament or the Provincial legislatures: restrictions by judicial declaration risks long-term inflexibility and undermines the practice of “constitutional dialogue”.
4. FF/AQDMD further oppose the stricture that only physicians may render assistance to persons who wish to end their lives. The essential role of the medical profession should be limited to diagnosis, prognosis, prescription of lethal drugs, and verification and documentation of the decisional capacity of persons who wish to end their lives with assistance. Beyond those requirements, the physician’s role should be at the option of the person receiving assistance.

PART I: STATEMENT OF FACTS

5. The trial judge found that she was bound to adopt the legislative objective set out by the majority in *Rodriguez*¹, and found that “carefully designed, well-monitored”² safeguards in the form of “an almost-absolute prohibition”³ are “an alternative, less drastic, means of achieving the objective in a real and substantial manner”.⁴

PART II: POSITION ON CONSTITUTIONAL QUESTIONS

6. FF/AQDMD take the following position on the constitutional questions:

- a. No position is taken on interjurisdictional immunity;
- b. Sections 14 and 241(b) of the *Criminal Code* infringe s.7 of the *Charter*;
- c. The infringement of s.7 cannot be justified under s.1 of the *Charter*;
- d. Sections 14 and 241(b) of the *Criminal Code* infringe s.15 of the *Charter*;
- e. The infringement of s.15 cannot be justified under s.1 of the *Charter*.

7. FF/AQDMD take the position that ss.21, 22, 241(a) and 222 of the *Criminal Code* do not prohibit assisting a person in a self-chosen death, and hence do not infringe ss.7 or 15 of the *Charter*.

PART III: ARGUMENT

A Section-by-Section Approach to s.7 and s.15 Infringement

8. FF/AQDMD ask this Court to take a section-by-section approach to assessing infringements of ss.7 and 15 of the *Charter of Rights and Freedoms*. Both the Appellants and the Respondent (at para.67 of its factum) present this Court with an overly amorphous analysis of ss.14, 21, 22, 222 and 241(a) of the *Code*.

9. FF/AQDMD agree that the prohibition against assisting suicide under 241(b) of the *Criminal Code* infringes the s.7 and s.15 of the *Charter*.

¹ TJ Reasons, at para.1190

² TJ Reasons, at para.10

³ TJ Reasons, at para.16

⁴ TJ Reasons, at para.1226; see also paragraphs 883, 1240-3, 789, 815, 831, 843, 847, 853

10. However, ss.21 and 22 of the *Code* do not infringe the *Charter* in this context because they do not prohibit assisted suicide. Section 21 of the *Code* prohibits aiding or abetting another offence, and “committing” suicide is not an offence. Section 22 prohibits counselling the commission of an offence⁵, and “committing” suicide is not an offence.

11. FF/AQDMD also take the position that s.241(a), which prohibits counselling any person to suicide, does not infringe s.7 or s.15 of the *Charter*. Counselling means to “deliberately encourage or actively induce”, whether or not the suicide occurs.⁶ While s.22(3) of the *Code* provides that “[f]or the purposes of this Act, “counsel” includes procure, solicit or incite”, FF/AQDMD suggest that the word “procure” is equivocal: it can either mean “obtain” or it can mean “encourage or promote”. FF/AQDMD know of no prosecutions under s.241(a) for “procuring”; s.241(a) charges appear to be brought only for encouraging or inducing suicide. FF/AQDMD ask that this Court clarify that for the purpose of s.241(a), the offence of counselling does not include causing the death of a person at their request and refers only to encouraging or promoting the death of a person.

12. In the alternative, if pursuant to s.22(3) of the *Code*, “procuring” suicide under s.241(a) prohibits “obtaining” or “causing” death, then FF/AQDMD say that the inclusion of the word “procuring” under s.22(3) of the *Code* infringes s.7 of the *Charter* and the appropriate remedy is to “read out” the word “procure” from s.22(3) as it applies to s.241(a).

13. FF/AQDMD take this position so that s.241(a) will continue to deter undue influence and the inducement of vulnerable persons to suicide. There is significant overlap in the legislative objective of s.241(a) and s.241(b) of the *Criminal Code*; indeed it is arguable that the expression given to the intention of s.241(b) by Sopinka J. (i.e. “protection from inducement”) is a better expression

⁵ *Mugesera v. Canada (Minister of Citizenship and Immigration)*, [2005] 2 S.C.R. 100, 197 C.C.C. (3d) 233

⁶ *R. v. Hamilton*, [2005] 2 S.C.R. 432; 2005 SCC 47; 2005 SCC 47 (CanLII); 371 AR 201; 255 DLR (4th) 283; [2006] 2 WWR 583; 198 CCC (3d) 1; 30 CR (6th) 243; 135 CRR (2d) 228; 50 Alta LR (4th) 1, at para.29

of the legislative objective of s.241(a). If s.241(b) is declared to be of no force and effect, s.241(a) will continue to afford significant protection from inducements for persons who are vulnerable.

14. Accordingly, the prohibition against counselling suicide does not infringe s.7 or s.15 of the *Charter of Rights and Freedoms*. No person's equality, dignity, autonomy, life or health is undermined by the counselling prohibition, except to the extent that "procurement" is added to "counselling" by s.22(3) of the *Code*.

15. The conjunction of ss.14 and 222 of the *Criminal Code* prohibits assisting suicide, because s.14 deprives an accused person of the defence that the decedent consented to the conduct that ended the decedent's life. Standing alone, s.222 of the *Criminal Code* does not prohibit assisting suicide as death does not result from an unlawful act within the meaning of s.222(5)(a). Thus it is properly said that s.14 of the *Code* infringes s.7 of the *Charter*, and that s.222 of the *Code* does not.

16. If s.14 of the *Code* is declared to be of no force and effect, s.222 will continue to afford protection to persons who are decisionally vulnerable. Causing the death of a person who lacks decisional capacity, who has not given consent or whose consent is uninformed is culpable homicide as it involves causing death by means of an unlawful act under s.222(5)(a).

17. Even if ss.241(b) and 14 are declared to be of no force and effect, the combination of ss.222 and 241(a) will continue to provide significant criminal law protection to both the decisionally vulnerable and the socially and emotionally vulnerable. This will be true even if no additional legislation is enacted to regulate eligibility for assistance with self-chosen death.

Overly Restrictive Criteria for Assisting Self-Chosen Death

18. FF/AQDMD submit that the trial judge imposed overly restrictive criteria for assisting a self-chosen death. In particular, the trial judge made a declaration at paragraph 1393 of her reasons for judgment that the impugned provisions of the *Criminal Code* unjustifiably infringe ss.7 and 15 but only to the extent that they apply to a patient who has been diagnosed by a medical practitioner as being

“materially disabled or soon to become so” or has a “serious illness, disease or disability (including disability arising from traumatic injury)” and is in “a state of advanced weakening capacity with no chance of improvement”. At paragraph 1390, the trial judge specifically precludes persons with “psychosocial suffering” from entitlement to assistance with self-chosen death.

19. At paragraph 1414 of her reasons for judgment, the trial judge set out conditions that would apply to Ms. Taylor if she brought application for an individual constitutional exemption. The conditions included that her attending physician attests that Ms. Taylor is terminally ill, near death, and there is no hope of her recovering.

20. It detracts from autonomy, self-determination, and dignity of the person to make assistance with self-chosen death contingent on a physician’s appraisal of whether a person’s illness is “terminal”, whether the person is “near death” and whether there is “no hope of her recovering” or whether a person is “materially disabled”, has a “serious” illness and is “in a state of advanced weakening capacity”.

21. In *R. v. Morgentaler*, the Court found that it is an infringement of the right to security of the person for a person to be told by the state that they cannot secure a “... medical procedure that might be of clear benefit to her unless she meets criteria entirely unrelated to her own priorities and aspirations”.

R. v. Morgentaler, [1988] 1 SCR 30 at p.56; 1988 CanLII 90; 63 OR (2d) 281; 37 CCC (3d) 449; 62 CR (3d) 1; 31 CCR 1; 26 OAC 1

22. The decision-making mechanism for such restrictions on assisted dying may result in additional breaches of security of the person. In *R. v. Morgentaler*, restricted access to therapeutic abortion committees caused unnecessary delays and multiple applications to abortions committees, and inconsistent application of the standards led to arbitrariness, which had profound consequences for women’s security of the person.

R. v. Morgentaler, supra, at p.57

23. As a practical reality, any normative system of exceptions that involves a medico-legal determination of eligibility for assisted dying invites disagreement between patients and doctors. Any system of exceptions to the prohibition against assisted dying may ultimately prove to be impracticable, arbitrary, unfair or impose unnecessary suffering. For this reason, the Court should refrain from permanently enshrining a system of exceptions into the fabric of constitutional law. If a system of exceptions is to be created and tested by the medical profession, it should be done by Parliament or the Provinces.⁷ The remedy in this case, akin to that in *R. v. Morgentaler*, should be to declare ss.241(b) and 14 of the *Criminal Code* to be of no force and effect.

R. v. Morgentaler, supra, at p.80

24. The trial judge found that s.241(b) infringes s.7 and is overbroad because it unnecessarily imposes suffering on persons with decisional capacity because physicians are able to discern decisional capacity. With respect, the remedy granted by the trial judge is narrower than the infringement. The implication of the remedy granted by the trial judge is that only the autonomy of persons protected by s.15 is protected. The remedy does not, for example, respect the autonomy of a decisionally capable person who is weary of life and wishes to end it with assistance. Their autonomy is no less infringed than someone with a serious illness or disability in an advanced state of weakening capacity. The presence of a breach of s.15 in addition to the infringements under s.7 should not be the occasion for narrowing the relief granted.

25. FF/AQDMD respectfully ask this Court to support the straightforward notion that the free, informed, and voluntary choice of an individual to end his or her own life is the choice of that individual rather than the choice of society. The normative principle at work is respect for individual autonomy, not compassion or mercy for suffering.

⁷ An example of legislative will in this area is the enactment by the Québec National Assembly on June 5, 2014 of Bill 52, an Act Respecting End-of-Life Care.

The Appropriate Role of Physicians

26. The declaration of invalidity made by the trial judge provides that only physicians may render assistance⁸. FF/AQDMD take the position that the medical profession need only participate in assisted dying through diagnosis, prognosis, prescription of lethal drugs, and verification and documentation of the decisional capacity of persons who wish to end their lives with assistance. It is unduly restrictive and unnecessary to require that only medical professionals may render physical assistance to persons who wish to end their lives.

27. The trial judge found that “carefully designed, well-monitored” (para.10) safeguards in the form of “an almost-absolute prohibition” (para.16) are “an alternative, less drastic, means of achieving the objective in a real and substantial manner” (para.1226). FF/AQDMD agree with the Appellants’ submissions at paragraphs 60-62 of the Appellants’ Factum that the legislative objective is to prevent deaths that are not self-chosen in the sense that the person is not capable of choice, or that the person does not have sufficient information to be said to have made a real choice, or that the person’s decision is the product of inappropriate pressure by outside influences.

28. FF/AQDMD assert that the legislative objectives may be met without imposing a requirement that only physicians may provide assistance to a person. Physicians are exclusively qualified to ensure that a person has sufficient medical information to make informed decisions, to provide a medical diagnosis and prognosis, to set out treatment options and to write prescriptions. The trial judge also found that physicians are qualified to assess capacity and detect undue influence and ambivalence (although there was no finding that non-physicians are incapable of reliably assessing capacity and detecting undue influence and ambivalence).

29. Physicians, however, are not exclusively qualified to provide physical assistance. The trial judge found the systems in Oregon, Washington and Switzerland provide real and substantial protection for end-of-life decisions

⁸ TJ Reasons, at para.1389

without requiring complete supervision of self-chosen death by physicians in Oregon, Washington and Switzerland. FF/AQDMD suggest that superfluous requirements for physician involvement may create impediments to autonomy akin to those found in *Morgentaler* to be created by therapeutic abortion committees under s.251(4) of the *Criminal Code*. Potential impediments to autonomous choice should be enacted by legislatures so that they may be subject to legal challenge at a later date in accordance with the practice of “constitutional dialogue”.

30. FF/AQDMD seek an unqualified declaration that ss.14 and 241(b) are of no force and effect. Alternatively, FF/AQDMD seek a declaration that ss.14 and 241(b) are of no force and effect to the extent that they restrict “physician-assisted dying”, and propose that “physician-assisted dying” be defined as “a death for which the assistance was rendered to an adult person certified by a physician to be fully informed, non-ambivalent, competent, free from coercion and undue influence who has personally requested assistance”. Under this formulation, the “assistance” rendered by the physician is the certification, the medical information and medical opinions provided to their patient, and the assessment of competence and free choice of the patient.

Section 241(b) and Legislative Messaging

31. The Respondent erroneously argues that s.241(b) plays an indispensable role in legislating a message of the universal value of life. At paragraphs 134, 147 and 156 of its factum the Respondent claims that assisting a person in ending his or her life involves “an affirmation of the subject’s conclusion that his or her life is not worth living” and that s.241(b) guards against “negative social messaging” and “confirms the value of every life”. There are many difficulties with this argument.

32. Firstly, the Respondent does not address the finding of fact that the Respondent failed to prove that s.241(b) carries a public life-affirming message that a limited right to assisted suicide does not carry.⁹

⁹ TJ Reasons at para.1267

33. Secondly, s.241(a) of the *Code*, by prohibiting counselling and encouragement to suicide, prevents everyone from telling another person that their life is not worth living and denounces such messages. Section 241(a) prevents “negative messaging” by less restrictive means than s.241(b).

34. Thirdly, the prohibition against assisted suicide induces people to end their lives prematurely.¹⁰ With respect, the Respondent’s position devalues these lives.

35. Fourthly, FF/AQDMD object to the Respondent’s claim at paragraph 147 of its factum that the state has a policy that “the inherent value of all human life should not be depreciated by allowing one person to take another’s life”. The government overlooks, condones, excuses and even requires the use of lethal force from time to time. Human life has a high value but it is not superordinate.¹¹

36. Fifthly, the Respondent relies on the misplaced notion that an exception to a prohibition connotes that the activity decriminalized by that exception are laudable or desirable. Section 43 of the *Code*, which allow corporeal discipline, does not celebrate violence against children. The provisions allowing for lethal force under ss.24(4) and 35 of the *Code* are not a form of praise. The *Police Enforcement Regulations* under the *CDSA* do not applaud police for public distribution of street drugs. More generally, the fact that an activity is not criminalized is not a public endorsement of that activity.

37. Sixthly, rendering assistance with a self-chosen death is more sensibly understood as an expression of compassion or filial or professional duty than an expression of agreement with a person’s decision or a judgment on the value of that person’s life.

PART IV -- Costs

38. FF/AQDMD take no position on the issue of costs.

¹⁰ TJ Reasons at para.1322 and 1325

¹¹ Homicide is countenanced in defence of the realm, to advance international interests, to ward off grievous injury, in “exceptional circumstances”. A statistically significant rate of death is accepted as a foreseeable consequence of industrial activity, transportation and health policy.

PART V – ORDER REQUESTED

39. FF/AQDMD seek an order declaring ss.14 and 241(b) of the *Criminal Code* unjustifiably infringe s.7 of the *Charter* and are of no force and effect.

40. If s.241(a) of the *Criminal Code* is found to prohibit causing or assisting suicide, FF/AQDMD seek an order declaring that the inclusion of the word “procurement” within s.22(3) of the *Criminal Code* unjustifiably infringes s.7 of the *Charter* and declaring that the word “procuring” in s.22(3) of the *Criminal Code* is of no force and effect.

41. Alternatively, FF/AQDMD seek a declaration that ss.14, 241(b), and the word “procuring” in s.22(3) as it applies to s.241(a), are of no force and effect to the extent that they restrict “physician-assisted dying” defined as “providing assistance for a death of an adult person certified by a physician to be fully informed, non-ambivalent, competent, free from coercion and undue influence who has personally requested assistance”.

42. FF/AQDMD seek leave to present oral argument at the hearing of this appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 28th day of August, 2014.

“Jason Gratl”

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PART VI: TABLE OF AUTHORITIES

Jurisprudential Authorities	Paragraph(s)
<i>Mugesera v Canada (Minister of Citizenship and Immigration)</i> , [2005] 2 SCR 100, 197 CCC (3d) 233	10
<i>R v Hamilton</i> , [2005] 2 SCR 432, 2005 SCC 47	11
<i>R v Morgentaler</i> , [1988] 1 SCR 30, 37 CCC (3d) 449, 1988 CanLII 90	21-23, 29
<i>Rodriguez v British Columbia (Attorney General)</i> , [1993] 3 SCR 519, 107 DLR (4th) 342, [1993] 7 WWR 641, 85 CCC (3d) 15	5

PART VII: STATUTORY PROVISIONS

	Paragraph(s)
Bill 52, <i>An Act Respecting End of Life Care</i> , 1st Sess, 40th Leg, Quebec, 2013	23
<i>Canadian Charter of Rights and Freedoms</i> , Part I of the <i>Constitution Act, 1982</i> , being Schedule B to the <i>Canada Act 1982 (UK)</i> , 1982, c 11, ss 1, 7, 15	1, 6-12, 14, 15, 18, 24, 39, 40
<i>Controlled Drugs and Substances Act (Police Enforcement) Regulations</i> , SOR/97-234	36
<i>Criminal Code</i> , RSC 1985, c C-46, ss 14, 21, 22, 35, 43, 222, 241(a), 241(b)	1, 6-18, 23, 24, 29-33, 36, 39-41

<p>Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c 11, ss 1, 7, 12, 15</p>	<p>Charte canadienne des droits et libertés, Partie 1 de la Loi constitutionnelle de 1982, Annexe B de la Loi de 1982 sur le Canada (R-U), 1982, c 11, ss 1, 7, 12, 15</p>
<p>1. The <i>Canadian Charter of Rights and Freedoms</i> guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.</p>	<p>1. La <i>Charte canadienne des droits et libertés</i> garantit les droits et libertés qui y sont énoncés. Ils ne peuvent être restreints que par une règle de droit, dans des limites qui soient raisonnables et dont la justification puisse se démontrer dans le cadre d'une société libre et démocratique.</p>
<p>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.</p>	<p>7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale.</p>
<p>12. Everyone has the right not to be subjected to any cruel and unusual treatment or punishment.</p>	<p>12. Chacun a droit à la protection contre tous traitements ou peines cruels et inusités.</p>
<p>15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.</p>	<p>15. (1) La loi ne fait acception de personne et s'applique également à tous, et tous ont droit à la même protection et au même bénéfice de la loi, indépendamment de toute discrimination, notamment des discriminations fondées sur la race, l'origine nationale ou ethnique, la couleur, la religion, le sexe, l'âge ou les déficiences mentales ou physiques. (2) Le paragraphe (1) n'a pas pour effet d'interdire les lois, programmes ou activités destinés à améliorer la situation d'individus ou de groupes défavorisés, notamment du fait de leur race, de leur origine nationale ou ethnique, de leur couleur, de leur religion, de leur sexe, de leur âge ou de leurs déficiences mentales ou physiques.</p>

Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11, s 52	Loi constitutionnelle de 1982, Annexe B de la Loi de 1982 sur le Canada (R-U), 1982, c 11, s 52
<p>52. (1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.</p> <p>(2) The Constitution of Canada includes</p> <p>(a) the <i>Canada Act 1982</i>, including this Act;</p> <p>(b) the Acts and orders referred to in the schedule; and</p> <p>(c) any amendment to any Act or order referred to in paragraph (a) or (b).</p> <p>(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada.</p>	<p>52. (1) La Constitution du Canada est la loi suprême du Canada; elle rend inopérantes les dispositions incompatibles de toute autre règle de droit.</p> <p>(2) La Constitution du Canada comprend :</p> <p>a) la <i>Loi de 1982 sur le Canada</i>, y compris la présente loi;</p> <p>b) les textes législatifs et les décrets figurant à l'annexe;</p> <p>c) les modifications des textes législatifs et des décrets mentionnés aux alinéas a) ou b).</p> <p>(3) La Constitution du Canada ne peut être modifiée que conformément aux pouvoirs conférés par elle.</p>

<i>Criminal Code, RSC 1985, c C-46, ss 14, 21, 22, 35, 43, 52, 222, 241</i>	<i>Code criminel, LRC 1985, c C-46, ss 14, 21, 22, 35, 43, 52, 222, 241</i>
<p>14. No person is entitled to consent to have death inflicted on him, and such consent does not affect the criminal responsibility of any person by whom death may be inflicted on the person by whom consent is given.</p>	<p>14. Nul n'a le droit de consentir à ce que la mort lui soit infligée, et un tel consentement n'atteint pas la responsabilité pénale d'une personne par qui la mort peut être infligée à celui qui a donné ce consentement.</p>
<p>21. (1) Every one is a party to an offence who</p> <ul style="list-style-type: none"> (a) actually commits it; (b) does or omits to do anything for the purpose of aiding any person to commit it; or (c) abets any person in committing it. <p>(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.</p>	<p>21. (1) Participant à une infraction :</p> <ul style="list-style-type: none"> a) quiconque la commet réellement; b) quiconque accomplit ou omet d'accomplir quelque chose en vue d'aider quelqu'un à la commettre; c) quiconque encourage quelqu'un à la commettre. <p>(2) Quand deux ou plusieurs personnes forment ensemble le projet de poursuivre une fin illégale et de s'y entraider et que l'une d'entre elles commet une infraction en réalisant cette fin commune, chacune d'elles qui savait ou devait savoir que la réalisation de l'intention commune aurait pour conséquence probable la perpétration de l'infraction, participe à cette infraction.</p>

<p>22. (1) Where a person counsels another person to be a party to an offence and that other person is afterwards a party to that offence, the person who counselled is a party to that offence, notwithstanding that the offence was committed in a way different from that which was counselled.</p> <p>(2) Every one who counsels another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling that the person who counselled knew or ought to have known was likely to be committed in consequence of the counselling.</p> <p>(3) For the purposes of this Act, "counsel" includes procure, solicit or incite.</p>	<p>22. (1) Lorsqu'une personne conseille à une autre personne de participer à une infraction et que cette dernière y participe subséquemment, la personne qui a conseillé participe à cette infraction, même si l'infraction a été commise d'une manière différente de celle qui avait été conseillée.</p> <p>(2) Quiconque conseille à une autre personne de participer à une infraction participe à chaque infraction que l'autre commet en conséquence du conseil et qui, d'après ce que savait ou aurait dû savoir celui qui a conseillé, était susceptible d'être commise en conséquence du conseil.</p> <p>(3) Pour l'application de la présente loi, « conseiller » s'entend d'amener et d'inciter, et « conseil » s'entend de l'encouragement visant à amener ou à inciter.</p>
<p>35. (1) A person is not guilty of an offence if</p> <p>(a) they either believe on reasonable grounds that they are in peaceable possession of property or are acting under the authority of, or lawfully assisting, a person whom they believe on reasonable grounds is in peaceable possession of property;</p> <p>(b) they believe on reasonable grounds that another person</p> <p>(i) is about to enter, is entering or has entered the property without being entitled by law to do so,</p> <p>(ii) is about to take the property, is doing so or has just done so, or</p> <p>(iii) is about to damage or destroy the property, or make it inoperative, or is doing so;</p>	<p>35. (1) N'est pas coupable d'une infraction la personne qui, à la fois :</p> <p>a) croit, pour des motifs raisonnables, qu'elle a la possession paisible d'un bien ou agit sous l'autorité d'une personne — ou prête légalement main-forte à une personne — dont elle croit, pour des motifs raisonnables, qu'elle a la possession paisible d'un bien;</p> <p>b) croit, pour des motifs raisonnables, qu'une autre personne, selon le cas :</p> <p>(i) sans en avoir légalement le droit, est sur le point ou est en train d'entrer dans ou sur ce bien ou y est entrée,</p> <p>(ii) est sur le point, est en train ou vient de le prendre,</p> <p>(iii) est sur le point ou est en train de l'endommager,</p>

<p>(c) the act that constitutes the offence is committed for the purpose of</p> <ul style="list-style-type: none"> (i) preventing the other person from entering the property, or removing that person from the property, or (ii) preventing the other person from taking, damaging or destroying the property or from making it inoperative, or retaking the property from that person; and <p>(d) the act committed is reasonable in the circumstances.</p> <p>(2) Subsection (1) does not apply if the person who believes on reasonable grounds that they are, or who is believed on reasonable grounds to be, in peaceable possession of the property does not have a claim of right to it and the other person is entitled to its possession by law.</p> <p>(3) Subsection (1) does not apply if the other person is doing something that they are required or authorized by law to do in the administration or enforcement of the law, unless the person who commits the act that constitutes the offence believes on reasonable grounds that the other person is acting unlawfully.</p>	<p>de le détruire ou de le rendre inopérant;</p> <p>c) commet l'acte constituant l'infraction dans le but, selon le cas :</p> <ul style="list-style-type: none"> (i) soit d'empêcher l'autre personne d'entrer dans ou sur le bien, soit de l'en expulser, (ii) soit d'empêcher l'autre personne de l'enlever, de l'endommager, de le détruire ou de le rendre inopérant, soit de le reprendre; <p>d) agit de façon raisonnable dans les circonstances.</p> <p>(2) Le paragraphe (1) ne s'applique pas si la personne qui croit, pour des motifs raisonnables, avoir la possession paisible du bien — ou celle que l'on croit, pour des motifs raisonnables, en avoir la possession paisible —, n'invoque pas de droit sur le bien et que l'autre personne a légalement droit à sa possession.</p> <p>(3) Le paragraphe (1) ne s'applique pas si l'autre personne accomplit un acte qu'elle a l'obligation ou l'autorisation légale d'accomplir pour l'exécution ou le contrôle d'application de la loi, sauf si l'auteur de l'acte constituant l'infraction croit, pour des motifs raisonnables, qu'elle n'agit pas de façon légitime.</p>
<p>43. Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.</p>	<p>43. Tout instituteur, père ou mère, ou toute personne qui remplace le père ou la mère, est fondé à employer la force pour corriger un élève ou un enfant, selon le cas, confié à ses soins, pourvu que la force ne dépasse pas la mesure raisonnable dans les circonstances.</p>
<p>222. (1) A person commits homicide when, directly or indirectly, by any means, he causes the death of a</p>	<p>222. (1) Commet un homicide quiconque, directement ou indirectement, par quelque moyen,</p>

<p>human being.</p> <p>(2) Homicide is culpable or not culpable.</p> <p>(3) Homicide that is not culpable is not an offence.</p> <p>(4) Culpable homicide is murder or manslaughter or infanticide.</p> <p>(5) A person commits culpable homicide when he causes the death of a human being,</p> <p>(a) by means of an unlawful act;</p> <p>(b) by criminal negligence;</p> <p>(c) by causing that human being, by threats or fear of violence or by deception, to do anything that causes his death; or</p> <p>(d) by wilfully frightening that human being, in the case of a child or sick person.</p> <p>(6) Notwithstanding anything in this section, a person does not commit homicide within the meaning of this Act by reason only that he causes the death of a human being by procuring, by false evidence, the conviction and death of that human being by sentence of the law.</p>	<p>cause la mort d'un être humain.</p> <p>(2) L'homicide est coupable ou non coupable.</p> <p>(3) L'homicide non coupable ne constitue pas une infraction.</p> <p>(4) L'homicide coupable est le meurtre, l'homicide involontaire coupable ou l'infanticide.</p> <p>(5) Une personne commet un homicide coupable lorsqu'elle cause la mort d'un être humain :</p> <p>a) soit au moyen d'un acte illégal;</p> <p>b) soit par négligence criminelle;</p> <p>c) soit en portant cet être humain, par des menaces ou la crainte de quelque violence, ou par la supercherie, à faire quelque chose qui cause sa mort;</p> <p>d) soit en effrayant volontairement cet être humain, dans le cas d'un enfant ou d'une personne malade.</p> <p>(6) Nonobstant les autres dispositions du présent article, une personne ne commet pas un homicide au sens de la présente loi, du seul fait qu'elle cause la mort d'un être humain en amenant, par de faux témoignages, la condamnation et la mort de cet être humain par sentence de la loi.</p>
<p>241. Every one who</p> <p>(a) counsels a person to commit suicide, or</p> <p>(b) aids or abets a person to commit suicide,</p> <p>whether suicide ensues or not, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.</p>	<p>241. Est coupable d'un acte criminel et passible d'un emprisonnement maximal de quatorze ans quiconque, selon le cas :</p> <p>a) conseille à une personne de se donner la mort;</p> <p>b) aide ou encourage quelqu'un à se donner la mort,</p> <p>que le suicide s'ensuive ou non.</p>