CANADIAN JOURNAL OF
Disability Studies
Published by the Canadian Disability Studies Association · Association Canadienne des Études sur l'Incapacité

Canadian Journal of Disability Studies

Published by the Canadian Disability Studies Association
Association canadienne d'études sur le handicap

Hosted by The University of Waterloo

www.cjds.uwaterloo.ca

Brian L. Mishara, PhD

Director, Centre for Research and Intervention on Suicide, Ethical Issues and End-of-Life Practices

Professor, Psychology Department, Université du Québec à Montréal

mishara [dot] brian [at] uqam [dot] ca

Testimony on May 25, 2022

For 50 years I have been conducting research on suicide prevention and end-of-life issues and working in suicide prevention. In 1995 I held the Bora Laskin National Fellowship in Human Rights Research to study Euthanasia in the Netherlands I have published 12 books and over 180 scientific papers.

We live in a world where our laws and culture emphasize respect for autonomous choice. However, society does impose limits to protect us from making decisions that are dangerous to ourselves. We are legally obliged to wear a helmet on a motorcycle and a seat belt in a car, and a hard hat in a construction site. Our government acts to protect competent people from making decisions that may endanger their health and wellbeing, whether they like it or not. We must protect people from making irreversible decisions to die when there is hope for recovery.

I believe that suffering from a mental illness may be as intense as suffering from a physical illness The key issue is whether it is possible to determine if suffering from a mental illness is interminable and irremediable. The Expert Panel report on MAiD and Mental Illness states that there are no specific criteria for knowing that a mental illness is irremediable, and they

do not provide one iota of evidence that anyone can reliably determine if an individual's suffering from a mental illness will not improve.

According to research, 50-60% of persons with depression or anxiety will recover without any treatment (Chin et al., 2015; Whiteford, et al., 2013. Even the most severe mental illnesses, such as schizophrenia, are unpredictable. 50% of people with schizophrenia meet objective criteria for recovery for significant periods during their lives, with increasing frequency and duration past middle age (Bellack, 2006).

If it were possible to distinguish the very few persons with a mental illness who are destined to suffer interminably, from those whose suffering is treatable, it would be inhumane to deny MAiD. But any attempt at identifying who should have access to MAID will make large numbers of people who would have experienced significant improvements in their symptoms and would no long desire to die, will die by MAiD.

Throughout the western world, it has been statutory and customary practice to protect suicidal persons from dying. Almost all the high-risk suicidal people I have talked with would meet the current requirements for MAiD. Over 90% of people who die by suicide have a mental disorder. They usually have many years of mental health treatments, and they are convinced that their suffering in intolerable, inevitable and interminable. They are almost always wrong in their assessment of their situation. Even if extreme cases where the person is taken to hospital unwillingly, only 10% will attempt again and only 1-3% will die (Carroll, et al., 2014). The vast majority are happy to have been saved usually are thankful to be alive. For every heart wrenching story of someone who suffered interminably, there are so many more of people who

got help and were happy to be alive. If MAiD for people with a mental illness becomes legal, a large proportion of suicidal people could be dead, instead of getting the help they need.

Canada already has the most liberal access to MAiD in the world. Elsewhere, all people who request MAiD are denied their request if there are other treatments available to alleviate their physical and mental suffering (Mishara & Kerkhof, 2018). Both the physician and patient must agree that there is no reasonable alternative. In Canada, the physician must inform the patient of potential treatments – but if patients don't feel they are "acceptable," medical professionals are obliged to end their lives (Bill C-14: Act to Amend the Criminal Code and to Make Related Amendments to Other Acts (Medical Assistance in Dying), 2016). In the Netherlands, no one is forced to try the treatments. But the doctors cannot end people's lives if their suffering may be alleviated by other means (Termination of Life on Request and Assisted Suicide (Review Procedures) Act., 2002).

In the Netherlands, only 5% requests for MAiD for a mental disorder are granted. After receiving an average of 10 months of psychiatric evaluations, almost all requests are refused, usually because are untried treatments available. Even medical cases of terminally illness, 40% of the requests are refused because the doctor believes there are ways to treat the suffering, and hardly any of those refused repeat their request after trying the treatments.

The "Expert Panel" report (Expert Panel on MAiD and Mental Illness, 2022) ignored the research showing that a large proportion of persons feeling utterly hopeless with a mental disorder will improve over time. They provide no evidence indicating that anyone can tell if a mental illness is incurable, irreversible and enduring – because the research indicates this is not currently knowable. They conclude: "it is not possible to provide fixed rules" (Expert Panel on

MAiD and Mental Illness, 2022, pages 13 and 55). I have personally known hundreds, probably thousands of people who convincingly explained that they want to die as the only way to end their suffering, who are now thankful and happy to be alive.

If you proceed to allow MAiD for persons with a mental illness, please tell me how many people who later would have been happy to be alive are you willing to have die? How will you sleep at night knowing of that because of your failure to protect vulnerable people from making irreversible wrong decisions, so many people will die needlessly?

Response from Professor Brian L. Mishara to requests for additional evidence requested by Senator Kutcher during his testimony before the Special Joint Committee on Medical Assistance in Dying on May 25, 2022

Dear Committee members,

I am writing in response to two requests from Senator Kutcher for additional evidence following my testimony before the committee on May 25, 2022. Senator Kutcher said, "Mr. Chair, could you ask Dr. Mishara to provide to this committee in writing, in a timely manner, the evidence for a couple of the assertions he made? He was talking about conducting MAID assessments, and he said that large numbers of mistakes are made in the MAID assessment. Could he give us the evidence for that? The other thing he said is that "every single person who calls a crisis line meets the MAID criteria." Could he provide us with the evidence for that as well?"

Below, I respond first to his second request, since that response informs the reply to the first question:

What I actually said, as indicated in the transcript, is: "Almost all high-risk suicidal persons I have talked with would meet the current requirements for MAID."

1. I did not refer only to calls to crisis lines. I have worked 4 years as a psychologist in a psychiatric hospital; I previously practiced as a licensed psychologist. I have experience in interventions with high-risk suicidal persons in a variety of inpatient and outpatient setting, as well as working on helplines.
2. My testimony referred specifically to "high-risk suicidal persons," not all people who call a helpline. However, over half of callers to helplines are assessed as being at high risk of suicide in the U.S (Gould et al., 2007), with 57% having previously attempted suicide, and 8% had taken some action to harm or kill themselves immediately before the call.
3. A lot of Canadians seriously contemplate suicide, people who meet current MAiD criteria who are seriously suicidal, and those who do not. According to Statistics Canada survey data (Statistics Canada, 2022) pre-pandemic 2.7% of Canadian adults seriously contemplated suicide before the pandemic in 2019, and this increased to 4.2% during the pandemic. In Canada, crisis helplines receive several million calls a year. Although the proportion of high suicide risk callers to helplines in Canada may be somewhat lower than in the U.S., there are several hundred thousand persons at high risk of suicide who call helplines each year, and many others who express their suicidal intentions to others.
4. The suffering of suicidal people is usually associated with the presence of a mental disorder. Over 90% of people who die by suicide in Canada have a mental disorder, most

frequently (but not limited to) depression (Turecki et al., 2019). Wanting to die and suicidal tendencies are symptoms that are used to diagnose this mental illness. Mental illnesses can often be considered a grievous conditions, certainly when the suffering experienced is associated with a desire to die.

5. People who kill themselves do so because they consider their suffering to be intolerable and interminable. They do not believe there exists any effective acceptable treatment for their suffering (Mishara & Tousignant, 2004; Shneidman, 1996). A systematic review (Verrocchio, M. C., et al.,2016) identified 42 published research studies and found that mental pain was the strongest predictor of suicide. People kill themselves when they feel they cannot tolerate their suffering and they believe their suffering cannot be relieved under conditions they consider acceptable. As indicated by the research cited below, they are usually wrong in their assessment of the hopelessness of their situation.
6. The presence of a mental illness in over 90% pf seriously suicidal people and the universal feeling of hopeless suffering which is associated with the desire to die by suicide combine to meet the Canadian MAiD definitions for having a "Grievous and irremediable medical condition."

The second request was to substantiate "that large numbers of mistakes are made in the MAID assessment."

1. I did not say that "large numbers of mistakes are made." I did express the firm belief that large numbers of mistakes will be made if access to MAiD is expanded to include persons whose suffering is associated with a mental disorder.

2. Unlike physical illnesses, people with mental disorders who want to die are almost always wrong in their belief that their suffering is interminable and cannot be relieved under conditions they consider acceptable:
    a. Every week the lives of hundreds of people with long histories of treatment for mental illness are saved after the wanted to die so seriously that they initiate a suicide attempt. After they were brought to hospital, often against their will. 96% of the suicidal people who initiated an attempt will not have killed themselves in five years follow-up after their discharge (Carroll, et al., 2014). The vast majority of people who were convinced there was no hope of improvement were happy to be alive years and did not wish to die for the rest of their natural lives.
    b. I initially thought that diagnoses of mental disorders were fairly accurate, until I read the scientific research. For example, the systematic review and meta-analysis by Daveney and colleagues (2019) concluded that "over 3 out of 20 patients with depression have unrecognized bipolar disorder which can lead to harmful patient outcome." In correctional institutions over 10% of all inmates have diagnostic errors for mental disorders (Martin et al., 2016). The meta-analysis by Mitchell et al. (2011)) found that general practitioners fail to correctly diagnose more than half of patients with depression. This parliamentary committee heard testimony about people who were initially misdiagnosed, who said they would have died from MAiD had it been available. However, after obtaining an accurate diagnosis, they received the necessary treatments and are happy to be alive.

   c. My testimony and other testimony before this committee cited the numerous studies indicating that it is impossible to predict the course of a mental disorder. Long periods of recovery are the norm, rather than the exception. The Expert Panel report concluded that there are no specific tests or criteria one can use to determine if a mental illness is irremediable.

3. If MAiD becomes accessible for suffering from a mental illness, it is certain that, given the current level of misdiagnoses of mental disorders, substantial numbers of persons who have been misdiagnosed will die from MAiD.
4. There are no diagnostic criteria to differentiate a suicidal person from a person with a mental disorder who requests MAiD. Judgements of who should die will be based upon unreliable clinical opinions. This will certainly lead to people dying rather than receiving treatments that will diminish their suffering:
   a. The Final Report of the Expert Panel on MAiD and Mental Illness (2022) admitted that mistakes will inevitably be made when people have access to MAiD for mental illness. They stated, ""There is limited knowledge about the long-term prognosis for many conditions, and it is difficult, if not impossible, for clinicians to make accurate predictions about the future for an individual patient."
5. The Expert Panel contended that it is alright to allow some suicidal people to die by MAiD rather than receive help, by suggesting that this is an "ethical" decision. The Panel's report states: "In allowing MAiD in such cases, society is making an ethical choice to enable certain people to receive MAiD on a case-by-case basis regardless of whether MAiD and suicide are considered to be distinct or not."

6. I do not believe that making errors in which the lives of "certain" people with the potential to have happy and fulfilling lives are needlessly ended is acceptable. It is horrific.
7. I ended my testimony by asking: "If you proceed to allow MAiD for persons with a mental illness, how many people who later would have been happy to be alive, are you willing to have die?" The scientific research indicates that this number will be substantial and will include mostly people whose lives would have been saved by suicide prevention interventions.

Respectfully yours,

Brian L. Mishara, Ph.D.

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