Right to Life Australia
Queensland Branch
4 April, 2008

Submission to the Senate Legal and Constitutional Affairs Committee

Re: The Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008

The article, "Seven deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia" by David W Kissane, Annette Street, and Philip Nitschke, published in the *Lancet***,** Vol 352, No 9134, 1998, should be carefully read by all the Committee members.

If the *Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008* should be passed it would mean that the *Rights of the Terminally Ill Act 1995* (ROTI) would be restored in the Northern Territory. The above-mentioned article from the *Lancet* helps makes it clear why ROTI was dangerous and why it was appropriate that it was made inoperable by the *Euthanasia Laws Act 1997*. The dangers that are inextricably inherent to euthanasia remain and therefore *The Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008* should not be passed into legislation.

According to the findings of the article:

- of the seven patients who sought to use ROTI, four of whom died under the Act, the majority, four, had symptoms of depression
- consensus over the terminal nature of illness proved difficult to reach in two cases (one patient was given a prognosis of nine months by an oncologist while a dermatologist and another oncologist judged that she was not terminally ill)
- pain was not a prominent issue with three patients not experiencing prominent pain and the other four having their pain controlled

The authors concluded: "Our case material shows that the assessment of depression is difficult in the terminally ill, and accurate prediction of prognosis is subject to disagreement. There are limitations of the gate-keeping roles of the medical specialist and psychiatrist in the ROTI legislation."

Furthermore, ROTI simply made up the claim that there is a "right of a terminally ill person to request assistance . . . to terminate his or her life." No such right is recognised in human rights document or medical codes. Rather, the World Medical Association

Declaration 1995, states, “Euthanasia, the act of deliberately ending the life of a patient, is unethical.”

The definition of “terminal illness” in ROTI, with references to “extraordinary measures” and “treatment unacceptable to the patient,” is so highly subjective as to make the term effectively meaningless.

At 7.(c)(h) there is a requirement that the medical practitioner be satisfied that the patient is of sound mind and has made the decision freely and after due consideration. According to the *Lancet* article above, one patient who was euthanized had had only one week of contact with the doctor who euthanized her. In a society where elder abuse is a rapidly growing serious problem it is absurd to suggest that a doctor could always identify if a person was being pressured by others to access euthanasia. Even in situations where there was no pressure from others, should euthanasia be legal and ‘normalised’ the sick and elderly could come to feel that they have a duty to ‘get out of the way.’ Could such requests for euthanasia be considered to be truly voluntary?

In 14. Part 4 (2) it is stated that “assistance (in inducing death)” is to be taken to be “medical treatment.” It is an outright abuse of the language for actions which are intended to deliberately cause death to be referred to as “medical treatment”!

The findings of the following inquiries into the legalisation of euthanasia are worth noting:

- The House of Lords Select Committee 1994

“It would be next to impossible to ensure that all acts of euthanasia were truly voluntary. We are concerned that vulnerable people – the elderly, lonely, sick or distressed – would feel pressure, whether real or imagined, to request early death.

“Ultimately we concluded that none of the arguments we heard were sufficient to weaken society’s prohibition of intentional killing, which is the cornerstone of law and social relationships. Individual cases cannot establish the foundation of a policy which would have such serious and widespread repercussions.”

- Canadian Supreme Court, 1993

“The responsibility of government to protect vulnerable people from abuse outweighs any individual right to assisted suicide.”

- New York State Task Force, 1993

“No matter how carefully any guidelines are framed, assisted suicide and euthanasia will be practised through the prism of social inequality . . . The practices will pose the greatest risk to those who are poor, elderly, members of minority groups, or those without access to good medical care.”

- The Australian Senate Legal and Constitutional Committee Report into the Euthanasia Laws Bill (Andrews Bill)

"We share the views expressed by the members of the House Of Lords select committee, the Canadian special select committee, and the New York State task force that laws relating to euthanasia are an unwise and dangerous public policy. Such laws pose profound risks to many individuals who are ill and vulnerable.

"The potential for 'guilt feelings' for being a burden . . . may become such that they perceive a subtle duty on them to exercise the euthanasia option. The choice may well become a perceived duty."

- Parliament of Tasmania, 1998

"The Committee found that the legalisation of voluntary euthanasia would pose a serious threat to the more vulnerable members of society and that the obligation of the state to protect all its members equally outweighs the individual's freedom to choose euthanasia."

In conclusion then, ROTI was a dangerous piece of legislation; not just in principle but also when it came to putting it into practice. Vulnerable human lives should not be put at risk and therefore this Bill should not proceed or be passed as to do so would cause ROTI to be restored.

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