2015.04  Invoke Section 33 of the *Canadian Charter of Rights and Freedoms* in the case of *Carter v. Canada*

**Whereas,** Section 33 of the *Canadian Charter of Rights and Freedoms*, commonly known as the notwithstanding clause, may be invoked in response to the Supreme Court of Canada’s ruling on February 6, 2015 that struck down the *Criminal Code of Canada* prohibitions on assisted suicide in the case of *Carter v. Canada*; and

**Whereas,** The purpose of the notwithstanding clause is to give elected government the legislative authority to overturn or suspend a judicial court ruling in matters of public policy; and

**Whereas,** Legalized physician-assisted suicide has broad implications for all Canadian citizens, especially for the vulnerable in society facing end-of-life decisions and the medical professionals who are called to care for them, and thus requires more time than allowed for by the Supreme Court ruling so that consultation and dialogue can occur; therefore, be it

**Resolved,** That national council of The Catholic Women’s League of Canada, in 95th annual national convention assembled, urge the federal government to invoke Section 33 of the *Canadian Charter of Rights and Freedoms*, keeping the present law against physician-assisted suicide in force, notwithstanding the ruling of the Supreme Court of Canada in the case of *Carter v. Canada.*
Section 33 of the Canadian Charter of Rights and Freedoms, commonly known as the notwithstanding clause, may be invoked in response to the Supreme Court of Canada’s February 6, 2015 ruling in the case of Carter v. Canada that struck down Section 241(b) and Section 14 of the Criminal Code of Canada prohibitions on assisted suicide. The Supreme Court suspended the application of the ruling for twelve months in order to give parliament time to enact new legislation to comply with their decision.

The purpose of the notwithstanding clause is to give elected government the legislative authority to overturn or suspend a judicial court ruling in matters of public policy. Invoking Section 33 would give the federal government up to five years from the date Section 33 is invoked to comply with the court ruling. Federally, the notwithstanding clause has never been invoked but has been used by provinces four times since its inception (Notwithstanding Clause). “Parliament has the constitutional and moral authority to pass legislation expressly prohibiting all euthanasia and assisted suicide, notwithstanding the Supreme Court’s interpretation of section 7 of the Charter” (ARPA Canada).

In 1981 the framers’ intentions of Section 33 included Jean Chretien, then minister of justice, who said, “The purpose of an override clause is to provide the flexibility that is required to ensure that legislatures rather than judges have the final say on important matters of public policy.” Former Prime Minister Pierre Trudeau said, “…it is a way that the legislatures, federal and provincial, have of ensuring that the last word is held by the elected representatives of the people rather than by the courts.” (Johansen & Rosen).

Invoking Section 33 could facilitate more time so that government could enter into consultation and dialogue with affected parties. The Canadian Nurses Association believes that nursing care at the end of life should be rooted in the values outlined in CNA's Code of Ethics for Registered Nurses. These include providing safe, compassionate, competent and ethical care; promoting health and well-being; promoting and respecting informed decision-making; preserving dignity; maintaining and respecting privacy and confidentiality; and being accountable. The code states that when people in their care are dying, nurses “foster comfort, alleviate suffering, advocate for adequate relief of discomfort and pain and support a dignified and peaceful death” (CNA).

“Policy of the Canadian Medical Association states that the organization does not support euthanasia and assisted suicide”... and “from a professional perspective, intentional killing under any circumstances is contrary to the proper role of physicians” (Kotalik).

On July 17, 2015 the Department of Justice, “announced the establishment of an external panel that will consult with Canadians on options to respond to the Supreme Court of Canada’s decision in Carter v. Canada” (Government of Canada). By invoking Section 33, parliament would have time to enter into consultations and dialogue regarding the effects of the Supreme Court's ruling on Canadian citizens. This resolution urges the federal government to invoke Section 33 of the Canadian Charter of Rights and Freedoms, keeping the present law against physician-assisted suicide in force, notwithstanding the ruling of the Supreme Court of Canada in the case of Carter v. Canada.
Works Cited


Additional


**Action Plan**

1. Write to the prime minister, minister of justice, minister of health and local members of parliament urging the federal government to invoke the notwithstanding clause, in response to the Supreme Court of Canada in the case of *Carter v. Canada*
2. Educate members on end-of life issues and ethical responses
3. Monitor governments’ response to the request contained in this resolution