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Submission to Senate Legal & Constitutional Affairs Committee

Inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008

By Dr Philip Nitschke

Introduction

In 1997 the Euthanasia Laws Act 1997 was passed by the Australian parliament and the world's first voluntary euthanasia legislation, the NT Rights of the Terminally Ill (ROTI) Act, ceased to function.

As a medical practitioner in the Northern Territory I was involved in the passage of the ROTI Bill through the NT Assembly. In the short period this legislation was in place I was the only doctor to make use of the law, as four of my terminally ill patients achieved a peaceful elective death. I was the only doctor in the world who had the experience of seeing euthanasia legislation fully function. Because of this experience I bring to this enquiry a unique perspective on the legislation under consideration – the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008.

The Issues

The passage of the Euthanasia Laws Act 1997 brought significant changes to the Northern Territory and to the broader Australian society. In particular, this legislation took away from the people of the Northern Territory the right to pass and enact legislation for the terminally ill.

The effect of this was two fold:

Firstly, the citizens of the Northern Territory realised immediately that their voice was not as significant in Australian society as that of other Australians. The effect was to undermine the status and sense of worth of the people living in the Territories of

Australia. This generated resentment and anger from within this part of the Australian population of which I was a part.

Territorians – whether we believe in the concept of voluntary euthanasia or not – believe we have the right to discuss, debate and possibly pass laws on such fundamental issues as life and death through the Legislative Assembly of the Northern Territory. To rule that specific issues such as the rights of the terminally ill are out of bounds is to make a mockery of the Territory parliamentary process.

Secondly the removal of the right of terminally ill Australians to a lawful and peaceful death at a time of their choosing adversely affected the broader Australian community. Terminally ill people had drawn comfort from the existence of the NT ROTI Act and its removal took from them that hope.

As a doctor who had seen the benefits of the functioning ROTI Law, I found myself in the position of having to tell a steady number of dying patients who sought contact with me that the option of a peaceful, elective death no longer existed. As those dying became desperate, they sought out alternatives. In the decade that has passed since the removal of the ROTI legislation some of these options, with their intrinsic illegality, have flourished.

I refer to three examples in this submission as I urge the Senators to seek comment from those involved.

Case study #1: Dr John Elliott, 79 years, Rose Bay, Sydney

Dr John Elliott was dying of multiple myeloma and in January 2007 travelled to Switzerland to make use of Swiss legislation that allowed him a legal, elective assisted suicide. He could not obtain such help in Australia and sought assistance from Australian palliative care so that he could undertake the difficult journey. He made it clear he would have made use of the NT ROTI legislation had it still been in existence. His wife Angelika has lodged a submission to the Senate committee and hopes to address the committee to explain why she supports the legislation under consideration.

Case study #2: Don Flounders, 78 years, Warragul, Victoria

Don Flounders was diagnosed with asbestos-related mesothelioma in 2007. In January 2008, having realised he could not obtain reliably lethal drugs in Australia, he travelled with his 84 year old wife Iris to Tijuana Mexico to obtain veterinary Nembutal. He returned with the drug and in so doing broke Australian law. His house was raided by the Australian Federal Police in March of this year. He would not have made this trip and run the risk of breaking Australian law had the NT ROTI Act still been in existence. Don has written a submission to the Senate and hopes to explain in person the reasons behind his actions and his support for the legislation under consideration.

Case study #3: Angy Belecciu, 56 years, Hastings Vic

Angy Belecciu is a palliative care nurse with disseminated breast cancer. Pathological fractures associated with the cancer that has spread to her bones meant that she can no longer travel easily. She asked Don Flounders to bring her the drug Nembutal when he travelled to Mexico. She paid for his trip and in so doing she has broken Australian

law. Her house was raided by the Australian Federal Police in March of this year. Angy would not have taken this action had the option of the NT ROTI Act still been in existence. Angy has written a submission to the Senate Committee and hopes to explain in person the reasons behind her actions and her support for the legislation under consideration.

These are not isolated examples. My organisation Exit International is contacted by seriously ill Australians every day. Many of these people elect to knowingly break Australian law as they seek control over their end of life choices. In the past year I know of 150 Australians who have taken this course. These dying people deserve better than to be made criminals of in their last months, weeks and days.

Conclusion

In Summary, the passage of the Euthanasia Laws Act 1997 had the effect of disenfranchising Territorians from their democratic institutions and has led to a significant number of elderly Australians knowingly breaking Australian law to ensure end of life choices.

The Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008 seeks to address these issues by recognising the right of the people of the Australian Capital Territory, the Northern Territory and Norfolk Island to make laws for the peace, order and good government of their territories.

The passage of this Bill will restore confidence to a large number of Territorians and to many elderly Australians; people who will once again see the possibility of a legal option of voluntary euthanasia emerging within Australia.

For these reasons I support the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008.

I would seek the opportunity to expand on the issues raised in this submission and have the opportunity to answer questions that will be raised by addressing the Senate Committee at the public hearings.

Dr Philip Nitschke PhD, MBBS
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Darwin, 8th April 2008.