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To:

Senate Standing Committee on Legal and Constitutional Affairs, Government of Canada, c/o Mr. Mark Palmer, Clerk, lcjc@sen.parl.gc.ca and Gerald Lafreniere, gerald.lafreniere@sen.parl.gc.ca

Dear Honourable Members of the Senate Standing Committee on Legal and Constitutional Affairs,

Please accept this submission to the deliberations of the Standing Committee on Bill C-7. We write as professional philosophers with expertise in disability and the philosophy of science and as Canadian citizens with some lived experience of disability. One of us (Wilson) has extensive experience working with eugenics survivors in Alberta and with people parenting with disability in the shadow of Alberta's history of eugenic sterilization, led a 5-year project that produced the widely used website on Canadian eugenics (EugenicsArchive.ca), taught at both Queen's University and the University of Alberta over a twenty-year period, and is a dual national. And one of us (Barker) is a philosopher of biology specializing in the foundations of categories such as *Homo sapiens* and disability, as well as related issues in the ethics of biotechnologies, is Chair of the Department of Philosophy at Concordia University and has taught at Mount Allison University, and has close experience with end-of-life care and disability. Neither of us bases our views on specific religious views, and although we belong to university departments, faculties and other academic bodies (such as the Royal Society of Canada and the Canadian Philosophical Association), the views we express are our own and not necessarily those of any such bodies.

With our expertise and experiences, both of us stand at a helpful distance from the professional community of bioethicists and present a perspective that we believe to be more closely **in keeping with the core of the Canadian disability community. That core has forcefully organized against the passage of this Bill.** We find it striking that bioethicists in general tend to be viewed within the disability community with suspicion and hope that reflection on the significance of this will inform the Standing Committee and the Senate as a whole.

In a peer-reviewed article "Well-being, Disability, and Choosing Children" published in the leading philosophy journal *Mind* in 2019, we expressed concern about the effects of mistaken assumptions in the general non-disabled population and amongst bioethicists about the relationship between quality of life and disability in the context of decisions about the creation of a family. Simply put, **the basic, widespread assumption is that having a disability leads to a lower quality of life. That assumption is false**, however, and problematically leads both policy makers and individual citizens to make decisions that devalue the lives of people with disabilities, sometimes with lethal consequences at the start of life.

We share precisely this concern about Bill C-7 and disability in the context of decisions about the end of life. Here we concur with a wide range of Canadian disability advocacy organisations that

passage of the Bill will have detrimental and dehumanising effects on the lives of vulnerable people living with disability and will problematically expand the reach of MAID. Although we also share concerns about the Bill's limitations in the provisions for safeguards in life-ending decisions, we believe that the flaws in Bill C-7 run deeper than that.

As reported in the national media in the last few days (e.g., The Canadian Press, CTV News, National Post), the UN Human Rights Council has issued a recent release stating that extending assisted dying to people with non-terminal conditions **contravenes Article 10 of the UN Convention on the Rights of Persons with Disabilities**, and that **when “life-ending interventions are normalized for people who are not terminally ill or suffering at the end of their lives, such legislative provisions tend to rest on—or draw strength from—ableist assumptions about the inherent ‘quality of life’ or ‘worth’ of the life of a person with a disability”**. We concur with both of these points.

As indicated in the empirical work reviewed in our *Mind* paper, **judgements about the lower quality of the lives of people with disabilities are deeply problematic**. This is because they are often delivered without the lived experience of disability; because first-person reports often shift over time; and because reports of lower quality of life are often the result of socially-mediated aspects of living with disability. It would be virtually unthinkable, we believe, for legislation to pick out any other group made vulnerable in part by their social circumstances—women, those living in poverty or under conditions of social isolation, members of the LGBTQ+ community, for example—as the target of legislation aimed at making it easier to terminate a life under duress but whose end was not “reasonably foreseeable”.

As former Ontario Human Rights Commissioner, Catherine Frazee has forcefully asked in earlier testimony before the House of Commons on Bill C-7, **“Why us?”**. Why is having a disabling condition the sole, sufficient basis for being treated differently in a policy about the termination of life? **In all other cases, the moral aim is to assist in restoring or reconstructing a suitable quality of life for those in sufficient despair to consider ending their lives. What Bill C-7 does, solely in the case of people with certain kinds of medically-diagnosed disabilities, is to abandon that aim.**

We have noted that eugenics has been readily invoked in ongoing discussions of Bill C-7, on both sides of the discussion. Here we have more specific expertise, as indicated, but the only point we wish to make concerns the representation of disability. We believe that an awareness of Canada's recent past of eugenic sterilization legislation (in Alberta and in British Columbia) is important in reflecting on newer policies that are reasonably taken *by people with disabilities* to dehumanize people with disabilities. Almost 100 years ago, the Sexual Sterilization Act of Alberta was passed (in 1928, not repealed until 1972) without the benefit of the voices of those who would come to be harmed and detrimentally affected by that Act. **The collective voice of people with “irremediable medical conditions” who will be most deeply affected by Bill C-7 is here now to be heard. The expansion of MAID ignores that voice. The Bill's intended balance between autonomy in decision-making and the protection of vulnerable persons has not yet been achieved. In keeping with the views of nearly all major disability advocacy organizations in Canada, we ask that you vote against passage of Bill C-7.**

Respectfully yours,

Robert A. Wilson

Matthew J. Barker