



# AUSTRALIAN CATHOLIC BISHOPS CONFERENCE

Office of the President

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Department of the Senate  
Parliament House  
Canberra ACT 2600

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


I write as President of the Australian Catholic Bishops Conference.

Attached, for consideration by the Committee, is a submission from the Australian Catholic Bishops Conference to the Committee's Inquiry into the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008.

End of life decisions are complex and heartrending for all involved. How our society cares for the most vulnerable in our society is a measure of the quality of our society. The Catholic Church is actively involved in such caring with our extensive network of hospices, hospitals and other services.

We wish the Committee well in its deliberations about this important matter for our society. If my fellow Bishops or I can further assist the Committee in its Inquiry, we will be happy to do so.

Yours sincerely,

  
Archbishop Philip E Wilson  
President,  
Australian Catholic Bishops Conference  
8 April 2008

**Submission to  
The Senate Legal and Constitutional Affairs Committee**

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

**By  
The Australian Catholic Bishops Conference**

## **Introduction**

The Australian Catholic Bishops' Conference welcomes this opportunity to make a submission to the Senate Legal and Constitutional Affairs Committee regarding the *Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008*.

The purpose of the *Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008* is to pave the way for the legalisation of voluntary euthanasia at least in the Northern Territory and the Australian Capital Territory. Hence our submission to the Senate Inquiry addresses the issue of the legalisation of voluntary euthanasia.

There are some in the community who believe that people should be free to choose to end their own lives whenever they choose. Others hold, as the title to this Bill implies, that this liberty should apply only to those who are terminally ill. Our submission addresses itself primarily to the second position.<sup>1</sup>

## **Respect for the common good**

In a democratic society one's claim to liberty to do something has to be measured against the rights of others and the demands of the common good. Sometimes we cannot exercise apparent liberties because to do so would have a detrimental effect on the common good of society,<sup>2</sup> and hence a detrimental effect on other innocent members of society.

In this submission we wish to draw attention to the demands of respect for the common good in reference to the question of euthanasia. The demands of respect for the common good are themselves moral demands accessible to human reason without any reliance upon divine revelation. In this submission we appeal to these demands of reason in the interest of the common good of our Australian society and the good of individual Australians. A request for voluntary euthanasia is a request to be killed by another. It is not a private matter. Aspects of the common good affected by the legalisation of euthanasia include equal protection under the law, the ethos of the practice of medicine, and factors affecting an individual's sense of security at times when they are particularly vulnerable.

## **The prohibition of intentional killing**

Fundamental to a well functioning and just society is the prohibition of intentional killing. Sometimes this is expressed as the "sanctity of life" principle or the "inviolability of life" principle. In the western world this concept owes much to the Judaeo-Christian tradition which affirms that every individual is made in the image and likeness of God.

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<sup>1</sup> One could reasonably argue that if one accepts the second position then rational consistency would demand that one also accept the first position. Otherwise one could be accused of discriminating against the non-terminally ill. For the most part the arguments we make against the second position are also valid against the first position except when they specifically address medical issues.

<sup>2</sup> By "common good" we mean that ensemble of conditions that enables individual members of the community to pursue their own human flourishing within the community.

However the inviolability of human life is not something known only through divine revelation. The concept is found in the pre-Christian Hippocratic Tradition and in contemporary international conventions such as the European convention which states: "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law." The concept expresses the belief that human life possesses an intrinsic dignity which grounds the principle that one must never intentionally kill an innocent human being.<sup>3</sup>

In 1994 The House of Lords Select Committee on Medical Ethics (England) delivered its report on euthanasia. After hearing evidence from numerous people, and after a delegation visited the Netherlands to study its practice of euthanasia, the committee stated:

"Ultimately ... we do not believe that these arguments [for euthanasia] are sufficient to weaken society's prohibition of intentional killing. That prohibition is the cornerstone of law and of social relationships. It protects each one of us impartially, embodying the belief that all are equal. We do not wish that protection to be diminished and we therefore recommend that there should be no change in the law to permit euthanasia. We acknowledge that there are individual cases in which euthanasia may be seen by some to be appropriate. But individual cases cannot reasonably establish the foundation of a policy which would have such serious and widespread repercussions. Moreover dying is not only a personal or individual affair. The death of a person affects the lives of others, often in ways and to an extent which cannot be foreseen. We believe that the issue of euthanasia is one in which the interest of the individual cannot be separated from the interest of society as a whole."<sup>4</sup>

The position of the House of Lords Committee upholds the "sanctity / inviolability of life" principle.

This principle affirms the equal basic worth and dignity of every person. It is the foundation of our justice system as it gives a non-arbitrary and non-discriminatory way of identifying who are the subjects of justice. The legalisation of voluntary euthanasia would undermine this foundational principle to the detriment of the innocent.

### **Autonomy and 'best interest'**

As mentioned earlier some claim the liberty to request their life be ended by others. They appeal to the good of "autonomy", the right to be able to choose for oneself.

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<sup>3</sup> In every culture known to mankind we find a concept of murder (the intentionally killing of the innocent) distinguished from other forms of 'justifiable' killing. (See, e.g. the anthropologist C.Kluckhohn, "Ethical Relativity: Sic et Non" in J.Ladd (ed) *Ethical Relativism*, Wadsworth, Belmont, 1973,p.89.)

<sup>4</sup> HL Paper 21-1 of 1993-94. Extracts published in John Keown (ed) *Euthanasia Examined: ethical, clinical and legal perspectives*, Cambridge University Press, 1995. It should be noted that several members of this committee were not opposed to voluntary euthanasia in principle, but during the course of the inquiry were convinced that there was no way of legally permitting voluntary euthanasia without undermining the rights of all.

However the argument for euthanasia is not built solely upon the supposed principle of autonomy. It invariably also relies upon some kind of “best interest” argument, in this case that it is in someone’s best interest to be dead rather than alive under the prevailing circumstances. In other words, the judgment is made that someone’s life is not worth living. According to advocates of voluntary euthanasia that judgment is made by the one wishing to be killed. Once this principle is accepted then everyone’s life is at risk. If it is theoretically possible to arrive at a judgment that one’s life is not worthwhile then why should others not be able to arrive at that judgment regarding other persons. Indeed even in response to requests for euthanasia the doctor has to more or less concur with the patient’s judgment. The doctor will have to judge that a particular life is not worthwhile.

As the House of Lords indicated a sound system of justice is founded upon the notion of the equal dignity of all. To permit some lives to be judged as no longer worth living and to be intentionally killed undermines the protection of all.

Once again the House of Lords Committee stated:

“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 decriminalisation of voluntary euthanasia would give rise to more, and more grave, problems than those it sought to address. Fear of what some witnesses referred to as a ‘slippery slope’ could in itself be damaging.”<sup>5</sup>

In actual fact the above statement should be stronger. This is not simply a “slippery slope” argument. It is the recognition of the *inherent logic* of the principles involved in approving voluntary euthanasia. Professor John Finnis expresses it well:

“If one claims a right to suicide, assistance in suicide and/or euthanasia, one is making a claim which is not and rationally cannot be limited by reference to one’s own particular identity and circumstances. Nor can it plausibly be restricted to cases where the person to be killed has autonomously chosen to act on one or both of the two (erroneous) judgments. For the first judgment claims that death – and thus being killed – is no harm (indeed may be a benefit). So it renders unintelligible any principled moral exclusion of non-voluntary and even of involuntary euthanasia. And the second judgment [that the world would be a better place if one’s life were intentionally terminated], too, cannot be plausibly defended by reasons such that its range of application would be limited to suicide, assisted suicide and voluntary euthanasia; its sense and its grounds alike extend to include non-voluntary euthanasia.”<sup>6</sup>

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<sup>5</sup> Ibid.

<sup>6</sup> John Finnis, “A Philosophical Case against Euthanasia”, in John Keown (ed), *Euthanasia Examined: ethical, clinical and legal perspectives*, Cambridge University Press, 1995, 23-35.

We have seen this logic carried through in the Netherlands where many of the acts of euthanasia are cases of non-voluntary euthanasia, if not involuntary.<sup>7</sup> As the House of Lords recognised there is just no way of preventing the movement down this path.

### **Protection of the vulnerable**

Governments should be concerned to protect the most vulnerable in the community. The legalising of voluntary euthanasia would add an extra burden to those already vulnerable by virtue of being terminally ill. They will feel pressure to consider whether “for the sake of their family” or “for the sake of society” they should request euthanasia. They will have a greater sense of being a burden upon others. They will become even more vulnerable and more at risk. The House of Lords Committee recognised this:

We are also concerned that vulnerable people – the elderly, lonely, sick or distressed – would feel pressure, whether real or imagined, to request early death. We accept that, for the most part, requests resulting from such pressure or from remediable depressive illness would be identified as such by doctors and managed appropriately. Nevertheless we believe that the message which society sends to vulnerable and disadvantaged people should not, however obliquely, encourage them to seek death, but should assure them of our care and support in life.<sup>8</sup>

### **Palliative care**

There is a compassionate response to terminal illness and that is good palliative care. Voluntary euthanasia tends to lead to a neglect of this most important part of medicine. The experience in the Netherlands bears this out as the practice of palliative medicine in that country falls far short of what most of us would hope for. In Australia itself, as the Honourable Tony Burke pointed out in a debate in the NSW Parliament, the Northern Territory had the worse standard of palliative care in Australia at the time it sought to legalise euthanasia.<sup>9</sup>

Rather than undermining people’s sense of security about their future care, governments should be ensuring the development of good palliative medicine. Governments should also be cooperating with the medical profession to keep people well informed about the standard of care they can expect to receive in their illness. This would do much to alleviate the fear and insecurity which is felt by some members of the community, often increased by ill-informed pro-euthanasia advocates.

### **The doctor-patient relationship**

Voluntary euthanasia is not simply a matter of “private choice”. The legalisation of voluntary euthanasia has immeasurable effects on the institution of medicine. The introduction of voluntary euthanasia changes the dynamic of the doctor-patient relationship. The doctor-patient relationship is built upon trust and the patient’s

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<sup>7</sup> For a comprehensive study of the situation in the Netherlands see John Keown, *Euthanasia, Ethics and Public Policy: An Argument Against Legalisation*, (Cambridge) Cambridge University Press, 2002

<sup>8</sup> HL, op cit.

<sup>9</sup> Tony Burke’s speech was published in the *Australasian Catholic Record*, January 1997, 67-74.

expectation to be treated as a worthwhile person. The introduction of voluntary euthanasia undermines this trust and expectation. Knowledge that a doctor is willing to kill some patients (albeit at their request) undermines the patient's trust in the medical profession that it will never judge his or her worthiness. Once again anecdotal evidence from the Netherlands speaks of the changed dynamic of the practice of medicine in that country. Many patients simply do not trust their doctors and go outside the country to seek medical assistance.<sup>10</sup>

## **Conclusion**

For the common good of our country we need: a society where all can be assured that they are accepted as people whose lives are worthwhile; a health care system where people have confidence in their doctors; a society which has well developed palliative care medicine as part of our compassionate response to the terminally ill. The legalising of voluntary euthanasia undermines all these goods. The real question is are we the kind of persons who will care for the sick and the dying without doubting their worth as human persons?

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<sup>10</sup> Dr Peter Hildering (at the time president of the Netherlands Physicians League) commented: "In the last 15 years I have met many people in my practice who are scared of being admitted into hospital – people are choosing to go instead to Germany for medical treatment" (The Tablet, 17 May, 2003).