LUTHERAN CHURCH OF AUSTRALIA
COMMISSION ON SOCIAL & BIOETHICAL QUESTIONS

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RE - RIGHTS OF THE TERMINALLY ILL (EUTHANASIA LAWS REPEAL) BILL 2008

Thank you for the invitation to make a submission to this review.

I write to express my concern about the dangers inherent in reinstating the Northern Territory law to permit euthanasia. My strong feelings on this matter are based on my thirty years experience as a specialist physician.

Euthanasia can be defined as intentionally taking the life of a patient either by a deliberate act (as with giving a lethal dose) or by the deliberate omission of ordinary care (as with not offering milk feeds to a newborn baby who has a disability). This should not be confused with turning off machines, or stopping unwanted treatments. In euthanasia, the key is that death is the intended outcome. Essentially the euthanasia debate is about giving lethal doses. Those who favour euthanasia always describe it as "voluntary" and present it as a simple issue of autonomy, of personal freedom of choice – it's my life, and I should have the right to die when I choose. However, I believe that euthanasia and suicide are different. By always involving a second person, euthanasia is about how we as a community respond to someone who is feeling suicidal.

The author Anne Manne has written of our current society as a clash between two very different moral values, autonomy and obligation. "A clash between the ideal of a sovereign, autonomous self, which is expressive of the individual's rights to freedom, choice and self-determination, and an ideal of an obligated self, which emphasises interdependence, connectedness and limits to freedom, where actions are constrained by the consequences for others."

Some of my cynical colleagues assert that life itself is a terminal condition, and I am concerned that if passed this euthanasia bill will allow any person with a chronic illness who is depressed enough to find life intolerable at that time to be able to seek legal euthanasia. Given that Australia has one of the highest suicide rates in the world, I believe that a law that allows persons of 18 and over to seek death is sending the wrong message to society. Surely there is nothing genuinely compassionate about telling people who feel worthless that they are right.

It is often claimed that all the opposition to euthanasia comes from the religious right. And yet when we look around Australia we find that of all the groups representing people with chronic illness, those with disabilities, senior citizens, doctors and nurses and other health care workers, there are none with a pro-euthanasia position. Maybe the notion that personal freedom of choice is the highest moral value might work in a perfect world – one where fully informed people calmly weighed all the issues carefully to reach a totally correct decision every time. But the world that we all work in is far from perfect. Over the years I have learned not to trust some doctors, some relatives, and some others. I simply do not believe that it is possible to make a safe law to allow some doctors to kill some of their patients some of the time.

Those who favour euthanasia point to Holland as a shining example. In 1984 the Supreme Court of The Netherlands decided that voluntary euthanasia would not be punished, provided certain conditions were observed. No supervision of the guidelines was provided. Slowly lethal doses for the sick and aged became a part of medical practice for some doctors. When 8 years later Dr John Keown of Britain examined the Dutch system, he found that over 50% of the acts done or omissions made with the intention of causing death were taken <u>without</u> the consent of the patient. Over half of these decisions for death were <u>not</u> voluntary. The doctors had come to believe that they were the best judges of when people had reached their use-by date. More recently a Dutch court found a Dr Chabot was justified in giving a lethal dose to 'Netty', a physically well woman of 50 who was depressed and feeling suicidal after the deaths of two of her children and the break-up of her marriage. So in Holland now, grief and emotional distress will qualify you for a lethal dose.

The Dutch now permit troubled teenagers of 12-18 years to seek euthanasia. And in what has become known as the Groningen protocol, scores of babies with a degree of disability have been illegally euthanased by doctors who wish to pressure their government to extend the law to terminating infant lives.

The Northern Territory law to permit euthanasia which came into effect in June 1996 and was overturned in March 1997 was pushed through the one-house NT Assembly in one 16-hour sitting, essentially by the efforts of one charismatic leader, Marshall Perron. Mr Perron has since admitted that when he drafted his law he had never heard of palliative care. He claims that he introduced his law to relieve pain and suffering. If that is so, I wonder why the NT of 1996 had no cancer specialist, no palliative care specialist and no hospice.

You will have a copy of the Medical Journal of Australia article written by Dr David Kissane, a professor of palliative medicine, reviewing the Northern Territory experience with legal euthanasia. He noted that - "Pain was not a prominent clinical issue in our study. Fatigue, frailty, depression, and other symptoms contributed more to the suffering of patients. There is a need to respond creatively to social isolation, and to treat actively all symptoms with early and skilled palliative care."

All euthanasia bills place great faith in the judgement of medical practitioners. I regret to tell you that we doctors are human and are liable to make mistakes. Even a good doctor can make a wrong diagnosis, and we can label an illness terminal when it is not. We frequently fail to diagnose depression, and we are hopeless at predicting when patients are going to die. Sometimes people do make unexpected recoveries – provided they have not been deliberately given lethal doses.

And not all doctors are good doctors. There are doctors in practice in Australia who are emotionally unstable, and there are others who abuse alcohol or drugs. I would urge you not to trust me or any of my colleagues with the right to kill. The few doctors who are interested in repeatedly providing lethal doses appear to have problems of their own. Hubert Hendin, Professor of Psychiatry of New York USA, travelled to Holland to talk with practitioners of euthanasia and commented – "One suspects that those doctors who are most emotionally involved in euthanasia and most interested in actually performing it may be those whose own needs in the matter should disqualify them."

With regard to the difficulty of excluding a treatable clinical depression, in a poll of specialist psychiatrists, only 6% believed that they could properly assess the mental status of a patient in a single visit. And yet most euthanasia bills simply require the assent of two medical practitioners, with no requirement that they be experienced in the patient's condition, or in palliative care, or in diagnosing depression.

A new concern is the increasing involvement of health care funds in dictating standards of care, with the bottom line being dollars saved rather than quality of care. To quote the Head of the New York State Task Force on Life and the Law, "It is extraordinarily dangerous to legalize assisted suicide as we rush headlong to a system of managed care. It is far easier to assist patients in killing themselves than it is to care for them at life's end." Some governments and all health care funds do have a cost-saving mentality, and a one-off $60 lethal dose is much cheaper than providing good comfort care. It is no accident that Holland spends less on palliative care than any other European community nation.

In closing, I note the critical distinction between having personal views in favour of euthanasia and recognising the difficulties in making safe laws to permit lethal doses. Within the last 14 years I can recall four major inquiries where members personally supported the ideal of voluntary euthanasia (Tasmania in 1998, the USA Supreme Court in 1997, the UK House of Lords in 1994, and the New York Task Force in 1994). Despite personal views, all four of these inquiries made <u>unanimous</u> findings that it was not safe to change the existing law banning euthanasia and assisted suicide.

Parliaments around the world are considering legislation to permit euthanasia and are rejecting it, finding that it will endanger the lives of their most vulnerable citizens - the disabled, the sick and the aged who do <u>not</u> wish to die – and a law that fails to protect the weak will always be a bad law. With respect, I urge you to reject this repeal Bill which would have the effect of legalising euthanasia, and to promote improved palliative care.

Yours sincerely,

DR ROBERT POLLNITZ