

Arif and David and friends:

What follows may not be needed or wanted, but I am offering it just in case. It contains some ideas about "thought paths" that could be followed during the revision of the MAID law.

1)

### **Is the enemy death, or suffering?**

For most people, during most of their life, the main evil to be avoided is death. They will even endure a certain amount of suffering in order to stave off death. So when we speak of people being "at risk" or being "vulnerable to pressure", the implicit completed phrases are usually "at risk of death" and "vulnerable to pressure to die".

But for many people, especially towards the end of their life, the ranking reverses. Suffering, rather than death, becomes the most important thing to avoid.

They feel at risk of suffering, because their bodies have been damaged or are wearing out, but the people around them all seem to be in "never say die" mode. They experience bullying, because everyone feels quite righteous about applying pressure to live – "We'll miss you so much", "Don't be a coward", and so on.

However, just as suffering can be part of an offensive against death, death can be the decisive weapon against suffering.

2)

### **Net decrease, or net increase?**

Laws and policies that address suffering usually aim to reduce the net amount of suffering in the population. But ill-considered laws – such as Canada's first draft regarding MAID -- can decrease it quite marginally and may even increase it. Under this law, some citizens were exposed to suffering for many months, or even years, beyond the date on which they could have obtained release if a fairer law had been in place. They had salt rubbed into their wound by the awareness that other people, who had been luckier in their body's choice about which disease to develop, were already free and clear. They felt the hurt that comes with having been forgotten about or not cared about. And those who loved them suffered too, because love often leads to empathy.

Any new MAID laws we make should be assessed in terms of their likely effect on net suffering in Canada.

3)

### **What determines the height of the hurdle?**

("Hurdle" is not a neutral word to describe legal requirements, but it does capture the feeling that many applicants have.) A good determinant of stringency would be the probability of the event which the hurdle is intended to avert. For instance, if the event is MAID provision to an approved applicant who has actually had a change of mind during the reflection period but is not asked about this, we could consult data on frequency of mind-changes among people who have requested death. A scarcity of data could perhaps be dealt with by consulting highly experienced MAID providers, and guidance regarding a particular applicant might be gleaned from conversations with the person's relatives and friends – "Was X inclined to blow hot and cold on questions, or have a stick-to-their-guns style?"

If mind-changing turns out to be a relatively rare event (as it probably will), the hurdle for this situation could be set fairly low. Instead of requiring last-minute reaffirmation in every case, we could perhaps have assessors assign each applicant a rating on a scale of 1 to 10 regarding the likelihood of a rethinking. Only applicants with a high score would be asked if they still wanted MAID. Other applicants would not have to torture themselves with abstinence from pain-relief drugs for fear of losing capacity.

4)

#### **How soon is too soon?**

Part of the reason this question gets considered is that life does involve surprises – sometimes pleasant ones – so people might leave earlier than was optimal, and miss out on what would have turned out to be very satisfying months or years.

However, probably the main reason why both the Quebec law and the federal law speak of being in an "advanced" state of decline is that both laws were crafted by people who were still in thrall to the idea that we have a duty to live.

Unfortunately, everyone approaches death as a novice. We do not appreciate how wrong our instincts are in making us assume that things will just continue to be as they are today. Even when we do admit that things are changing for the worse, we are unprepared to deal with the type of change which often occurs – change that is exponential, rather than linear. So we get trapped, stripped of the powers and skills that would be required of us if we tried to take advantage of whatever compassionate laws might exist where we are.

Considering how inclined we are to wait too long, it would be cruel of our legislators to make laws which tempt us – or even force us – to wait until we are so far gone that we cannot avail ourselves of the help which they thought they were extending to us.

5)

#### **What happens instead?**

It is fairly common for a law or regulation to simply bar people from performing a certain action, or to deny them a certain service. Often we don't ask "So, what is likely to occur instead?"

With people who are suffering intensely and have been doing so for a long time, the answer in the context of MAID may well be "The life gets ended by its owner, with little skill or grace and sometimes also with a momentary increase in suffering."