COALITION FOR THE DEFENCE OF HUMAN LIFE

The Coalition for the Defence of Human Life is made up of 14 advocacy and support groups in Western Australia organized to resist efforts to legalize the killing of people who are too young or too old or too sick to do their own organizing.

This submission was prepared on behalf of the Coalition by its secretary, Dr E D Watt

The Protection of the Law

There are some things that no parliament has any right to do, or even to talk about doing. If a parliament were to pass a bill to allow some people to be enslaved, that is, to become the property of other people, we would all agree that its members had exceeded their rightful scope, violated their trust as custodians of a law-governed society, and arrogated to themselves the role of lawless tyrants.

The law in every Australian jurisdiction protects us against being enslaved, by denying legal recognition to any claim to ownership of one person by another. By the same token, the law protects us against enslaving ourselves by our own consent (as a desperate solution to debt, for instance).

Still worse than a law permitting slavery would be a 'law' permitting one category of innocent people (Jews, for instance) to have their lives taken 'lawfully' by other people.

In former times in Australia, Aboriginal people were sometimes killed, but such killing was never lawful (except in cases of lawful self-defence, etc.) Men were prosecuted, convicted, and sometimes hanged for the murder of Aboriginal people, who as subjects of the Crown were never deprived of the protection of the law.

A euthanasia law, however it is worded, makes it 'lawful' for one person to be killed by another person. The person killed has been completely deprived of the protection of the law. He or she is, quite literally, an outlaw. There is no legal redress against the person who does the killing.

Recognising this, three Labor members of the Legislative Council of Western Australia six years ago voted against a private member's euthanasia bill *on first reading.* To vote against a such a bill on first reading was entirely appropriate: what parliament has no right to enact – denying the protection of the law to one group of people - it has no business talking about enacting. Fortunately the bill never came to a second reading.

'But should the law be seeking to protect people from their own decisions?'
The law does so all the time. In contract law there are cooling-off periods, and requirements to disclose conflicting interests, and to provide information about risks. In criminal law, the victim's consent is no defence against a charge of murder, grievous bodily harm or incest.

In these and many other instances the law recognizes that in some situations it would be against the public interest for the law to ignore the harm done to a person even where that person has 'consented', or to allow that 'consent' to be used as a legal justification by the person who inflicted the harm.

In the case of homicide, where the victim's testimony is no longer available, the law recognizes that if the victim's consent were acceptable as a defence, it would often be impossible to secure a conviction where a murderer falsely alleged that he had the victim's consent.

'My suicide is my business. It concerns no-one else'.
Not so. Suicide is a major public health problem. Suicide is the leading cause of violent death in Australia. More people die by suicide than in road accidents, which attract far more public attention and public money. In addition to those who die, many more are injured in suicide attempts and require medical treatment, sometimes long-term. Then there is the damage done to the mental health (and sometimes the physical health as well) of the suicide victims' family and friends.

This suffering is in many cases avoidable. And it is in the public interest to avoid it where possible. That is why, when suicide itself was decriminalized in Australia - sensibly enough, since a successful suicide cannot be prosecuted, and an unsuccessful suicide needs help, and will hardly be helped by requiring him to defend a criminal charge - the crime of assisting in suicide was retained, as were its very severe penalties.

The crime of assisting in suicide recognizes that suicidal ideation is in many cases a symptom of one or more illnesses or social pathologies – psychosis, depression, inadequate medical treatment, alcoholism, social isolation, unresolved conflict, and so on.

It is these causes that call for attention, not the suicidal symptoms.

The crime of assisting in suicide also recognizes that it is all too easy for a person assisting in suicide to convince himself that he is acting out of what he calls 'compassion', when it is really his own misery that he is helping the suicidal person to put himself out of.

'The present laws against euthanasia impose some people's values on other people'
Of course they do. Every law does that. The laws against stock market fraud, deceptive advertising, rape, etc. impose, under threat of penalties, the 'value' that these activities are against the public interest. These laws have an educational function, persuading most people not to engage in these activities, and imposing legal penalties on those who have not been persuaded.

Arguably the law and its penalties are *more* necessary where there are more people who are inclined to violate it. Who would suggest that rising rates of gang rape, child sexual abuse, or violence against women are a reason for repealing the laws against these activities?

'Euthanasia can be made available subject to strict safeguards'.
No, it can't – or if it can, no-one seems to have worked out yet how to do it. After years of controversy, and deliberations in many countries, euthanasia laws have been passed only in The Netherlands and Belgium, plus an assisted-suicide law in the state of Oregon. When, in such a contentious matter, there is such near-unanimity, there must be a reason for it.

The Select Committee on Medical Ethics presented its report on euthanasia law to the House of Lords in January 1994. Despite having a pro-euthanasia majority and a pro-euthanasia chairman, the committee recommended that the law be left unchanged. Their reason: that
'We do not think it possible to set secure limits on voluntary euthanasia … It would be impossible to frame adequate safeguards against non-voluntary euthanasia if voluntary euthanasia were to be legalized. It would be next to impossible to ensure that all acts of euthanasia were truly voluntary, and that any liberalization of the law was not abused. Moreover, to create an exception to the general prohibition of intentional killing would inevitably open the way to its further erosion whether by *design, by inadvertence , or by the human tendency to test the limits of any regulation. These dangers are such that we believe that any decriminalization of voluntary euthanasia would give rise to more, and more grave, problems than those it sought to address'* (236)

Similar concerns were expressed in a subsequent report to the Canadian Senate and in the recommendations of a New York State task force, both of which made the same recommendation: that the law on euthanasia should not be changed to 'create an exception to the general prohibition of intentional killing', as this would 'give rise to more, and more grave, problems than those it sought to address'.

Anyone who imagines that Australians can do it better would do well to read Kissane D, Street A, Nitschke P 'Seven Deaths in Darwin: case studies …', *The Lancet* 352 (3 Oct 1998) p1007-1102. Though Philip Nitschke was one of the authors, and must have provided the medical case notes, the article shows conclusively how ineffectual were the 'strict safeguards' enacted by the Northern Territory's *Rights of the Terminally Ill Act*
This is the law which Senator Brown's bill now seeks to resurrect.

Conclusion

How many more times do we need to go down this dead-end track? The Senate should waste no more of its time on Senator Brown's bill.