

30 August 2021

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

Re: Ensuring Northern Territory Rights Bill 2021

We refer to the above Bill.

Introductory Remarks

Since the establishment of Calvary in 1885, with the arrival of the Sisters of the Little Company of Mary in Australia, Calvary has become well known for the compassionate provision of health, aged and community care to the most vulnerable, including those reaching the end of their life.

As a large not-for-profit health care provider Calvary now has more than 12,000 staff and volunteers across 14 public and private hospitals, 17 retirement and aged care facilities, and a national network of community care centres. We operate across six states and territories within Australia, including in the ACT and NT and have specialist expertise in the delivery of palliative care.

Calvary supports our First Nations people living in a remote community at Mulakunya, Tiwi and a range of clients in Darwin and Alice Springs with home care packages and other services. These services include personal care, social support, community access, transport, respite care, community nursing, return from hospital support, 24 hour care, domestic assistance, monitoring services and home maintenance.

Concerns about the Bill

Calvary has serious concerns about the *Ensuring Northern Territory Rights Bill 2021*—a bill to reduce the level of Commonwealth interference with laws of the Northern Territory by removing:

- Limitations that apply to the Northern Territory Legislative Assembly pertaining to the acquisition of property on just terms,
- Laws that limit the ability of the Northern Territory Legislative Assembly to legislate for voluntary assisted dying if the Legislative Assembly chooses to do so, and
- Limitations on the ability of the Northern Territory Legislative Assembly to make laws conferring powers in relation to the hearing and determining of employment disputes.

In particular, Calvary is concerned that the removal of laws to limit the ability of the Northern Territory Legislative

Assembly to legislate for voluntary assisted dying will disproportionately affect vulnerable groups in the Northern Territory who deserve the Commonwealth's care, compassion and attention on behalf of the entire Australian community.

Why the Commonwealth's power to make laws for Territories is important

The Constitution makes it clear that the Commonwealth Parliament can make laws governing the operation of territories. Territories' powers are devolved from the Federal Parliament. The states, which became the founding members of the Commonwealth of Australia in 1901 have a history, social, legal and political identity which predates that of the territories and the Commonwealth. Whether a territory should become a State of the Commonwealth of Australia involves a separate series of conversations and processes, independent of any single issue.

Whilst Calvary acknowledges that this Bill does not, in itself, provide for euthanasia there is no doubt that its passage risks sending a message to Australians that the Federal Parliament no longer has an interest in ensuring citizens are protected at their most vulnerable time.

Calvary believes rather than weakening current protections we should instead be talking about how we best support the dignity and personal needs of those reaching the end of their life, in addition to their families and make sure that care is available and accessible to all.

If nothing else the COVID-19 pandemic has taught us how precious life is. Many have suffered so much in order to keep as many alive, safe and well as is humanly possible.

Laws that would allow a third person to end or assist in ending a human being's life are among the most serious considered by parliaments. That's why it is appropriate for the federal parliament to have oversight over territories. Commonwealth powers have not been used lightly but are appropriate when small jurisdictions with unicameral parliaments are deciding to allow something as serious as allowing people to end their own lives with the support of the government, particularly when that decision may threaten the wellbeing of vulnerable people.

We know from inquiries on elder abuse that people very sadly do not always have the best interests of aged relatives in mind. The Australian Law Reform Commission found that risk factors for elder abuse include disability, poor physical or mental health including depression, low socioeconomic status and social isolation.

The reasons seven people sought euthanasia in the Northern Territory when it was legal in 1996-97 included fear of the future, not wanting to be a burden and depression. Depression is hard to diagnose and undiagnosed depression is clearly a major danger to vulnerable people, particularly where lethal drugs are available to legally assist suicide.

At 30 June 2016 there were an estimated 74,546 Aboriginal people living in the NT, which represents 30.3% of the NT's population and 9.3% of the national Aboriginal population. Indigenous Australian Senator Pat Dodson said First Nations people "... would be very wary of preventive medicine, very wary of presenting to places when they are sick if people know this is a clinic that has assisted someone in dying."

Pain and autonomy dominate discussions of euthanasia, but international evidence shows that fear, depression, loneliness, not wanting to be burden, even pressure by family members, can all be factors in someone asking for euthanasia or assisted suicide.

From inquiries on elder abuse, we know that people very sadly do not always have the best interests of aged relatives in mind. The Australian Law Reform Commission found that risk factors for elder abuse include

disability, poor physical or mental health, including depression, low socioeconomic status and social isolation. The Aged Care Royal Commission found “abuse pervades the Australian aged care system”.

Calvary believes rather than weakening current protections we should instead be talking about how we best support the dignity and personal needs of those reaching the end of their life in addition to their families and make sure that care is available and accessible to all.

Concluding Remarks

Central to Calvary’s mission over the past 136 years has been to care for the most vulnerable in our community and we believe that encouraging laws to terminate life will disproportionately affect vulnerable groups in our society who deserve our care, our compassion and our attention.

Calvary acknowledges the very difficult task before the Committee to make good decisions and enact good laws on behalf of all Australians.

Calvary will seek to assist the Committee in any way it can, and would welcome the opportunity to provide further evidence, if required.

Please direct any questions you may have to Calvary’s National Director of Mission, Mark Green:

Yours faithfully,

Mark Green
National Director of Mission
Little Company of Mary Health Care Ltd. (Calvary)