

**IN THE SUPREME COURT OF CANADA  
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)**

**BETWEEN:**

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

**Appellants**

**- and -**

**ATTORNEY GENERAL OF CANADA and  
ATTORNEY GENERAL OF BRITISH COLUMBIA**

**Respondents**

**- and -**

**ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF BRITISH  
COLUMBIA, ATTORNEY GENERAL OF QUEBEC, COUNCIL OF CANADIANS  
WITH DISABILITIES and THE CANADIAN ASSOCIATION FOR COMMUNITY  
LIVING, CHRISTIAN LEGAL FELLOWSHIP, CANADIAN HIV/AIDS LEGAL  
NETWORK and THE HIV & AIDS LEGAL CLINIC ONTARIO, ASSOCIATION FOR  
REFORMED POLITICAL ACTION CANADA, PHYSICIANS' ALLIANCE AGAINST  
EUTHANASIA, EVANGELICAL FELLOWSHIP OF CANADA, CHRISTIAN MEDICAL  
AND DENTAL SOCIETY OF CANADA and CANADIAN FEDERATION OF  
CATHOLIC PHYSICIANS' SOCIETIES, DYING WITH DIGNITY, CANADIAN  
MEDICAL ASSOCIATION, CATHOLIC HEALTH ALLIANCE OF CANADA,  
CRIMINAL LAWYERS' ASSOCIATION (ONTARIO), FAREWELL FOUNDATION  
FOR THE RIGHT TO DIE and ASSOCIATION QUÉBÉCOISE POUR LE DROIT DE  
MOURIR DANS LA DIGNITÉ, CANADIAN CIVIL LIBERTIES ASSOCIATION,  
CATHOLIC CIVIL RIGHTS LEAGUE and FAITH AND FREEDOM ALLIANCE and  
PROTECTION OF CONSCIENCE PROJECT, ALLIANCE OF PEOPLE WITH  
DISABILITIES WHO ARE SUPPORTIVE OF LEGAL ASSISTED DYING SOCIETY,  
EUTHANASIA PREVENTION COALITION and EUTHANASIA PREVENTION  
COALITION BRITISH COLUMBIA and, CANADIAN UNITARIAN COUNCIL**

**Interveners**

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**INTERVENER FACTUM OF THE EVANGELICAL FELLOWSHIP OF CANADA**  
*(Pursuant to Rule 42 of the Rules of the Supreme Court of Canada)*

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**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
PART I – OVERVIEW.....	- 1 -
PART II – ISSUES .....	- 1 -
PART III – ARGUMENT.....	- 1 -
a) Fundamental <i>Charter</i> Values: the Sanctity of Life.....	- 1 -
b) Fundamental <i>Charter</i> Values: Inherent human dignity .....	- 5 -
c) Prohibiting all consensual killings is a valid Parliamentary objective.....	- 7 -
d) Section 7: The right to life does not include the right to be killed.....	- 8 -
e) Section 7: the prohibition on consensual killings is fundamentally just.....	- 8 -
f) Section 15: no discrimination; perfect correspondence .....	- 9 -
g) Conclusion: What kind of future?.....	- 10 -
PART IV – COSTS.....	- 10 -
PART V – ORDER SOUGHT.....	- 10 -
PART VI – TABLE OF AUTHORITIES.....	- 11 -
PART VII – LEGISLATIVE PROVISIONS .....	- 13 -

## PART I – OVERVIEW

1. All human life has inestimable worth. This proposition is the bedrock of civilized nations, and of Canada’s Constitutional order. It is the animating principle of much of our criminal law.
2. This Court correctly held in *Rodriguez*<sup>1</sup> that the sanctity of human life is an animating *Charter* Value, and its furtherance is a valid Parliamentary objective.
3. Ethically, morally, legally, and constitutionally, dying and killing are drastically different things. There can be such a thing as a good death. There is never such a thing as a good killing.
4. It is an understatement to say that dying is hard – hard for the person who is dying, hard for their family, hard for their community. While on the one hand death can involve elements of love, culmination, satisfaction, and release, it can also involve pain, suffering, helplessness, and loss. But it is grievously misdirected compassion which posits killing as the antidote to what is hard about dying or, in the ultimate irony in the claim for assisted suicide, as the way to uphold life. The very real difficulties on the path towards death do not violate human dignity. Killing does.
5. Nothing in the *Charter* compels the legalization of private killings of our fellow citizens. That Rubicon has rightly never been crossed. It should not be crossed here.

## PART II – ISSUES

6. The Evangelical Fellowship of Canada (“EFC”) submits that the twin *Charter* Values of the sanctity of life and inherent human dignity supply a sound Constitutional basis for the impugned provisions, and in particular: a) the prohibition of all consensual killings is a valid Parliamentary objective; b) the right to life in s. 7 does not include a right to be killed; c) the prohibition on consensual killings is fundamentally just; and d) the impugned provisions are not discriminatory in either purpose or effect.

## PART III – ARGUMENT

### a) Fundamental *Charter* Values: the Sanctity of Life

7. Peter Hogg describes the Constitution as “a mirror reflecting the national soul” which “must recognize and protect the values of a nation.”<sup>2</sup> These values, gleaned from the text of the *Canadian Charter of Rights and Freedoms*<sup>3</sup> as interpreted within its historical and philosophical context, and

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<sup>1</sup> *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519 [“*Rodriguez*”], Book of Authorities of the Attorney General of Canada (“AGCA”), vol. II, tab 44.

<sup>2</sup> Peter W. Hogg, *Constitutional Law of Canada* (5 ed., 2007; looseleaf) at p. 1, Book of Authorities of the Intervenor Evangelical Fellowship of Canada (“EFC BoA”), tab 8.

<sup>3</sup> Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11 [“*Charter*”].

in turned used to give *Charter* rights a purposive interpretation, are known as ‘*Charter Values*’.

8. Perhaps the most fundamental *Charter* Value is the sanctity of human life. The Canadian touchstone for this principle is this Court’s forceful articulation in *Rodriguez*:

the **sanctity** of life ... is one of the three *Charter* values protected by s. 7. ... **human life is sacred or inviolable** (which terms I use in the non-religious sense described by Dworkin ... to mean that human life is seen to have a **deep intrinsic value of its own**).<sup>4</sup> [emphasis added]

9. Intentional killing is anathema to the *Charter* Value of the sanctity of human life. It is rightly condemned by our criminal law, which is the nation's fundamental statement of public policy and applied morality. As stated in one of the numerous Law Reform Commission of Canada (“LRCC”) reports cited by the EFC to this Court twenty years ago in *Rodriguez*:

In truth the Criminal Law is fundamentally a moral system. It may be crude, it may have faults, it may be rough and ready, but basically it is a system of applied morality and justice. It serves to underline those values necessary or important to society. When acts occur that seriously transgress essential values, like the sanctity of life, society must speak out and reaffirm those values. This is the true role of criminal law.<sup>5</sup>

10. As stated by the LRCC in the year of the *Charter*’s enactment, human life is *sui generis*. It is not a personal possession to be bartered away, but rather constitutes *a sacred trust*:

Our society recognizes that morally, religiously, philosophically, human life merits special protection. This recognition of life's fundamental importance has often been expressed by the concept of the sanctity of human life. One expression of this concept is that because life is God given and we merely hold it in trust, we should not then interfere with it or put an end to it.<sup>6</sup>

11. The unique nature of human life as a sacred trust means that individual autonomy is subject to inherent limits in respect of intentional killing (even if ‘consensual’). In considering claims akin to the Appellants’, the LRCC concluded:

... the principle of self-determination should not confer a right on a third party to aid or abet a person to commit the act [of assisted suicide]... the new Criminal Code should continue to prohibit aiding suicide...<sup>7</sup>

12. The *Charter* Value of the sanctity of human life is embraced by, among many others, the 40 denominations and 100 church-related organizations which constitute the EFC.<sup>8</sup> While the ‘deeper

<sup>4</sup> *Rodriguez* at 584, 585. See also the reasons of the trial judge: *Carter v. Canada (AG)*, 2012 BCSC 886 (“**TJ Reasons**”) at paras. 1306, Joint Appeal Record (“**JR**”), vol. II at A.R. 167.

<sup>5</sup> LRCC, Report No. 3 “Our Criminal Law” (1976) at p. 16. EFC BoA tab 13 and JR Vol. 43, p. 12077.

<sup>6</sup> LRCC, Working Paper No. 28, “euthanasia, aiding suicide and cessation of treatment” (1982) at pp. 3-4, EFC BoA tab 11 and JR Vol. 43 p. 12087-88.

<sup>7</sup> LRCC, Report No. 28, “Some aspects of medical treatment and criminal law” (1986), EFC BoA tab 14, JR Vol. 43 p. 12084 [“**LRCC Report 28**”].

<sup>8</sup> Affidavit of Bruce Clemenger sworn June 5, 2014 on application for leave to intervene herein, paras. 3-7.

reason' for the EFC's embrace of these principles originates in sacred texts and theology, the EFC does not come to this Court to assert the legal authority of a biblical text. Rather, the EFC comes to contribute to this Court's articulation of an overlapping social consensus and non-sectarian political ethic. As recently stated by the highly regarded Canadian philosopher, Charles Taylor:

... this political ethic can be and is shared by people of very different basic outlooks (what Rawls calls "comprehensive views of the good"). A Kantian will justify the rights to life and freedom by pointing to the dignity of rational agency; a utilitarian will speak of the necessity to treat beings who can experience joy and suffering in such a way as to maximize the first and minimize the second. A Christian will speak of humans as made in the image of God. They concur on the principles, but differ on the deeper reasons for holding to this ethic. **The state must uphold the ethic, but must refrain from favoring any of the deeper reasons.**<sup>9</sup> [emphasis added]

13. Taylor's view finds resonance in the text of the *Charter* and was affirmed by this Court in *Chamberlain*: "... nothing in the Charter, political or democratic theory, or a proper understanding of pluralism demands that atheistically based moral positions trump religiously based moral positions on matters of public policy."<sup>10</sup>

14. In *Rodriguez*, this Court considered whether the *Charter* could found a right to assisted suicide in light of the *Charter* Values of the sanctity of human life and inherent human dignity. After a comprehensive historical, legislative, and policy analysis, this Court correctly held that "To the extent that there is a consensus, it is that human life must be respected and we must be careful not to undermine the institutions that protect it" and certainly that "no new consensus has emerged in society opposing the right of the state to regulate the involvement of others in exercising power over individuals ending their lives."<sup>11</sup>

15. This consensus reaches back in time to Aristotle, and has been repeatedly re-affirmed in the years since *Rodriguez*, including two years later in the 1995 Senate report *Of Life and Death*:

The members opposed to changing the existing legislation with respect to assisted suicide are **primarily concerned with maintaining the fundamental social value of respect for life. They feel that legalizing assisted suicide could undermine respect for life which they believe is the most universally accepted value in society ... that transcends individual, religious or diverse cultural values. ...**

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<sup>9</sup> Butler, Habermas, Taylor, and West, *The Power of Religion in the Public Square* (New York: Columbia University Press: 2011), at p. 37, EFC BoA tab 7 [*Taylor*]; see also p. 54 regarding the fact that there is no *a priori* reason or justification for favouring 'non-religious' views.

<sup>10</sup> *Chamberlain v. Surrey School District No. 36*, [2002] 4 S.C.R. 710, at para. 137 per Gonthier J. in dissent, citing the "Supremacy of God" in the preamble, as adopted by the majority per McLachlin C.J.C. at para. 3, EFC BoA tab 2. The "rule of law" in the preamble has also been utilized by this Court: e.g. *Canadian Council of Churches v. Canada*, [1992] 1 S.C.R. 236 at 250, EFC BoA tab 1.

<sup>11</sup> *Rodriguez* at 608 and 585.



**individual autonomy cannot be absolute** ... while there are a small number of cases that cannot be dealt with adequately, these are not sufficient to justify legalizing euthanasia because it could create serious risks for the most vulnerable and **threaten the fundamental value of life in society**.<sup>12</sup> [emphasis added]

16. This majority recommendation has been consistently affirmed in Parliament, most recently in 2010 by a vote of 228-59.<sup>13</sup> This year the *Pan-Canadian Palliative and End-of-life Care Strategy* motion passed 264:1.<sup>14</sup>

17. In tandem with its unwavering commitment to the prohibition of all consensual killings, Parliament has furthered the inestimable worth of human life through improved palliative care, and the prevention of suicide and elder abuse.<sup>15</sup> In 2012 the *Federal Framework for Suicide Prevention Act*, S.C. 2012, c. 30 passed in the House of Commons by a vote of 285:3.

18. Other decisions of this Court vindicate the sanctity of human life. In *United States v. Burns*, for example, this Court concluded that “in the Canadian view of fundamental justice, capital punishment is unjust and it should be stopped”, and declared that “the state’s execution of even one innocent person is one too many.”<sup>16</sup> If an offender sentenced to life in a Canadian prison were to demand the death penalty as more acceptable to them than a life behind bars, the *Charter* could not compel Canada to execute them.<sup>17</sup>

19. Following *Burns*, the *Charter* cannot be used here to require the impugned provisions to be struck down until innocent people have their lives taken against their true wishes (contrary to s. 7) so that Parliament can marshal ‘non-hypothetical’ evidence of harm. One such killing is one too many. As argued in AGC’s factum at para. 96, zero tolerance for s. 7 breaches cuts both ways.

20. The EFC is in agreement with the submissions of the Christian Legal Fellowship which set out how the *Charter* Value of the sanctity of human life is supportive of the equality of all persons and a medical ethical culture of care rather than killing.

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<sup>12</sup> JR vol. 20 pp. 4252-3, 4258.

<sup>13</sup> TJ Reasons at paras. 109-112. Only Parliament has the jurisdiction to represents the public in respect of the impugned provisions. The Royal Society of Canada and the Quebec National Assembly do not.

<sup>14</sup> Motion M-456 (41st Parliament, 2nd Session), EFC BoA tab 22.

<sup>15</sup> These three topics figured in three Senate reports from 2000 to 2010 (TJ Reasons paras. 701-707; see also *Veterans Suicide Prevention Framework*, JR vol. 25, p. 5724ff.) and the November 2011 Parliamentary Committee report *Not to be Forgotten: Care of Vulnerable Canadians* which report recommends that the federal government establish a suicide prevention secretariat and repeatedly links human dignity to compassionate end-of-life care, not with assisted suicide: TJ Reasons para. 297, JR vol. 51, p. 14498ff. (on human dignity, see particularly pp. 14515, 43-45, 48, and 57).

<sup>16</sup> *United States v. Burns*, [2001] 1 S.C.R. 283 at paras. 84 and 102, AGCA Vol. II, tab 47; see also paras. 70-71, 76-78.

<sup>17</sup> Apart from such executions being contrary to the principles of fundamental justice, such a backdoor return of the death penalty and its mere legal *possibility* in any given case would create a perverse incentive which would ‘reward’ intolerable prison conditions with more requests for death and resulting budget savings.

**b) Fundamental Charter Values: Inherent human dignity**

21. A critical question on this appeal is whether human dignity objectively belongs to *all* members of the human family,<sup>18</sup> or whether it exists only to the degree that it is perceived by the rights-claimant or those in positions of influence or authority around them.

22. Properly interpreted in its historical and philosophical context, the *Charter Value* of human dignity is a correlate to the sanctity of human life. Human dignity inheres in a person simply by virtue of their being human and exists regardless of their capacities; dignity is not lost through an erosion of autonomy. The philosophical foundations for human dignity are addressed in ARPA Canada’s factum. The positive law leads to the same conclusions:

- a. Central to this Court’s *Charter* jurisprudence are Dickson C.J.C.’s seminal statements in *Oakes* and *Big M Drug Mart* that “The Court must be guided by the values and principles essential to a free and democratic society which I believe to embody ... respect for the inherent dignity of the human person”,<sup>19</sup> and “Freedom must surely be founded in respect for the inherent dignity and the inviolable rights of the human person”<sup>20</sup>;
- b. The *Universal Declaration of Human Rights*<sup>21</sup> and the *International Covenant on Civil and Political Rights*<sup>22</sup> similarly grounds “inalienable rights” in “inherent dignity”;
- c. Other criminal law provisions which make sense only if human dignity is inherent include the *Assisted Human Reproduction Act*’s prohibition on the purchase and sale of human gametes, and the creation of human clones and human-animal chimeras and hybrids,<sup>23</sup> and the *Criminal Code*’s prohibition on indignities to corpses.<sup>24</sup>
- d. Inherent human dignity is not vitiated even by criminal conduct. This is why offenders’ rights remain inviolate pursuant to domestic<sup>25</sup> and international law,<sup>26</sup> and why this Court

<sup>18</sup> From the Christian perspective, this is grounded either in 1) “the human person as the *image* of God”: David Novak, *Natural Law in Judaism* (Cambridge U.P., 1998) pp. 167-8 and 172, EFC BoA tab 9 [emphasis added]; or 2) the human person in *relationship* to God who pronounces the dignity of his creatures. The legal implications of both of these views (i.e. that human dignity cannot be lost by disability or dependence) is shared by many ‘non-religious’ worldviews: Taylor.

<sup>19</sup> *R. v. Oakes*, [1986] 1 S.C.R. 103 at 136, Appellants’ Book of Authorities (“ABoA”) v III, Tab 55, cited frequently by this Court, e.g. *Saskatchewan (H.R.C.) v. Whatcott*, [2013] 1 S.C.R. 504 at para. 66.

<sup>20</sup> *R. v. Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295 at 336, Christian Medical and Dental Society Authorities, tab 1.

<sup>21</sup> UN GA, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), EFC BoA tab 23.

<sup>22</sup> UN GA, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, EFC BoA tab 21.

<sup>23</sup> *Assisted Human Reproduction Act*, S.C. 2004, c. 2, ss. 3-7, EFC BoA tab 15. These prohibitions flow in part from the invocation of human dignity in the principles declaration in s. 2(b) of the *Act*.

<sup>24</sup> *Criminal Code*, s. 182, EFC BoA tab 19.

<sup>25</sup> *Corrections and Conditional Release Act*, S.C. 1992, c. 20, at ss. 4, 70-75, EFC BoA tab 18.

<sup>26</sup> UN GA, *Basic Principles for the Treatment of Prisoners*, 28 March 1991, A/RES/45/111, at Principle 1 (“All

refused to permit their disenfranchisement in *Sauvé* as a move “counter to our constitutional commitment to the inherent worth and dignity of every individual”<sup>27</sup>.

23. In a phrase: a civilized society does not ‘throw anyone away’. In line with the above, this Court in *Rodriguez* correctly concluded that for “a society based upon respect for the intrinsic value of human life and on the inherent dignity of every human being” it was not possible to “incorporate within the Constitution which embodies our most fundamental values a right to terminate one's own life in any circumstances.”<sup>28</sup> That is, this Court expressly rejected the conflation of human dignity with unbridled individual autonomy.

24. It also follows from the above that a plaintiff's asserted *feelings* or *experiences* of ‘lack of dignity’ (such as arising from disability, as Ms. Taylor reported)<sup>29</sup> does not constitute an affront to dignity in the *Charter* sense capable of grounding a right to assisted suicide. We all value control and choice, but their absence does not vitiate the human dignity of Ms. Taylor or of any of us.<sup>30</sup> We must respond to such people with dignity-affirming treatment, not with death.<sup>31</sup>

25. Looking at it from the other direction, an *indignity* is “an act intended to expose a person to contempt”.<sup>32</sup> Torture is abhorrent because it “has as its end the denial of a person's humanity”<sup>33</sup>.

26. Parliament's refusal to countenance assisted suicide is not a manifestation of contempt. Far from it – Parliament's refusal is grounded precisely in the inherent human dignity of those who might make that request. There is no such thing as a ‘bad life’ which can render killing ‘good’. Intentional killing is a direct affront to life – the sole and sufficient condition for dignity to persist. Death with dignity does *not* mean to be killed at the time of one's choosing, but rather to live one's remaining life with the inherent dignity of a human person, with such assistance as modern medicine can provide (and the option to decline unwanted treatment) and as much personal and community support as possible. As the 1995 Senate report stated: “... Dignity exists when one faces the final stages of life with ... care, solicitude and compassion...”<sup>34</sup>

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prisoners shall be treated with the respect due to their inherent dignity ...”) and Principle 5, EFC BoA 16.

<sup>27</sup> *Sauvé v. Canada (Chief Electoral Officer)*, [2002] 3 SCR 519 at para. 35, EFC BoA tab 5; see also para. 44.

<sup>28</sup> *Rodriguez* at 585.

<sup>29</sup> As summarized in Appellants' factum, para. 116.

<sup>30</sup> If it were, consistency would demand that we renounce the dignity of many with severe mental disabilities.

<sup>31</sup> e.g. the dignity therapy model: Chochinov Expert Report at JR Vol. 27. The Trial Judge accepted that at a minimum, a patient could not give full and informed consent to death until they had been advised of the availability of this form of treatment: TJ Reasons, para. 268, 830-831, JR vol. 1 at A.R. 83 and JR vol. II at A.R. 33

<sup>32</sup> The Oxford English Dictionary, 2e, Vol. VII, p. 870 (Oxford: Clarendon Press, 1989), EFC BoA tab 10.

<sup>33</sup> *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 S.C.R. 3 at para. 51, EFC BoA tab 6.

<sup>34</sup> JR Vol. 20, p. 4253.

c) **Prohibiting all consensual killings is a valid Parliamentary objective**

27. AGC correctly identifies the twin objectives of the impugned provisions per *Rodriguez*:

1) preserving all human life, and 2) protecting the vulnerable.<sup>35</sup> If the Court finds these objectives too broad, then the EFC submits in the alternative that the objective is the prohibition of all consensual killings.<sup>36</sup> As this Court stated in *Dickason* in the context of mandatory retirement:

... the prohibition against waiver of human rights provisions arises not only from a concern about inequality in bargaining power, but also because the rights guaranteed ... are seen as inherent to the dignity of every individual within our society. As a matter of public policy, such rights are not the common currency of contracts, but values which, by their very nature, cannot be bartered.<sup>37</sup> [emphasis added]

28. What is true of provincial human rights codes is *a fortiori* true of the *Charter*. One cannot waive one's right to life under s. 7 of the *Charter* by consenting to state-sanctioned killing.

29. The Appellants incorrectly assert that the "absolute protection of life is inconsistent with other [*Criminal*] *Code* provisions which justify and hence condone the taking of life".<sup>38</sup> In fact, all *Code* sections cited by Appellants are consistent with upholding the sanctity of life.<sup>39</sup>

30. The Appellants also cite *Butler* for the proposition that "predicating the differential treatment on a particular conception of morality is itself impermissibly unconstitutional."<sup>40</sup> This Court obviously had *Butler* (1992) in mind when deciding *Rodriguez* (1993), and rightly did not consider the prohibition on consensual killing to be "legal moralism"<sup>41</sup>. Rather, this Court in *Rodriguez* grounded the legislative objective in "the respect for ... human life, a fundamental Charter value".<sup>42</sup> That is, the *Criminal Code* provisions challenged by the Appellants are not an imposition of will by a bare majority upon dissenters. Rather, the prohibition here "has its basis in Charter values" and a "fundamental conception of morality for the purposes of safeguarding the values which are integral to a free and democratic society" as expressly *approved* by this

<sup>35</sup> AGC Factum at paras. 4, 5, 86, 109, 157.

<sup>36</sup> This is the operational impact of the impugned provisions which make the general prohibition on intentional killings applicable regardless of consent (s. 14) or request (s. 241(b)).

<sup>37</sup> *Dickason v. University of Alberta*, [1992] 2 SCR 1103 at 1108, EFC BoA tab 3. See also *Syndicat Northcrest v. Amselem*, [2004] 2 SCR 551 at para. 92, Christian Medical and Dental Society Authorities tab 3.

<sup>38</sup> Appellants' factum para. 64 and footnote 118.

<sup>39</sup> Ss. 25, 34(2), and 35 of the *Code* permit the use of lethal force only where necessary to save one's own life. Ss. 34(1) and 39-41 permit only reasonable force which amounts to the same condition for the use of lethal force. The Appellants posit a right to consensual killing which is grossly disproportionate to the suffering sought to be avoided. Once this line is crossed, there is no logical basis to restrict the 'right' to assisted suicide to those with physical as opposed to purely psychological suffering, or to those "in a state of advanced weakening capacities with no chance of improvement" as required by the Trial Judge's order.

<sup>40</sup> Appellants' factum para. 86, citing *R. v. Butler*, [1992] 1 S.C.R. 452, ABoA v II, Tab 42 [*"Butler"*].

<sup>41</sup> *Butler* at 492.

<sup>42</sup> *Rodriguez* at 613.

Court in *Butler*.<sup>43</sup> The Appellants can no more cut off these *Charter* Values than they can cut off the rights in ss. 7 and 15 of the *Charter* upon which their claim is based.

31. Our Constitution and criminal law stakes the ground that neither circumstance, disability, misconduct, nor choice can make any person ‘better off dead than alive.’ Just as there is no such thing as “good polygamy”,<sup>44</sup> there is no such thing as a ‘good killing’. Together the impugned provisions protect all Canadians – not only the vulnerable like Tracy Latimer,<sup>45</sup> but also the strong like Gloria Taylor, and even the organized crime associate who chooses to live outside the law (but is nonetheless protected by the law from being targeted for killing).

**d) Section 7: The right to life does not include the right to be killed**

32. The right to life in s. 7 of the *Charter* is, on its face, a life affirming right. It promises the enhancement and protection of life, not its removal. The Court of Appeal below insightfully set out the rationale for a ‘narrow’ definition of the right to life at paragraph 280 of its decision:

Those who have only limited ability to enjoy those blessings are no less “alive”, and have no less a right to “life”, than persons who are able-bodied and fully competent. If “life” were regarded as incorporating various qualities which some persons enjoy and others do not ... a slippery slope would open up...<sup>46</sup>

33. The Court of Appeal’s insight is consistent with the inherent (and equal) human dignity of all persons, able-bodied and disabled alike. The right to life in s. 7 should not be redefined in (necessarily subjective) ‘qualitative’ terms which will inevitably devalue all of us who will, whether by accident, disease, or age, reach a stage where our capacities are slipping away.<sup>47</sup> It should also not be turned on its head and used to demand an unnaturally early death.<sup>48</sup>

**e) Section 7: the prohibition on consensual killings is fundamentally just**

34. The societal interests considered at the second stage of the s. 7 analysis<sup>49</sup> include the twin *Charter* Values of the sanctity of life and human dignity.

35. With respect, the Appellants’ analysis fails to grasp the nettle in this case: that ‘assisted suicide’ requires the involvement of another moral agent who will be aiding in a killing. As the

<sup>43</sup> *Butler* at 492-493. *R. v. Malmø-Levine*, 2003 SCC 74, ABoA v II, Tab 50, is to similar effect.

<sup>44</sup> *Reference Re: Section 293*, 2011 BCSC 1588 at para. 1343, Christian Legal Fellowship Authorities (“CLF Authorities”) tab 5.

<sup>45</sup> See *R. v. Latimer*, [2001] 1 S.C.R. 3, EFC BoA tab 4 [“*Latimer*”].

<sup>46</sup> *Carter v. Canada (AG)*, 2012 BCCA 886 at para. 280, JR vol. III, A.R. 120 (“*CA Reasons*”).

<sup>47</sup> As argued for in Appellants’ factum, para. 56.

<sup>48</sup> TJ Reasons, para. 1322, JR v II, A.R. 170; Appellants factum para. 55. Killing is still killing even if the victim is ‘going to die some time anyway’ (all homicide victims are).

<sup>49</sup> *Rodriguez* at 594; TJ Reasons para. 958, JR v. II, A.R. 71; CA Reasons para. 287, JR v. II, A.R. 124.

Law Reform Commission succinctly stated: “[T]he legalization of euthanasia is unacceptable to the Commission because it would indirectly condone murder...”<sup>50</sup> *Charter Values* do not support anyone declaring themselves to be a “life [that] ought to be extinguished”.<sup>51</sup>

36. The plain wording of s. 7 and a consideration of the relevant *Charter Values* direct that it is never in a patient’s ‘best interest’ to be killed<sup>52</sup> (a legal fact which also weighs against the interjurisdictional immunity claim that assisted suicide can ever constitute medical treatment).

37. This Court in a similar context in *R. v. Latimer* at para. 40 stated “It is difficult, at the conceptual level, to imagine a circumstance in which the proportionality requirement could be met for a homicide” – even for Tracy Latimer who suffered from incurable congenital conditions believed to cause her chronic pain and requiring several surgeries over many years. Tracy’s consent would not have changed this conclusion. It is submitted that any alleged infringements of liberty or security of the person are in accordance with the principles of fundamental justice.

**f) Section 15: no discrimination; perfect correspondence**

38. The lynchpin of the equality-based demand for assisted suicide is the conflation of suicide with killing. Suicide is a solitary act. In stark contrast, assisted ‘suicide’ is a social act where someone aids and abets the killing and in which all of society is complicit through legal sanction.<sup>53</sup> Parliament, seeking to protect the inestimable worth of human life, has sought to prevent all suicide. The LRCC confirmed that suicide remains “fundamentally contrary to human nature”,<sup>54</sup> Parliament decriminalized *attempted* suicide precisely in order to prevent suicide.<sup>55</sup> Decriminalizing *assisted* suicide would have the opposite effect by normalizing suicide.

39. Acceding to a disabled person’s request for death does not ameliorate any disadvantage related to their disability, and is anathema to the inherent human dignity which animates s. 15. Prohibiting such killing perpetuates neither prejudice nor disadvantage, and has nothing to do with stereotypes about the decisional capacity or vulnerability of the disabled. The prohibition corresponds to the equal sanctity of life and inherent human dignity of every Canadian.

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<sup>50</sup> LRCC, Report 20, ‘Euthanasia, Aiding Suicide and Cessation of Treatment’ (1983) at p. 18, EFC BoA tab 12, and JR Vol. 43, p. 12081.

<sup>51</sup> *Re Eve*, [1986] 2 S.C.R. 388 at 417, CLF Authorities tab 6.

<sup>52</sup> See paras. 24-26, *supra*.

<sup>53</sup> Affidavit of Etienne Montero filed pursuant to the order of Rothstein J. pronounced May 16, 2014 (“Montero Affidavit”), para. 102.

<sup>54</sup> LRCC Report 28 at p. 13.

<sup>55</sup> See references at AGC factum paras. 6 and 128.

**g) Conclusion: What kind of future?**

40. The Appellants’ newly introduced Affidavit of Jacqueline Herremans discloses that each time the Belgian Federal Control and Evaluation Commission (“FCEC”) has had to interpret the Belgian Act, it has adopted the interpretation which permits the broadest eligibility for death.<sup>56</sup> The trajectory in Belgium and the Netherlands has been that a combination of FCEC interpretations, legislative amendments,<sup>57</sup> medical practice, and societal expectations has quickly broadened the doorway to physician assisted suicide. If Canada takes the same first step, we will most likely find ourselves, one decade hence, whether by s. 15 *Charter* challenges, Parliamentary amendments, or otherwise, legally sanctioning killings like those which we see today in Europe, such as newborn babies and blind and deaf twins with other non-terminal health conditions.<sup>58</sup>

41. Laws do not only reflect a society; they also form it. This is not a case only – or even primarily – about exceptions (the Appellants and those like them); it is primarily a case about the course which we chose to chart as a country. Will we maintain our commitment to the *Charter* Values of the sanctity of human life and inherent human dignity, even in the face of the most challenging situations? Or will we take the decisive, and formative, step of opening the door to consensual killings which, by the “inherent dynamic of law” will quickly expand further?<sup>59</sup>

42. Exhibit D of the Herremans affidavit quotes the twins’ doctor as stating: “The brothers were so determined, that we were forced to make a deal.” Parliament, consistently with *Charter Values*, has rightly decided to keep the door to consensual killings firmly shut so that demands like these in Canada ten years from now will be met with a life-affirming, not a life-ending, response.

**PART IV – COSTS**

43. The EFC does not seek costs and asks that no order as to costs be made against it.

**PART V – ORDER SOUGHT**

44. The EFC requests to present oral argument at the hearing of the appeal.

ALL OF WHICH IS RESPECTFULLY SUBMITTED AUGUST 27, 2014




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Counsel for the Evangelical Fellowship of Canada

<sup>56</sup> Herremans Affidavit, paras. 43-45, 48-49, 57

<sup>57</sup> e.g. eligibility of minors in Belgium (Montero Affidavit para. 79).

<sup>58</sup> Montero Affidavit paras. 38-39, 85, and 87; Herremans Affidavit para. 27 and Exhibit D.

<sup>59</sup> Montero Affidavit, para. 45; see also paras. 96-98.

**PART VI – TABLE OF AUTHORITIES**

<b><u>Cases</u></b>	<b><u>Paragraph No. Referred to in Factum</u></b>
<i>Canadian Council of Churches v. Canada</i> , [1992] 1 S.C.R. 236	13
<i>Chamberlain v. Surrey School District No. 36</i> , [2002] 4 S.C.R. 710	13
<i>Dickason v. University of Alberta</i> , [1992] 2 S.C.R. 1103	26
<i>R. v. Big M Drug Mart Ltd.</i> , [1985] 1 S.C.R. 295	21
<i>R. v. Butler</i> , [1992] 1 S.C.R. 452	29
<i>R. v. Latimer</i> , [2001] 1 S.C.R. 3	30, 36
<i>R. v. Oakes</i> , [1986] 1 S.C.R. 103	21
<i>Re Eve</i> , [1986] 2 S.C.R. 388	34
<i>Reference Re: Section 293 of the Criminal Code</i> , 2011 BCSC 1588	30
<i>Rodriguez v. British Columbia (Attorney General)</i> , [1993] 3 S.C.R. 519	2, 8, 14, 22, 26, 29, 33
<i>Sauvé v. Canada (Chief Electoral Officer)</i> , [2002] 3 SCR 519	21
<i>Suresh v. Canada (Minister of Citizenship and Immigration)</i> , [2002] 1 S.C.R. 3	24
<i>Syndicat Northcrest v. Amselem</i> , [2004] 2 SCR 551	26
<i>United States v. Burns</i> , [2001] 1 S.C.R. 283	18
<b><u>Other References</u></b>	
Hogg, Peter W., <i>Constitutional Law of Canada</i> (5 ed., 2007; looseleaf)	7
Law Reform Commission of Canada, Report No. 3 " <i>Our Criminal Law</i> " (1976)	10
Law Reform Commission of Canada, Working Paper No. 28, " <i>euthanasia, aiding suicide and cessation of treatment</i> " (1982)	10
Law Reform Commission of Canada, Report No. 28, " <i>Some aspects of medical treatment and criminal law</i> " (1986)	11
Law Reform Commission of Canada, Report 20, " <i>Euthanasia, Aiding Suicide and Cessation of Treatment</i> " (1983)	34



Novak, David, <i>Natural Law in Judaism</i> (Cambridge: Cambridge University Press, 5 1998)	20
<i>The Oxford English Dictionary</i> , 2e, Vol. VII, p. 870 (Oxford: Clarendon Press, 1989)	24
Butler, Habermas, <b>Taylor</b> , and West, <i>The Power of Religion in the Public Square</i> (New York: Columbia University Press: 2011)	12-13, 20

<b>PART VII – LEGISLATIVE PROVISIONS</b>	<b><u>Paragraph No. Referred to in Factum</u></b>
<i>Assisted Human Reproduction Act, S.C. 2004, c. 2: ss. 2(b), 3, 5-7.</i>	21
<i>Basic Principles for the Treatment of Prisoners, United Nations General Assembly 28 March 1991, A/RES/45/111: Principles 1 and 5.</i>	21
<i>Canadian Charter of Rights and Freedoms, Part I of The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c. 11: preamble and ss. 1, 7, 15</i>	13, 27, 31-33, 35, 38
<i>Corrections and Conditional Release Act, S.C. 1992, c. 20: ss. 4, 70-75</i>	21
<i>Criminal Code, R.S.C., 1985, c. C-46: ss. 25, 34, 35, 39-41, 182</i>	21, 28
<i>Federal Framework for Suicide Prevention Act, S.C. 2012, c. 30</i>	17
<i>International Covenant on Civil and Political Rights, United Nations General Assembly 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171: preamble.</i>	21
<i>Pan-Canadian Palliative and End-of-life Care Strategy, M-456 (41st Parliament, 2nd Session)</i>	16
<i>Universal Declaration of Human Rights, United Nations General Assembly 10 December 1948, 217 A (III): preamble</i>	21

*Assisted Human Reproduction Act, S.C. 2004, c. 2: ss. 2-3, 5-7.*

<http://laws-lois.justice.gc.ca/eng/acts/A-13.4/FullText.html> [last accessed August 25, 2014]

## **Declaration**

2. The Parliament of Canada recognizes and declares that

- (a) the health and well-being of children born through the application of assisted human reproductive technologies must be given priority in all decisions respecting their use;
- (b) the benefits of assisted human reproductive technologies and related research for individuals, for families and for society in general can be most effectively secured by taking appropriate measures for the protection and promotion of human health, safety, dignity and rights in the use of these technologies and in related research;
- (c) while all persons are affected by these technologies, women more than men are directly and significantly affected by their application and the health and well-being of women must be protected in the application of these technologies;
- (d) the principle of free and informed consent must be promoted and applied as a fundamental condition of the use of human reproductive technologies;
- (e) persons who seek to undergo assisted reproduction procedures must not be discriminated against, including on the basis of their sexual orientation or marital status;
- (f) trade in the reproductive capabilities of women and men and the exploitation of children, women and men for commercial ends raise health and ethical concerns that justify their prohibition; and
- (g) human individuality and diversity, and the integrity of the human genome, must be preserved and protected.

## **Definitions**

3. The following definitions apply in this Act.

“chimera” means

- (a) an embryo into which a cell of any non-human life form has been introduced; or
- (b) an embryo that consists of cells of more than one embryo, foetus or human being.

“embryo”

“embryo” means a human organism during the first 56 days of its development following fertilization or creation, excluding any time during which its development has been suspended, and includes any cell derived from such an organism that is used for the purpose of creating a human being.

“genome” means the totality of the deoxyribonucleic acid sequence of a particular cell.

“human clone” means an embryo that, as a result of the manipulation of human reproductive material or an in vitro embryo, contains a diploid set of chromosomes obtained from a single — living or deceased — human being, foetus or embryo.

“hybrid” means

- (a) a human ovum that has been fertilized by a sperm of a non-human life form;
- (b) an ovum of a non-human life form that has been fertilized by a human sperm;
- (c) a human ovum into which the nucleus of a cell of a non-human life form has been introduced;
- (d) an ovum of a non-human life form into which the nucleus of a human cell has been

introduced; or

(e) a human ovum or an ovum of a non-human life form that otherwise contains haploid sets of chromosomes from both a human being and a non-human life form.

“in vitro embryo” means an embryo that exists outside the body of a human being.

### **Prohibited procedures**

5. (1) No person shall knowingly

(a) create a human clone by using any technique, or transplant a human clone into a human being or into any non-human life form or artificial device;

(b) create an in vitro embryo for any purpose other than creating a human being or improving or providing instruction in assisted reproduction procedures;

(c) for the purpose of creating a human being, create an embryo from a cell or part of a cell taken from an embryo or foetus or transplant an embryo so created into a human being;

(d) maintain an embryo outside the body of a female person after the fourteenth day of its development following fertilization or creation, excluding any time during which its development has been suspended;

(e) for the purpose of creating a human being, perform any procedure or provide, prescribe or administer any thing that would ensure or increase the probability that an embryo will be of a particular sex, or that would identify the sex of an in vitro embryo, except to prevent, diagnose or treat a sex-linked disorder or disease;

(f) alter the genome of a cell of a human being or in vitro embryo such that the alteration is capable of being transmitted to descendants;

(g) transplant a sperm, ovum, embryo or foetus of a non-human life form into a human being;

(h) for the purpose of creating a human being, make use of any human reproductive material or an in vitro embryo that is or was transplanted into a non-human life form;

(i) create a chimera, or transplant a chimera into either a human being or a non-human life form; or

(j) create a hybrid for the purpose of reproduction, or transplant a hybrid into either a human being or a non-human life form.

### **Offers**

(2) No person shall offer to do, or advertise the doing of, anything prohibited by this section.

### **Payment for prohibited act**

(3) No person shall pay or offer to pay consideration to any person for doing anything prohibited by this section.

### **Payment for surrogacy**

6. (1) No person shall pay consideration to a female person to be a surrogate mother, offer to pay such consideration or advertise that it will be paid.

### **Acting as intermediary**

(2) No person shall accept consideration for arranging for the services of a surrogate mother, offer to make such an arrangement for consideration or advertise the arranging of such services.

### **Payment to intermediaries**

(3) No person shall pay consideration to another person to arrange for the services of a surrogate mother, offer to pay such consideration or advertise the payment of it.

### **Surrogate mother — minimum age**

(4) No person shall counsel or induce a female person to become a surrogate mother, or perform any medical procedure to assist a female person to become a surrogate mother, knowing

or having reason to believe that the female person is under 21 years of age.

**Validity of agreement**

(5) This section does not affect the validity under provincial law of any agreement under which a person agrees to be a surrogate mother.

**Purchase of gametes**

7. (1) No person shall purchase, offer to purchase or advertise for the purchase of sperm or ova from a donor or a person acting on behalf of a donor.

**Purchase or sale of embryos**

(2) No person shall

(a) purchase, offer to purchase or advertise for the purchase of an in vitro embryo; or

(b) sell, offer for sale or advertise for sale an in vitro embryo.

**Purchase of other reproductive material**

(3) No person shall purchase, offer to purchase or advertise for the purchase of a human cell or gene from a donor or a person acting on behalf of a donor, with the intention of using the gene or cell to create a human being or of making it available for that purpose.

**Exchanges included**

(4) In this section, “purchase” or “sell” includes to acquire or dispose of in exchange for property or services.

*Basic Principles for the Treatment of Prisoners*, United Nations General Assembly 28 March 1991, A/RES/45/111: Principles 1 and 5.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/BasicPrinciplesTreatmentOfPrisoners.aspx>

[last accessed August 25, 2014]

### **Basic Principles for the Treatment of Prisoners**

1. All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.

...

5. Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the Universal Declaration of Human Rights, and, where the State concerned is a party, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as well as such other rights as are set out in other United Nations covenants.

*Canadian Charter of Rights and Freedoms (Constitution Act, 1982 being Schedule B to the Canada Act 1982 (U.K.), 1982 c. 11, preamble and ss. 1, 7, 15)*

<http://laws-lois.justice.gc.ca/eng/Const/page-15.html>

**Whereas** Canada is founded upon principles that recognize the supremacy of God and the rule of law:

### **Rights and freedoms in Canada**

1. The Canadian Charter of Rights and Freedoms 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.

### **Life, liberty and security of person**

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.

### **Equality before and under law and equal protection and benefit of law**

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.

### **Affirmative action programs**

(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.

*Corrections and Conditional Release Act, S.C. 1992, c. 20: ss. 4, 70-75*

<http://laws-lois.justice.gc.ca/eng/acts/C-44.6/FullText.html> [last accessed August 25, 2014]

### **Principles that guide Service**

4. The principles that guide the Service in achieving the purpose referred to in section 3 are as follows:

(a) the sentence is carried out having regard to all relevant available information, including the stated reasons and recommendations of the sentencing judge, the nature and gravity of the offence, the degree of responsibility of the offender, information from the trial or sentencing process, the release policies of and comments from the Parole Board of Canada and information obtained from victims, offenders and other components of the criminal justice system;

(b) the Service enhances its effectiveness and openness through the timely exchange of relevant information with victims, offenders and other components of the criminal justice system and through communication about its correctional policies and programs to victims, offenders and the public;

(c) the Service uses measures that are consistent with the protection of society, staff members and offenders and that are limited to only what is necessary and proportionate to attain the purposes of this Act;

(d) offenders retain the rights of all members of society except those that are, as a consequence of the sentence, lawfully and necessarily removed or restricted;

(e) the Service facilitates the involvement of members of the public in matters relating to the operations of the Service;

(f) correctional decisions are made in a forthright and fair manner, with access by the offender to an effective grievance procedure;

(g) correctional policies, programs and practices respect gender, ethnic, cultural and linguistic differences and are responsive to the special needs of women, aboriginal peoples, persons requiring mental health care and other groups;

(h) offenders are expected to obey penitentiary rules and conditions governing temporary absences, work release, parole, statutory release and long-term supervision and to actively participate in meeting the objectives of their correctional plans, including by participating in programs designed to promote their rehabilitation and reintegration; and

(i) staff members are properly selected and trained and are given

(i) appropriate career development opportunities,

(ii) good working conditions, including a workplace environment that is free of practices



that undermine a person's sense of personal dignity, and

(iii) opportunities to participate in the development of correctional policies and programs.

**Living conditions, etc.**

70. The Service shall take all reasonable steps to ensure that penitentiaries, the penitentiary environment, the living and working conditions of inmates and the working conditions of staff members are safe, healthful and free of practices that undermine a person's sense of personal dignity.

**Contacts and visits**

71. (1) In order to promote relationships between inmates and the community, an inmate is entitled to have reasonable contact, including visits and correspondence, with family, friends and other persons from outside the penitentiary, subject to such reasonable limits as are prescribed for protecting the security of the penitentiary or the safety of persons.

**Visitors' permitted items**

(2) At each penitentiary, a conspicuous notice shall be posted at the visitor control point, listing the items that a visitor may have in possession beyond the visitor control point.

**Where visitor has non-permitted item**

(3) Where a visitor has in possession, beyond the visitor control point, an item not listed on the notice mentioned in subsection (2) without having previously obtained the permission of a staff member, a staff member may terminate or restrict the visit.

**Members of Parliament, judges**

72. Every member of the House of Commons, every Senator and every judge of a court in Canada has the right to

- (a) enter any penitentiary,
- (b) visit any part of a penitentiary, and
- (c) visit any inmate, with the consent of the inmate,

subject to such reasonable limits as are prescribed for protecting the security of the penitentiary or the safety of persons.

**Assembly and association**

73. Inmates are entitled to reasonable opportunities to assemble peacefully and associate with other inmates within the penitentiary, subject to such reasonable limits as are prescribed for

protecting the security of the penitentiary or the safety of persons.

**Inmate input into decisions**

74. The Service shall provide inmates with the opportunity to contribute to decisions of the Service affecting the inmate population as a whole, or affecting a group within the inmate population, except decisions relating to security matters.

**Religion**

75. An inmate is entitled to reasonable opportunities to freely and openly participate in, and express, religion or spirituality, subject to such reasonable limits as are prescribed for protecting the security of the penitentiary or the safety of persons.

*Criminal Code*, R.S.C., 1985, c. C-46, ss. 25, 34, 35, 39-41, 182

<http://laws-lois.justice.gc.ca/eng/acts/C-46/>

### **Protection of persons acting under authority**

25. (1) Every one who is required or authorized by law to do anything in the administration or enforcement of the law

- (a) as a private person,
- (b) as a peace officer or public officer,
- (c) in aid of a peace officer or public officer, or
- (d) by virtue of his office,

is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.

### **Idem**

(2) Where a person is required or authorized by law to execute a process or to carry out a sentence, that person or any person who assists him is, if that person acts in good faith, justified in executing the process or in carrying out the sentence notwithstanding that the process or sentence is defective or that it was issued or imposed without jurisdiction or in excess of jurisdiction.

### **When not protected**

(3) Subject to subsections (4) and (5), a person is not justified for the purposes of subsection (1) in using force that is intended or is likely to cause death or grievous bodily harm unless the person believes on reasonable grounds that it is necessary for the self-preservation of the person or the preservation of any one under that person's protection from death or grievous bodily harm.

### **When protected**

(4) A peace officer, and every person lawfully assisting the peace officer, is justified in using force that is intended or is likely to cause death or grievous bodily harm to a person to be arrested, if

(a) the peace officer is proceeding lawfully to arrest, with or without warrant, the person to be arrested;

(b) the offence for which the person is to be arrested is one for which that person may be arrested without warrant;

(c) the person to be arrested takes flight to avoid arrest;

(d) the peace officer or other person using the force believes on reasonable grounds that the force is necessary for the purpose of protecting the peace officer, the person lawfully assisting the peace officer or any other person from imminent or future death or grievous bodily harm; and

(e) the flight cannot be prevented by reasonable means in a less violent manner.

### **Power in case of escape from penitentiary**

(5) A peace officer is justified in using force that is intended or is likely to cause death or grievous bodily harm against an inmate who is escaping from a penitentiary within the meaning of subsection 2(1) of the Corrections and Conditional Release Act, if

(a) the peace officer believes on reasonable grounds that any of the inmates of the penitentiary poses a threat of death or grievous bodily harm to the peace officer or any other person; and

(b) the escape cannot be prevented by reasonable means in a less violent manner.

### **Self-defence against unprovoked assault**

34. (1) Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force if the force he uses is not intended to cause death or grievous bodily harm and is no more than is necessary to enable him to defend himself.

### **Extent of justification**

(2) Every one who is unlawfully assaulted and who causes death or grievous bodily harm in repelling the assault is justified if

(a) he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purposes; and

(b) he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

### **Self-defence in case of aggression**

35. Every one who has without justification assaulted another but did not commence the assault with intent to cause death or grievous bodily harm, or has without justification provoked an assault on himself by another, may justify the use of force subsequent to the assault if

(a) he uses the force

(i) under reasonable apprehension of death or grievous bodily harm from the violence of the person whom he has assaulted or provoked, and

(ii) in the belief, on reasonable grounds, that it is necessary in order to preserve himself from death or grievous bodily harm;

(b) he did not, at any time before the necessity of preserving himself from death or grievous bodily harm arose, endeavour to cause death or grievous bodily harm; and

(c) he declined further conflict and quitted or retreated from it as far as it was feasible to do so before the necessity of preserving himself from death or grievous bodily harm arose.

### **Defence with claim of right**

39. (1) Every one who is in peaceable possession of personal property under a claim of right, and every one acting under his authority, is protected from criminal responsibility for defending that possession, even against a person entitled by law to possession of it, if he uses no more force than is necessary.

### **Defence without claim of right**

(2) Every one who is in peaceable possession of personal property, but does not claim it as of right or does not act under the authority of a person who claims it as of right, is not justified or protected from criminal responsibility for defending his possession against a person who is entitled by law to possession of it.

### **Defence of dwelling**

40. Every one who is in peaceable possession of a dwelling-house, and every one lawfully assisting him or acting under his authority, is justified in using as much force as is necessary to prevent any person from forcibly breaking into or forcibly entering the dwelling-house without lawful authority.

### **Defence of house or real property**

41. (1) Every one who is in peaceable possession of a dwelling-house or real property, and every one lawfully assisting him or acting under his authority, is justified in using force to prevent any person from trespassing on the dwelling-house or real property, or to remove a trespasser therefrom, if he uses no more force than is necessary.

### **Assault by trespasser**

(2) A trespasser who resists an attempt by a person who is in peaceable possession of a dwelling-house or real property, or a person lawfully assisting him or acting under his authority to prevent his entry or to remove him, shall be deemed to commit an assault without justification or provocation.

**Dead body**

182. Every one who

(a) neglects, without lawful excuse, to perform any duty that is imposed on him by law or that he undertakes with reference to the burial of a dead human body or human remains, or

(b) improperly or indecently interferes with or offers any indignity to a dead human body or human remains, whether buried or not,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

*Federal Framework for Suicide Prevention Act*, S.C. 2012, c. 30

[http://laws-lois.justice.gc.ca/eng/annualstatutes/2012\\_30/FullText.html](http://laws-lois.justice.gc.ca/eng/annualstatutes/2012_30/FullText.html)

[last accessed August 25, 2014]

### **Preamble**

Whereas suicide is a complex problem involving biological, psychological, social and spiritual factors, and can be influenced by societal attitudes and conditions;

Whereas Canadians want to reduce suicide and its impact in Canada, and suicide prevention is everyone's responsibility;

Whereas suicide is preventable by knowledge, care and compassion;

Whereas concerted, collaborative action by committed communities, governments, organizations and individuals across Canada will help prevent deaths by suicide, and assist in educating and comforting those who have been affected by suicidal behaviour;

Whereas suicide is a significant public health issue in Canada and the grief and trauma associated with it produce long-term social costs and devastating effects on surviving individuals and communities;

Whereas the Parliament of Canada affirmed its respect for life by unanimously adopting Motion No. 388, in 2009, which called for meaningful deterrents and punishment for those who encourage vulnerable individuals to commit suicide;

And whereas a federal plan designed to disseminate information, promote the use of research, share best practices and affect public attitudes towards suicide and its prevention is in the interest of all Canadians;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### **Short title**

1. This Act may be cited as the Federal Framework for Suicide Prevention Act.

### **Framework**

2. The Government of Canada must establish a federal framework for suicide prevention that

(a) recognizes that suicide, in addition to being a mental health issue, is a public health issue and that, as such, it is a health and safety priority; and

(b) designates the appropriate entity within the Government of Canada to assume responsibility for

- (i) providing guidelines to improve public awareness and knowledge about suicide,
- (ii) disseminating information about suicide, including information concerning its prevention,
- (iii) making publically available existing statistics about suicide and related risk factors,
- (iv) promoting collaboration and knowledge exchange across domains, sectors, regions and jurisdictions,
- (v) defining best practices for the prevention of suicide, and
- (vi) promoting the use of research and evidence-based practices for the prevention of suicide.

### **Consultations**

3. Within 180 days after the day on which this section comes into force, the Government of Canada must enter into consultations with relevant non-governmental organizations, relevant entities within the governments of the provinces and territories and relevant federal departments, in order to share information and align the elements of the framework described in section 2 with existing efforts that relate to suicide prevention.

### **Report**

4. Within four years after the coming into force of this Act and every two years thereafter, the entity designated in accordance with paragraph 2(b) must report to Canadians on its progress and activities related to the federal framework for suicide prevention.

Voting history per

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5135265&View=5>

[last accessed August 25, 2014]

### **House of Commons Votes**

Vote 130: 2nd reading of Bill C-300, An Act respecting a Federal Framework for Suicide Prevention

Yeas: 285 - Nays: 3 - Total Votes: 288 - Paired: 0



*International Covenant on Civil and Political Rights*, United Nations General Assembly 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> [last accessed August 25, 2014]

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966  
entry into force 23 March 1976, in accordance with Article 49

### **Preamble**

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles

...

*Pan-Canadian Palliative and End-of-life Care Strategy*, Motion M-456 (41st Parliament, 2nd Session)

<http://www.parl.gc.ca/Parliamentarians/en/members/Charlie-Angus%2825470%29/Motions?sessionId=151&documentId=6261234>

[last accessed August 25, 2014]

That, in the opinion of the House, the government should establish a Pan-Canadian Palliative and End-of-life Care Strategy by working with provinces and territories on a flexible, integrated model of palliative care that: (a) takes into account the geographic, regional, and cultural diversity of urban and rural Canada as well as Canada's First Nation, Inuit and Métis people; (b) respects the cultural, spiritual and familial needs of all Canadians; and (c) has the goal of (i) ensuring all Canadians have access to high quality home-based and hospice palliative end-of-life care, (ii) providing more support for caregivers, (iii) improving the quality and consistency of home and hospice palliative end-of-life care in Canada, (iv) encouraging Canadians to discuss and plan for end-of-life care.

History

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Decision Made - [Agreed To 2014.05.28](#)

<http://www.parl.gc.ca/HouseChamberBusiness/ChamberVoteDetail.aspx?Language=e&Mode=1&Parl=41&Ses=2&FltrParl=41&FltrSes=2&Vote=149>

## VOTE NO. 149

### 41st Parliament, 2nd Session

SITTING NO. 91 - WEDNESDAY, MAY 28, 2014

Sponsor:

[Mr. Angus \(Timmins—James Bay\)](#)

...

#### Summary

**YEAS NAYS TOTAL PAIRED\***

264 1 265 0

Agreed To

*Universal Declaration of Human Rights*, United Nations General Assembly 10 December 1948, 217 A (III)

<http://www.un.org/en/documents/udhr/index.shtml> [last accessed August 25, 2014]

## **PREAMBLE**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

**Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

...

Court File Number: 35591

**LEE CARTER et al.**

**and**

**ATTORNEY GENERAL OF CANADA et al.**

Appellants

Respondents

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**IN THE SUPREME COURT OF  
CANADA (ON APPEAL FROM THE  
QUEBEC COURT OF APPEAL)**

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**FACTUM OF THE INTERVENER,  
THE EVANGELICAL  
FELLOWSHIP OF CANADA**

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