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Submitted online

May 9, 2022

Attention: Andrea Mugny and Leif-Erik Aune, Joint Committee Clerks Special Joint Committee on Medical Assistance in Dying (AMAD)
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

Dear Members of the Special Joint Committee on Medical Assistance in Dying:

ARCH Disability Law Centre (“ARCH”) makes this submission as part of your statutory review of the provisions of the Criminal Code relating to Medical Assistance in Dying.

ARCH is a legal clinic dedicated to defending and advancing the rights of persons with disabilities in Ontario. ARCH also advocates for the rights of persons with disabilities nationally and internationally. For more information about ARCH: [www.archdisabilitylaw.ca](http://www.archdisabilitylaw.ca)

In relation to MAiD, ARCH has supported disability communities to advocate for effective safeguards and to prevent MAiD from devaluing the lives of persons with disabilities. For example, ARCH lawyers are advisors to the Vulnerable Persons Standard[[1]](#footnote-1); have worked on submissions to strengthen MAiD Monitoring Regulations[[2]](#footnote-2); and have provided legal information and advice to persons with disabilities about MAiD.

During Parliamentary debates on Bill C-7, disability rights advocates and organizations across Canada put forward very serious concerns that, if passed, Bill C-7 would result in persons with disabilities receiving MAiD not because they wish to die with as little pain and as much dignity as possible, but because the socio-economic inequality and deprivation they experience is so dehumanizing that they no longer wish to live in those conditions.[[3]](#footnote-3)

We remind members of this Committee that in a February 2021 letter to the Government of Canada, the UN Special Rapporteur on the Rights of Persons with Disabilities along with two other UN Experts warned that Bill C-7 would threaten the right to equality and non-discrimination and would lead to devaluing the lives of persons with disabilities.[[4]](#footnote-4)

Tragically, the concerns of Canada’s disability communities and cautions from the UN have proven to be well-founded. Since the passage of Bill C-7, persons with disabilities have, in fact, resorted to MAiD because they do not have any other viable options for living with dignity in the community. Some of these stories have been reported in the media.[[5]](#footnote-5) As a legal clinic serving persons with disabilities, ARCH has clients who have succumbed to or are contemplating MAiD because they cannot get the housing, medical care, services or supports they need and are too poor to afford purchasing these resources privately.

Canada’s MAiD law, as amended by Bill C-7, is inherently discriminatory because it targets suffering related to a disability or disabling medical condition as an eligibility criterion for assisted death. Furthermore, horrific cases demonstrate that existing legislative safeguards are not effective. While these safeguards may be intended to protect vulnerable persons and ensure decisions about MAiD are free, informed and unambiguous, the reality is there is no free choice for people with disabilities who exist in pervasive socio-economic deprivation and who have no alternatives for living a dignified life in the community.[[6]](#footnote-6)

When considering the protection of persons with disabilities as one of the issues you must study during your statutory review, ARCH asks that your report to Parliament include the following observations and recommendations:

* The availability of MAiD makes persons with disabilities particularly vulnerable, and the existing safeguards in the legislation do not remedy this vulnerability. Existing safeguards are not effective against external pressure to resort to MAiD, including pressure that results from ableism and pervasive socio-economic deprivation.
* Protecting persons with disabilities requires all levels of government to swiftly and directly address the conditions that make life intolerable for this group.
* The critical nature of MAiD as a matter of life and death, and the irreversibility of the decisions at issue, require the highest degree of caution. Given the significance of the concerns raised by disability communities across Canada, only the most prudent approach, and the one that best accords with human rights principles, must be taken. Accordingly, an end-of-life requirement must be reinstated into Canada’s MAiD law.

ARCH raises concerns with the process of this statutory review. During Parliamentary debates about Bill C-7, Government officials stated that this review would allow the time and attention needed to address the concerns of persons with disabilities.[[7]](#footnote-7) Each of the five issues[[8]](#footnote-8) that form part of this statutory review is multi-faceted and highly complex. ARCH is concerned that the time allotted for the review is not sufficient to allow the committee to adequately study and make recommendations on all of these issues. Further, the Committee’s 1000 word limit on written submissions does not allow interested stakeholders to provide full comments.

Given the critical issues at stake, ARCH urges you to take the time needed to fully study MAiD and its impact on disability communities, and to put forward recommendations that promote respect for the lives, dignity and equality rights of persons with disabilities.

Sincerely,

**ARCH Disability Law Centre**



Robert Lattanzio

Executive Director

1. The Vulnerable Persons Standard, online: http://www.vps-npv.ca/ [↑](#footnote-ref-1)
2. “Toward a More Robust Monitoring Regime for Medical Assistance in Dying”, ARCH Disability Law Centre (February 2018), online: https://archdisabilitylaw.ca/resource/vulnerable-persons-standard-vps-submission-on-the-proposed-regulations-for-monitoring-of-medical-assistance-in-dying/ [↑](#footnote-ref-2)
3. These concerns were put to the House of Commons Standing Committee on Justice and Human Rights and to the Senate Standing Committee on Legal and Constitutional Affairs. See for example: Brief of the Council of Canadians with Disabilities regarding Bill C-7 submitted to the House of Commons Standing Committee on Justice and Human Rights; Brief of Toujours Vivant-Not Dead Yet regarding Bill C-7 submitted to the House of Commons Standing Committee on Justice and Human Rights; House of Commons, Standing Committee on Justice and Human Rights, *Evidence*, 43-2, No 6 (10 November 2020) at 11:20-11:40, 12:05, 12:25-12:40, 12:55, 12:55-13:00, 13:15-13:20 (Dr. Catherine Frazee, Ryerson University; Krista Carr, Inclusion Canada; Heidi Janz and Taylor Hyatt, Council of Canadians with Disabilities); House of Commons, Standing Committee on Justice and Human Rights, *Evidence*, 43-2, No 7 (12 November 2020) at 12:25, 12:30 (Bonnie Brayton, DisAbled Women’s Network of Canada; Dr. Harvey Chochinov, University of Manitoba); Brief of Inclusion Canada regarding Bill C-7 submitted to the Senate Standing Committee on Legal and Constitutional Affairs. [↑](#footnote-ref-3)
4. “Mandates of the Special Rapporteur on the rights of persons with disabilities; the Independent Expert on the enjoyment of human rights by older persons; and the Special Rapporteur on extreme poverty and human rights” (3 February 2021) UN Doc OL CAN 2/2021, available online:

<https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26002> [↑](#footnote-ref-4)
5. See for example, the case of “Sophia” reported by CTV News, available online: <https://www.ctvnews.ca/health/woman-with-chemical-sensitivities-chose-medically-assisted-death-after-failed-bid-to-get-better-housing-1.5860579>; See, for example, the case of “Denise” reported by CTV News, available online:

<https://www.ctvnews.ca/health/woman-with-disabilities-nears-medically-assisted-death-after-futile-bid-for-affordable-housing-1.5882202> [↑](#footnote-ref-5)
6. In a recent CTV news report, “Denise”, a woman with multiple chemical sensitivities who has applied for MAiD said, "when people are backed into a corner, living in poverty for years on end it doesn't feel like a choice anymore." CTV News, available online: <https://toronto.ctvnews.ca/video?clipId=2434019&binId=1.3378530&playlistPageNum=1>  [↑](#footnote-ref-6)
7. For example, Canada’s Minister of Justice David Lametti said “ We know that Canadians are also concerned about other issues that are not addressed in this bill. I am thinking, in particular, of access to medical assistance in dying on the basis of mental illness. I am also thinking about advance requests for medical assistance in dying for people who are not yet suffering but fear they will be after they have lost their ability to request this assistance and who want to make their wishes known before that happens. The upcoming parliamentary review of the medical assistance in dying regime and of the state of palliative care in Canada will provide an opportunity to give these complex issues the time and attention they deserve. It is up to Parliament to determine the scope of this review and when to conduct it.” House of Commons Debates, 43-2, No 13 (9 October 2020) at 1010 (Hon David Lametti). Available online: <https://www.ourcommons.ca/DocumentViewer/en/43-2/house/sitting-13/hansard>

Another example: Member of Parliament, Arif Virani said “Through the course of the consultations, and then through the committee process, we did hear of a number of issues that need to be reviewed and addressed, but need more thorough study than could be done in the time required to meet the court-imposed deadline. Parliament will have ample time to review all of these issues, and I think it is important that we do so, but we need to get this legislation passed as well.” House of Commons Debates, 43-2, No 43 (4 December 2020) at 1010 (Arif Virani). Available online: <https://www.ourcommons.ca/DocumentViewer/en/43-2/house/sitting-43/hansard> [↑](#footnote-ref-7)
8. The committee is tasked with reviewing Canada’s MAiD legislation and its application with respect to mature minors, advance requests, mental illness, the state of palliative care in Canada and the protection of Canadians with disabilities. [↑](#footnote-ref-8)