SENATE LEGAL AND CONSTITUTIONAL COMMITTEE

Committee inquiry into the provisions of the Criminal Code Amendment (Suicide Related Material Offences) Bill 2005

QUALIFYING COMMENTS

SENATOR BRIAN HARRADINE

Suicide is violence – lethal violence, constituting serious public and mental-health problems worldwide.[1]

The *Criminal Code Amendment (Suicide Related Material Offences) Bill 2005* is legislation designed to protect the public from individuals, organisations or groups that promote suicide using a carriage service such as the Internet.

The legislation prohibits using the Internet, email, telephones, fax machines, radio or television "for the purposes of counselling or inciting suicide, or promoting or providing instruction on a particular method of suicide. Possession or supply etc of material that is intended to be used for such offences is also itself an offence."[2]

Suicide is a serious problem in Australia. More than 2200 people commit suicide each year.[3] That's more than the annual road toll of over 1500 deaths per year that we see regularly reported on the television news.[4] Images of broken and crushed cars are more easily seen and understood than the private shattered lives and anguish of people who resort to suicide.

The World Health Organisation (WHO) states that suicide is "…a huge but largely preventable public health problem, causing almost half of all violent deaths and resulting in almost one million fatalities every year …".[5]

The WHO reminds us that "deaths from suicide are only a part of this very serious problem. In addition to those who die, many more people survive attempts to take

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1 Leenaars, A (2003), Suicide and human rights: a suicidologist's perspective. *Health and Human Rights*, Vol 6(2), pp 128-148.

2 Parliamentary Library Bills Digest, *Criminal Code Amendment (Suicide Related Material Offences) Bill 2005.* 15 March 2005. Page 2.

3 Australian Bureau of Statistics (2004), *Suicides: recent trends, Australia*. 15 December. Catalogue 3309.0.55.001.

4 Australian Transport Safety Bureau (2005), *Road Deaths Australia: Monthly Bulletin January 2005*. Australian Transport Safety Bureau, Canberra.

5 "Suicide huge but preventable public health problem, says WHO". Media release for World Suicide Prevention Day - 10 September. World Health Organisation. Issued 8 September 2004 (http://www.who.int/mediacentre/news/releases/2004/pr61/en/)

their own lives or harm themselves, often seriously enough to require medical attention. Furthermore, every person who kills himself or herself leaves behind many others – family and friends – whose lives are profoundly affected emotionally, socially and economically. The economic costs associated with self-inflicted death or injuries are estimated to be in the billions of US dollars a year."[6]

A number of organisations have provided submissions to the Committee opposing the Bill because they provide or may want to provide information which assists a person to commit suicide or because they want that information to continue to be available.[7]

One submission stated that it was agreed at its recent annual general meeting "… there was no doubt that if the Bill becomes law, it will stifle, hamper and inhibit the work of VES, its various branches, and the work of VE societies and their branches all over in Australia."[8]

It appears therefore that a number of Australian euthanasia groups may already be involved in using a carriage service to "access, transmit or otherwise make available suicide related material, and possession, production, supplying or obtaining suicide related material for use through a carriage service."[9]

The legislation therefore clearly addresses a problem that exists in Australia.

The Internet and suicide

A number of published studies have indicated a link between information provided on the Internet and suicide. The very serious problem of suicidal people gaining information on suicide from the Internet has been documented by international researchers.

Rajagopal found that "an increasing number of websites graphically describe suicide methods, including details of doses of medication that would be fatal in overdose. Such websites can perhaps trigger suicidal behaviour in predisposed individuals, particularly adolescents."[10]

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[6] World Health Organisation (2002), *World report on violence and health*. WHO Geneva. Page 185.

[7] West Australian Voluntary Euthanasia Society, submission 4; Voluntary Euthanasia Society of New South Wales, submission 5 and 5A; Voluntary Euthanasia Society of Tasmania Inc, submission 6 and 6A; South Australian Voluntary Euthanasia Society, submission 10; Voluntary Euthanasia Society of Queensland, submission 15; Exit International, submission 16 and 16A.

[8] Voluntary Euthanasia Society of NSW, submission 5A.

[9] Explanatory Memorandum, *Criminal Code Amendment (Suicide Related Material Offences) Bill 2005*, page 1.

[10] Rajagopal, S (2004), Suicide pacts and the Internet. *British Medical Journal*, Vol 329, pp 1298-1299.

Professor Keith Hawton from Oxford University's Centre for Suicide Research said "these sites are dangerous … One of their founding theories is that they should be placed under no supervision whatsoever and feature no input from experts at all, and what you are left with is suicidal people counselling suicidal people, which is about as dangerous as it can get."

Professor Hawton comments that "a recurring feature of these sites seems to be the presence of voyeuristic people who get their kicks from encouraging others to commit suicide. There is definitely a seductive element."[11]

Mehlum explains the particular dangers of the Internet to people considering suicide:

> "First, there are many new web sites … which present suicide as a solution rather than a problem."
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> "But there exist really very few legal, technical, or financial obstacles to those who wish to provide the millions of Internet users with detailed information on how to commit suicide."
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> "Second, and even more problematic from a suicidological perspective, is the new and increasingly interactive internet resources such as discussion groups."
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> "The establishment of the internet as a world-wide forum available to an increasing number of people has dramatically increased the possibility for otherwise widely scattered suicidal youngsters to rapidly and directly interact."[12]

Becker and Schmidt provide information on how suicide chat rooms function:

> "Other suicide chat rooms, however, place no restrictions on participants, their mean position being that suicide is a deliberate decision. They postulate an antipsychiatric attitude and give clear instructions about methods, locations, and how to write suicide notes. Some also deal in suicide utilities.
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> "Webmasters, laymen at therapeutic counselling, are opinion leaders within a chat room. They are responsible for group consensus, often pro-suicide. Other opinions are not tolerated. Internet use diminishes other modes of communications and heightens social withdrawal, causing a rise in psychopathological characteristics.
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> "Ambivalence, an often-precarious balance between a chosen life and a chosen death, which is considered common to suicidal attitude, may tip in the direction of death in response to suicide chat rooms. Suicidal adolescent visitors risk losing their doubts and fears about committing suicide. Risk factors include peer

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[11] Hill, A (2003), Sorry you're still here. *The Observer*, 27 April.

[12] Mehlum, L (2000), The Internet, suicide, and suicide prevention. *Crisis: The Journal of Crisis Intervention and Suicide Prevention*, Vol. 21(4), pp 186-188.

> pressure to commit suicide and appointments for joint suicides. Furthermore, some chat rooms celebrate chatters who committed suicide."[13]

One particular case is cited by Baume, Cantor and Rolfe, demonstrating the pressures of expectation that some suicidal people feel as a result of using chat rooms:

> "The plea of Nick W ("I'm gonna do it any day now really I promise") suggests that he may have felt compelled by his internet participation to follow through with suicide. If it were not for his public commitments he might have been able to adopt a more constructive approach to problem-solving without losing face."[14]

A study of the potential of Internet sites to trigger suicidal behaviour concludes that:

> "A general prohibition of suicide sites is neither practicable nor reasonable, but the owners of suicide sites should be aware of their responsibility for adolescents. They should know and follow the fundamental rules of suicide prophylaxis as they should be applied to other media (no information on suicide methods, their efficiency or availability; no acceptance of demands or meetings for joint suicide, no publication of suicide)."[15]

Becker and Schmidt argued further that the "… legal options to prevent cybersuicides should be discussed from a national and an international perspective because of the criminal abuse of the Internet communities."[16]

This advice is consistent with the Government's legislation. The legislation is also consistent with the conclusion of other research that one of the most effective ways of reducing the suicide rate is to limit people's access to the means of suicide.[17] This would reasonably be expected to include measures such as stopping distribution on a carriage service of the details of or advice on how to commit suicide.

Other carriage services and suicide

The Bill also deals with carriage services other than the Internet, such as telephones, faxes, radio, television and email. There is evidence that each of these methods of communication can be used to promote, counsel or incite suicide.

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[13] Becker, K and Schmidt, M (2004), Internet chat rooms and suicide. *J Am Acad Child Adolesc Psychiatry*, Vol 43(3), pp 246-247.

[14] Baume, P, Cantor, C and Rolfe, A (1997), Cybersuicide: the role of interactive suicide notes on the Internet. *Crisis: The Journal of Crisis Intervention and Suicide Prevention*, Vol 18(2), pp 73-79.

[15] Becker, K et al (2004), Parasuicide online: Can suicide websites trigger suicidal behaviour in predisposed adolescents? *Nord J Psychiatry*, Vol 58(2), pp 111-114.

[16] Becker, K and Schmidt, M (2004), Internet chat rooms and suicide. *J Am Acad Child Adolesc Psychiatry*, Vol 43(3), pp 246-247.

[17] Gunnell, D and Frankel, S (1994), Prevention of suicide: aspirations and evidence. *British Medical Journal*, Vol 308, pp 1227-1233.

World Health Organisation (2002), *World report on violence and health*. WHO, Geneva. Page 202.

Exit International's Philip Nitschke gave evidence on the importance of email and methods of communication other than the Internet for providing suicide information:

> "We are concerned about the legislation's ability to impact on private communications. All of the material that we are talking about – which perhaps would be considered to be in the area of discussing methods and the like – takes place on a one-to-one basis or through email and the like. But all of that is covered by this law."[18]

Dr Nitschke was very specific about the subject of those communications, saying "we invariably talk about suicide; this is the reason they contact us."[19]

Evidence of the importance of telephones came from the professed intention of one overseas suicide group to set up a telephone hotline:

> "… one newsgroup which calls itself 'The Church of Euthanasia' … suggests suicide as a positive act for all, and have announced their intention to set up a 'suicide assistance telephone hotline' to pursue this further."[20]

The caution that must be exercised by radio and television outlets in how they report suicide is acknowledged by Electronic Frontiers Australia, which states that research shows there is "… a substantial risk that general discussion and media reports about suicide causes suicide."[21] Yet the EFA appears not to have the same concern about the effect of counselling or inciting suicide on the Internet or other carriage services.

Suicide and the law

Legislators have a responsibility to protect the community, for the common good of all, even if this involves some interference in the interests of some members of the public. It is important to ensure that those who are vulnerable to influence do not have unrestricted access to advice or materials that would encourage or assist them to end their life rather than seeking help. The community has a responsibility to protect vulnerable people and to provide the best medical and social care.

The law also has an educative dimension. Laws such as the bill under consideration educate society that there is value in the life of every human being, and that special care should be provided to those who are vulnerable for any number of reasons.

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[18] Philip Nitschke, Exit International, Committee Hansard, 14 April 2005, page 13.

[19] Philip Nitschke, Exit International, Committee Hansard, 14 April 2005, page 10.

[20] Thompson, S (1999), The Internet and its potential influence on suicide. *Psychiatric Bulletin*, Vol 23, pp 449-451.

[21] Electronic Frontiers Australia, submission 28, pages 11-12.

A number of organisations and individuals have argued that given suicide is no longer a crime, providing information to assist suicide should not be restricted by the Bill.[22]

But just because suicide is not a crime does not mean it is a public good that should be promoted or facilitated. Suicide was decriminalised because there was little value in prosecuting someone who was dead or who had attempted suicide. Suicidal people need help, not prosecution. But there is great value in protecting the general public from people who assist suicide.

It is for this reason that aiding or abetting a suicide is illegal in every state and territory in Australia.[23] To restrict access to harmful material, it is important to strengthen the law to ensure that using a carriage service to counsel or incite suicide or the possession or supply of suicide material intended to assist a suicide is also illegal.

Vulnerable people

There was some debate in submissions and testimony before the committee as to the definition of the vulnerable people that this bill is designed to protect.

Electronic Frontiers Australia said "… if the vulnerable individuals that the bill is referring to are terminally ill people and older people that are wanting to know information, we do not consider that they should necessarily be considered to be vulnerable and so be prevented from being able to obtain information."[24]

Voluntary Euthanasia Society of NSW president Kep Enderby demonstrated that there are sometimes very different understandings of the term "vulnerable" and "rational" suicide between members of groups that counsel, incite or promote suicide and the general public. Mr Enderby described a woman:

> "…who has twice tried to kill herself, not irrationally but in the most rational way. She has had a good life, too. She is 51 now. She was a highly qualified nurse. She lived in Perth; she married a Perth chap. She had three children, all of whom were grown up. She was very maternalistic. She had an IVF child, a little boy called James, who is now eight. She had hardly had him, by arrangement with the fertility clinic, when she came down with a very nasty form of malignant brain tumour, which led to her having surgery. This had to be followed by radiation therapy, and she changed. Her whole personality changed.
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> "She is not vulnerable in any sense. She has lost her right to drive a motor car because she has epileptic turns. She is on heavy doses of morphine for the headaches and so forth. That led to her elder daughter bringing an action in the

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[22] For example: Ms Gillian Walker, submission 3; West Australian Voluntary Euthanasia Society, submission 4; Voluntary Euthanasia Society of NSW, submission 5A, Voluntary Euthanasia Society of Tasmania, submission 6, page 2, etc.

[23] Ms Julianne Smith, submission 25

[24] Irene Graham, Electronic Frontiers Australia, Committee Hansard, 14 April 2005, page 21.

> Family Court of Western Australia to take the boy away from her, and she fought that in a litigation …. She lost the child. She has access to him and can ring him up. She moved over to the eastern states. … She rings the little boy up every Saturday and she has him three weeks a year over here …
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> "With all these things going on, she took an overdose of morphine one night. It was not enough, and she survived. She later took another dose, but she was saved because her neighbour came in and called an ambulance. She now lives up in Wyong, but she has a most miserable life. She lives on a disability pension. … she is obviously still a very unhappy human being. She might die any time, but she might live for another 20 years. She might also do what she has unsuccessfully tried to do twice, and I would not blame her."[25]

Most people would consider such a woman vulnerable and entitled to community protection and assistance. It is a concern that some organisations may provide suicide information to such a vulnerable woman, who may well be suffering from depression.

Geoffrey Gray from the Attorney General's Department put the question in some context:

> "Its all very well to talk about adults making informed choices. I agree with that entirely, but are people who are vulnerable and considering suicide in a position to make an informed choice? That is the real problem. If this information is so readily available, it can be used by people before they have had the opportunity to make an informed choice."[26]

This caution was reinforced by research which demonstrated how people with suicidal thoughts, but ambivalent about committing suicide, could be encouraged on Internet sites to take their life. The research "… noted the ambivalence of the notes posted [on the Internet] by some subjects, and how their resolve strengthened following the encouragement of others, eventuating in successful suicides in some cases. They also felt there was evidence that vulnerable individuals were compelled so strongly by others that to back out or seek help would involve losing face."[27]

There is, for instance, a significant pool of young people who consider suicide or self harm. "Some 7%-14% of adolescents will self harm at some time in their life, and 20%-45% of older adolescents report having had suicidal thoughts at some time."[28] Each of these young people is vulnerable and could be pushed over the edge to their death by individuals or groups promoting suicide.

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[25] Kep Enderby, Voluntary Euthanasia Society of NSW, Committee Hansard, 14 April 2005, page 20.

[26] Geoffrey Gray, Attorney General's Department, Committee Hansard, 14 April 2005, page 30.

[27] Thompson, S (1999), The Internet and its potential influence on suicide. *Psychiatric Bulletin*, Vol 23, pp 449-451.

[28] Hawton, K and James, A (2005) Suicide and deliberate self harm in young people. *British Medical Journal*, Vol. 330, pp 891-894.

Autonomy and rational suicide

A number of submissions argued that the proposed legislation should not restrict access to information, as that would impact on a person's autonomy.[29] But while the autonomy argument implies that anyone should be able to die how, when and where they want, this is not supported by a number of other submissions which argue suicide information should only be available for "rational" suicide or suicide by a "rational adult"[30] or "competent adult".[31]

The Voluntary Euthanasia Society of Tasmania for example argues "it should not be illegal to supply information to rational responsible adults regarding a legal act regardless of how it will be used."[32]

The Voluntary Euthanasia Society of NSW's Kep Enderby said "… it is my view and the view of the society that I represent that a rational, sane adult – more often than not the elderly and those who are ill – have the right to be able to bring their life to an end if they want to, if they rationally decide that that is what they want."[33]

Philip Nitschke complains "… the Bill's main aim is to prevent rational adult Australians from using a carriage service to access any type of information about their end of life options."[34] But his position is not consistent. Dr Nitschke is on the record saying that suicide pill information should be provided to all who want it – not just rational adults: "someone needs to provide this knowledge, training, or recourse necessary to anyone who wants it, including the depressed, the elderly bereaved, [and] the troubled teen".[35]

Deciding who is and who is not "rational" then becomes controlled by those holding the suicide information. In this situation people seeking information on suicide actually have less autonomy, because they are only given the information if their life is judged by others to be no longer worth living. If any community were to accept euthanasia groups controlling this information, it would also be endorsing their view of vulnerable people as expendable.

Already vulnerable people who are considering ending their lives see in suicide advice an endorsement of their disordered thinking. They see a justification for committing the act of suicide rather than seeking the help they obviously need.

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[29] For example: Ms Gillian Walker, submission 3; WA Voluntary Euthanasia Society, submission 4

[30] Marshall Perron, submission 1; VES Tasmania, submission 6; VES Victoria, submission 11, Exit International, submission 16A; Electronic Frontiers Australia, submission 28

[31] South Australian Voluntary Euthanasia Society, submission 10

[32] Voluntary Euthanasia Society of Tasmania, submission 6.

[33] Kep Enderby, Voluntary Euthanasia Society of NSW, Committee Hansard, 14 April 2005, page 18.

[34] Exit International, submission 16A

[35] Lopez, K J (2001), Euthanasia sets sail. *National Review Online*, 5 June. http://www.nationalreview.com/interrogatory/interrogatoryprint060501.html

If it becomes routine to give certain people access to information on suicide, it then becomes a pressure on those types of people to see suicide as a solution so they won't be a burden, or so that their physical, psychological or spiritual pain can end. One writer notes that "fear of dependency and reluctance to burden family members may be important mediators of decisions about suicide."[36] So those people seeking information from suicide groups actually have no effective autonomy. Control over their suicide rests with the approval of others.

The autonomy argument is further undermined by one submission, which argues that:

> "… it is not right to criminalise a friend or relative of a terminally-ill person who, in anticipation that their dying loved one will seek their help in alleviating their suffering, obtains information from the Internet about methods of suicide."[37]

The real question is why would such a person obtain suicide information if there has not been an explicit request? What does this say about the family member's attitude to their terminally ill relative or of their respect for autonomy? There would be a high risk of that ill person feeling as if they were a burden and that they should consider suicide if they are offered information on how to take their life.

Depression

It is worth mentioning that none of the submissions opposing this legislation mentioned depression. Yet depression is one of the major factors driving the suicide rate. And depression is a treatable condition.

Whether a patient is suffering from depression or not is clearly an important matter that deserves expert medical assessment. The World Health Organisation has determined that "depression plays a major role in suicide and is thought to be involved in approximately 65-90% of all suicides with psychiatric pathologies."[38]

One study found that "patients with depressive symptoms were more likely to change their minds about desiring euthanasia or PAS [physician-assisted suicide]".[39] In another study depression and hopelessness were the strongest factors predicting a patient's desire for an early death.[40]

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[36] Johnson, T (2003), Book review: Suicide and euthanasia in older adults: a transcultural journey. *Psychiatric Services*, Vol 54, pp 261.

[37] NSW Council for Civil Liberties, submission 27

[38] World Health Organisation (2002), *World Report on Violence and Health*. WHO, Geneva. Page 192.

[39] Emanuel, E et al (2000), Attitudes and desires related to euthanasia and physician-assisted suicide among terminally ill patients and their caregivers. Journal of the American Medical Association, Vol 284(19), pp2460-2468.

[40] Breitbart, W et al (2000), Depression, hopelessness, and desire for hastened death in terminally ill patients with cancer. Journal of the American Medical Association, Vol 284(22), pp 2907-2911.

A further study reported a very high association between suicide in adolescents and depression. "Psychological postmortem studies of suicides show that a psychiatric disorder (usually depression, rarely psychosis) is present at the time of death in most adolescents who die by suicide."[41]

Given the high association between depression – a treatable condition – and being suicidal, it is important that depression is always considered when suicide is discussed. Depression is often missed or not treated properly.[42]

Despite the importance of depression in contributing to suicidal behaviour, it was reported earlier this year that Exit International's director Dr Philip Nitschke refused to seek expert opinion on whether those who approach him are suffering from depression. Dr Nitschke said that:

> "The idea that psychiatrists should be the ultimate arbiters does not sit well with me or many of the people that come to see me. I would say common sense is a good enough indicator. It's not that hard to work out whether you are dealing with a person who is able to make rational decisions or not."[43]

It is important to note that depression is more difficult to detect than many other health conditions because those suffering the condition are often unaware of their illness:

> "Unfortunately, because a common symptom of depression is a loss of insight and a feeling of hopelessness, depressed people usually have little understanding of the severity of their illness. They are often the last to recognise their problem and seek help. It is therefore critical that primary care physicians develop the skills to recognise depression in patients, particularly the terminally ill and elderly, whose depressive symptoms may be masked by coexisting medical conditions such as dementia and coronary artery disease."[44]

Undiagnosed depression is clearly a major danger for suicidal people. Yet it appears to be ignored by providers of do-it-yourself suicide information.

The Australian experience

The danger of groups or individuals providing suicide information to vulnerable individuals is well illustrated by Australia's experience with euthanasia in the

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41 Hawton, K and James, A (2005) Suicide and deliberate self harm in young people. *British Medical Journal*, Vol. 330, pp 891-894.

42 Hitchcock Noel, P et al (2004), Depression and comorbid illness in elderly primary care patients: impact on multiple domains of health status and well-being. *Annals of Family Medicine*, Vol 2(6), pp 555-562.

43 Pelly, M (2005), A better option: the wait for a way out. *The Sydney Morning Herald*, March 19.

44 New York State Taskforce on Life and the Law (1994), When Death is Sought: Assisted Suicide and Euthanasia in the Medical Context. New York State Department of Health. Page 15.

Northern Territory. In a review of the issue, the University of Adelaide's Professor Robert Goldney commented:

> "… even with ostensibly strict guidelines embodying most issues considered by proponents of euthanasia to be important, as a result of the clinical details provided there exist reservations about what occurred with two of the four persons who died under the Northern Territory legislation. This is hardly a reassuring record for examples of euthanasia which would inevitably be subjected to the most intense public scrutiny."[45]

Depression was a major factor in the Northern Territory's experiment with euthanasia, as it is a major factor in the problem of suicide. In a major review of the case notes of seven people who sought euthanasia in the Northern Territory, published in *The Lancet*, there was evidence of inadequate consideration of depression:

> "To what extent was the psychiatrist trusted with important data and able to build an appropriate alliance that permitted a genuine understanding of a patient's plight? In case 1, there was important background detail about the death of one child and alienation from another, which was withheld during the psychiatric assessment. These experiences may have placed the patient in a lonely, grieving, demoralised position: an unrecognised depression may have led to suicide.
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> "Four of the seven cases had symptoms of depression, including reduced reactivity, lowered mood, hopelessness, and suicidal thoughts. Case 4 was receiving treatment for depression, but no consideration was given to the efficacy of dose, change of medication, or psychotherapeutic management. PN judged this patient as unlikely to respond to further treatment. Nonetheless, continued psychiatric care appeared warranted …".[46]

The Australian experience with euthanasia shows that the significance of depression and psychiatric illness in euthanasia and by implication in suicidal people should not be underestimated.

Rationalising suicide

A number of submissions opposing the Bill attempted to rationalise the serious life and death nature of suicide away, arguing that somehow 2200 deaths per year are not a national tragedy:

> "no one is able to claim that inciting suicide has reached an alarming proportion …".[47]

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[45] Goldney, R (2001), Euthanasia: The Australian Experience. In: *Suicide and Euthanasia in Older Adults: A Transcultural Journey*, De Leo D, ed. Seattle: Hogrefe and Huber, pp172-179.

[46] Kissane, D, Street, A, Nitschke, P (1998), Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia. *The Lancet*, Vol 352, pp1097-1102.

[47] WA Voluntary Euthanasia Society, submission 4

> "… the risk to the vulnerable temporarily depressed young people. Suicide in these cases is tragic. This in itself does not justify the censorship … The plight of the greater number of people denied relief from suffering [through suicide] …is equally tragic."[48]
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> "… we do know that people have and are committing suicide in the most horrendous ways possible, and all because they were unable to source or were deprived of meaningful [suicide] information and help from a compassionate and sympathetic society."[49]

The concern seems to be with ensuring the swift and efficient death of suicidal people rather than helping them to avoid suicide.

Groups arguing against this bill reject the notion that suicide is a bad thing that should be prevented. There is apparently no consideration given to the issue of depression. They instead want to provide people with information on how to suicide in a more effective way.

Preventing suicide

Not one of the submissions opposing this legislation offered comment on how to reduce the suicide rate. Opponents of the legislation merely lobbied to be able to provide information and advice on suicide without the proposed restrictions.

Preventing suicide is a very complex issue which requires further significant study and long term investment.[50] The Australian Government provides approximately $10 million per year for the National Suicide Prevention Strategy.[51] This is good, but doesn't do justice to the size of the problem.

One report commented that "the primary risk factors for completed suicides are major depression, substance abuse, severe personality disorders, male gender, older age, living alone, physical illness, and previous suicide attempts. For terminally ill patients with cancer and AIDS, several additional risk factors are also present."[52]

Older people are at particular risk from suicide attempts. One study noted that "late life suicide is characterised by less warning, higher lethality and greater prevalence of depression and physical illness. However, suicide risk often remains undetected."[53]

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[48] Voluntary Euthanasia Society of Tasmania, submission 6.

[49] WA Voluntary Euthanasia Society, submission 4.

[50] De Leo, D (2002), Why are we not getting any closer to preventing suicide? *The British Journal of Psychiatry*, Vol 181, pp 372-374.

[51] New National Advisory Council on Suicide Prevention. Media Release from the Hon Trish Worth MP, Parliamentary Secretary for Health, 29 March 2004.

[52] New York State Taskforce on Life and the Law (1994), page 12.

[53] Rahim, S et al (2005), Elderly suicide: an analysis of coroner's inquests into two hundred cases in Cheshire 1989-2001. *Med Sci Law*, Vol 45(1), pp 71-80.

The main thrust of prevention work for older people has been to detect and treat depression and other psychiatric illnesses. It has been found that "… approximately 75% of all elderly suicide victims suffer from some sort of psychiatric disorder at the time of their death, with affective disorders representing the most common diagnosis."[54]

There are indications that among the elderly suicide rates fall when there are better levels of psycho-geriatric and community services.[55]

One recent study found that a decline in elderly suicide rates was associated with increases in the number of general practitioners and in the numbers of medical staff in hospitals; increases in the number of social workers in the field and increases in the number of hospital outpatients receiving treatment for mental illness. [56]

While there are a great number of approaches to preventing suicide that have to be examined further by the experts, none of them involve providing information on how to commit suicide. On the contrary, it is important to establish effective alternate, life affirming Internet sites. Mehlum acknowledged that "… the new technologies will obviously create new risk scenarios. But new opportunities for prevention will also be created. We'd better use them for all they're worth."[57]

One study of suicide prevention techniques commented that "the greatest potential seems to arise from limiting the availability of methods [of suicide]".[58]

Ways to improve the bill

There were a number of suggestions on how to improve the protections that the Bill offers to suicidal people.

Richard Egan suggested a way of improving the protection of Australians from overseas suicide sites:

> "Where the use of the carriage service to induce a person to commit suicide or to attempt suicide actually results in someone either attempting or actually committing suicide we think the penalties should be similar to those in state legislation for the same offence, which is imprisonment for 10 years. We are

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[54] De Leo, D and Spathonis, K (2004), Culture and suicide in late life. *Psychiatric Times*, Vol XX 11, October pp 14-17.

[55] Pritchard, C and Hansen, L (2005) Comparison of suicide in people aged 64-74 and 75+ by gender in England and Wales and the major Western countries 1979-1999. *Int J Geriatr Psychiatry*, Vol 20(1), pp 17-25.

[56] Lodhi, L and Shah, A (2005), Factors associated with the recent decline in suicide rates in the elderly in England and Wales, 1985-1998. *Med Sci Law*, Vol 45(1), pp 31-8.

[57] Mehlum, L (2000), The Internet, suicide, and suicide prevention. *Crisis: The Journal of Crisis Intervention and Suicide Prevention*, Vol. 21(4), pp 186-188.

[58] Gunnell, D and Frankel, S (1994), Prevention of suicide: aspirations and evidence. *British Medical Journal*, Vol 308, pp 1227-1233.

> also concerned that the bill has a loophole in that internet sites hosted offshore are not easily caught, because, rightly, there is an exception for internet service providers who do not know that suicide related material is being accessed through their service. We believe that the bill certainly needs a provision to ensure that once the URLs of such sites are drawn to the attention of the internet service providers there is a penalty on them if they do not block access to those sites."

This is a sensible precaution which should be adopted. It would go some way to meeting the suggestion of Graham Preston from Right to Life Australia, who recommended an amendment to "… require internet service providers to restrict access to web sites which provide promotion and instruction material referring to suicide."[59]

The suggestion would also go some way towards the protection suggested by the Festival of Light which asked for a system similar to the Online Content Co-Regulatory Scheme, set up to protect the Australian public from unwanted pornography where "for a website hosted on a web server in Australia [the Government] would issue a take-down order; for a foreign hosted website it would order Australian ISPs to block access."[60]

Egan also suggested a further sensible amendment to this or to other legislation to amend Australian classifications so that books counselling or inciting suicide would also be restricted, to protect vulnerable individuals.

> "Our proposal is that either in this bill or at a later stage the Senate look at amending the classification act. It seems to me that publications such as Final Exit, which instruct in detail in methods of suicide, are just as harmful as the same material on the internet. That publication was at least temporarily banned in at least one state in Australia when if first came out, but unfortunately since then it has been classified R and the book has been implicated in some successful suicides in Australia."[61]

Conclusion

Compassion is not giving someone information on how to commit suicide when we should be looking to the reasons they want to take such desperate action. Compassion is addressing people's pain, depression, loneliness or fear.

There's no dignity in being told that you're right to want to commit suicide because your life is awful. Dignity comes from knowing that whatever your health and your personal shortcomings, there are people there who will love and support you, no

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[59] Graham Preston, Right to Life Australia, Committee Hansard, 14 April 2005, page 7.

[60] Festival of Light Australia, submission 29, page 2.

[61] Richard Egan, Coalition for the Defence of Human Life, Committee Hansard, 14 April 2005, page 2.

matter what. We should concentrate efforts on helping to make sure this kind of assistance is available to all.

The *Criminal Code Amendment (Suicide Related Material Offences) Bill 2005* is necessary because it targets those who prey on the despair, depression, sadness or loneliness of other people by counselling or inciting suicide, or by providing information on methods of suicide. But the legislation is not enough in itself. The Government must also address the social and personal factors which drive people to consider suicide in order to come up with a well-rounded solution to this very serious problem.

More resources are needed for proactive approaches to finding and helping suicidal people to overcome their personal difficulties and to live long and fulfilling lives. A greater investment of resources would be more than justified by the World Health Organisation's estimate of the high economic cost of suicide, let alone the personal cost. Suicide is an act of self-destructive violence which leaves in its wake further pain and suffering for those who are left behind.

Senator Brian Harradine
Independent Senator for Tasmania