



Legal Arguments re:  
Unilaterally Withholding &  
Withdrawing Treatment

# Definition of unilateral withholding or withdrawal (uww):

- ▶ where a health care professional refuses to provide or continue treatment on his or her own authority

# *Cuthbertson v Rasouli*



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The Globe  
& Mail

# Patient's claim

- ▶ neglect
- ▶ failure to obtain informed consent
- ▶ other: discrimination, breach of fiduciary duty...

# Neglect

- ▶ Criminal Code s.215 (necessaries of life)
- ▶ Adult Guardianship legislation/Child & Family Services legislation
- ▶ Negligence law
- ▶ Rules of professional conduct

# Informed Consent

- ▶ Provincial statutes (e.g. Ontario's *Health Care Consent Act*)
- ▶ Common law of battery
- ▶ Common law of informed consent (negligence)

# Other

- ▶ Constitutional (*Charter*) right to treatment?



# Doctor's claim

- ▶ Constitutional right to freedom of conscience



# Thanks!

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