

Parliament House
Canberra.

Dear Senator,

Re euthanasia legislation.

Whilst I am sure there will be intense opposition expressed to this bill by moralists, and members of the medical profession, I doubt if many people in our community oppose the concept of a dignified and pain free death.

That we should strive to be able to offer this prospect to everybody is to be commended.

My concern, however, lies in the area of community safety. This concern is also expressed by the international euthanasia organization. I have no doubt it is also a concern of yours.

This concern centers around how it is possible to word a law which, in essence, permits law abiding citizens to willfully kill other law abiding citizens. It must do this without putting the rest of the community under the potential risk of being 'legally' murdered (under the guise of 'mercy-killing'). Achieving this outcome falls largely within the domain of legal professionals rather than moralists or doctors.

Following introduction of the Northern Territory 'euthanasia' bill I read commentaries by people of some standing in the legal profession. What interested me were the observations and reservations expressed about the ramifications of this legislation. Some are included below.

- a. As *suicide is not illegal* those who wish to take their own lives or be killed did not require any legal protection.
- b. The purpose of the law was to protect those taking an active role in the killing - *not those being killed*.
- c. Community safety, under that legislation, was very dependent on the rigor with which that law would be supervised. As I recall, a paper (published in the Medical Journal of Australia by multi-disciplinary authors reviewing deaths under the NT Act) concluded that all but one case *failed to meet the legal requirements of the Act*. This seemed to indicate that an unrealistic trust was placed in members of the medical profession by public servants.

- d. The wording of the law, *as initially enacted*, was flawed in terms of personal safety. Within weeks it needed repeal for vital amendment because, once having signed a wish to be killed, there was not provision for a change of mind! A trivial oversight?
- e. Whilst an Armidale University legal academic opined that the legislation was good 'as far as it went' he foresaw that it would require amendment in significant areas because of its discriminatory wording (the '*slippery slide*').
- f. A retired judge agreed, by pointing out that once 'the benefits' of euthanasia were made legally available the legislation could be seen as bordering on sadistic by denying these benefits to those not specifically included under the legislation. He suggested that the international euthanasia organization avoided discrimination in its manifesto by maintaining that euthanasia should be available to 'all those for whom life is no longer worth living' but admitted that interpreting this wording could raise important community safety issues.
- g. *Parliament must have the power to amend legislation in the public interest.* Hence, no matter how 'safe' the wording of any euthanasia legislation may read, once enacted, it can be changed. For compelling discriminatory reasons the 'voluntary' requirement could be deleted. A third party could then legally decide that I am 'better off dead'. (Whilst this may well be in my best interest it raises serious concerns regarding wider ramifications). Safeguards and provisos built into draft legislation would therefore seem worthless in terms of guaranteeing community safety into the future.
- h. Nominating the conditions which qualify, or the groups of people who can benefit from the legislation, assures subsequent valid challenge and *amendment on the basis of discrimination*. 'All those for whom life is not worth living' would appear to be the only wording which avoids discrimination. As the bill should be aimed at helping all citizens in their hour of need it is hard to argue against this phrase without discriminating against some individuals or groups.
- i. In the other states doctors who practice euthanasia must maintain the highest ethical standards because, lacking protective legislation, they *must be prepared to 'prove their innocence'* if challenged. *Within the NT (at that time) doctors had a presumption of innocence* and the 'state' was required to prove their guilt on the basis of motivation. Motive, as a judge stated, can be very difficult to prove in court.

- j. A University of Adelaide study reported that doctors interviewed, who admitted practicing euthanasia, were not particularly concerned about lack of protective legislation. In fact, about half admitted that they did not always seek their patient's permission (and therefore would not be covered by the provisions of a 'voluntary' euthanasia bill in any event). It could be argued, then, that *citizens who lived outside the NT were safer under the status quo*.
- k. If the benefits of euthanasia are to be made available to everybody in the community then the participation of skilled people, outside the medical profession, must be envisaged. Dentists, veterinary surgeons, ambulance officers, nurses, and pharmacists are often available in areas devoid of doctors. The NT bill, with psychiatric and other medical consultative requirements, was very discriminatory in this regard.
- k. The question was posed – 'what incentive exists for the Health Minister to provide expensive palliative care units when the much cheaper 'euthanasia' option is available?'

My interpretation of these views is that there is a genuine concern among the legal profession that *the process of wording legislation, per se, compromises community safety* to a far greater extent than it offers benefit to the relatively few citizens (Senator Brown's assertion) who feel the need to request termination of life. As the Adelaide survey showed some doctors are already providing this 'service' without fear of retribution.

The fact that so much emphasis is devoted to community safety in framing euthanasia legislation confirms this fact. Why otherwise were so many medical conditions and people groups excluded from the NT legislation? Why exclude depression when there is strong evidence to support the view that depression and loneliness, rather than pain, is the motivator for most suicides and requests to be killed?

Spokespeople for the euthanasia lobby stress the need for safety provisions in any permissive legislation. Why?

The Federal Parliament negated the NT law on the basis of community safety.

It will be interesting to learn how it is proposed to resolve these legal concerns and assure us that the safety provisions of Senator Brown's Bill will not be subsequently tampered with to our detriment and that of future generations.

A statement that all is well in countries that permit euthanasia is not a guarantee of safety, nor is 'fix the problems as they arise' an acceptable answer when death is so permanent.

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Some significant opinions

United States Supreme Court 26/2/1997 all nine Justices unanimously upheld the State of Washington's ban on assisted suicide ruling government had a duty to prohibit "intentional killing and preserve human life,, protect the poor, the elderly, disabled persons, terminally ill, and persons in other vulnerable groups from indifference, prejudice and psychological and financial pressure to end their lives: and avoid a possible slide towards voluntary and perhaps even involuntary euthanasia."

The House of Lords Select Committee on Social Ethics - similar to above and also unanimous.

Somerville Margaret, LL.D., Professor of Law, McGill University, "Death talk": debating euthanasia and physician-assisted suicide in Australia.
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The Sydney Morning Herald, editorial on death of Dr John Elliott. "There is no knowing where euthanasia law would take us once it has a foothold in the statutes".