

Submission to Inquiry into the Rights of the Terminally Ill (Euthanasia Law Repeal) Bill
2008.

I write to comment on the Bill, introduced by Senator Bob Brown, to repeal the *Euthanasia Laws Act, 1997* in order to allow the Northern Territory, the Australian Capital Territory and Norfolk Island to make legislation for people who are terminally ill.

There are two matters that need to be addressed in commenting on this Bill.

The first relates to the relative powers of the Commonwealth Government, and those of the Territories of Australia. I do not, unfortunately, have the background necessary to argue the case on the basis of the legal powers afforded to the Commonwealth and the Territories. I do not even have the relevant knowledge about either the historical or the political situation which caused these to have been legislated in the way that they are. I certainly understand that as a country we cannot allow any governmental body to introduce legislation of any kind, such as to impose capital punishment, for example. However making legislation for people who are terminally ill is not a matter that fits this kind of category. States, as I understand it, would be able to make such legislation if they wished.

As a citizen of a Territory in which self-government was introduced, I do have a clear understanding of the care with which we have elected our Territory governments. I believe that our democratically elected governments should be able to exercise the rights given to them by the people to make decisions on our behalf. In the Northern Territory, the government made a decision to allow, after very careful procedures, information gathering, checks and balances, for the terminally ill patients to have dignified and peaceful deaths. That the Commonwealth Government is able to override the processes and decisions of the Territory government, but not a State government, and of the people of the Territory who elected that Government, must be seen as undemocratic process. Whatever the historical or legal basis of the Commonwealth's power to do this, it is surely time, in this history of our country, for us to re-examine this.

The second aspect of course, relates to matter on which the *Euthanasia Laws Act 1997* allowed. This aspect is contentious, and I am certain that the Inquiry will receive many submissions about his matter. I would simply like to make two points. These points have been based on discussions with older and terminally ill Australian Citizens. These are:

1. That a lack of legislation developing process for terminally ill people to have dignified and peaceful death results in them dying at an earlier time, by their own hand, than would be necessary if such legislation were in place, and that
2. Ways in which terminally ill people are able to access a dignified and peaceful death are available, but they are available only to those who have the financial means to access them. There is therefore a division, again, between what the 'rich' and the 'poor' in the country can do. So much social action is oriented to

‘closing the gap’ between the social classes within Australia. We perhaps fail to recognize that this is one more area in which this gap exists.

In relation to the first point, since assisting a suicide is a criminal act, people with terminal illnesses need to act to take their own lives while they have the physical and mental strength and capacity to do this unaided. Since they can never be sure of the deteriorating effects of their illness, they make this decision and take these actions at a point which is earlier than they would do if they knew that they could have access to a dignified and peaceful death, mediated by a professional, as the 1995 Northern Territory legislation allowed. Indeed, were they to know that they could, if required, access such assistance when they really felt that they needed it, they might find that they did not need to take their own lives at all. Instead, with no legislation in place, they need to act early. In this way, Repeal of *Rights for the Terminally Ill Act, 1995*, has had the opposite impact than might have been intended.

On the second point, services overseas are able to assist the terminally ill to find a dignified and peaceful death. However this means that the finances and the physical support required to travel to these destinations is required. This can be accessed only by those with the financial means to do so. This has the effect noted in the previous paragraph (travel overseas is done at an earlier time than might otherwise be necessary, resulting in an earlier death) as well as discriminating against those without financial means.

The Repeal of the *Rights of the Terminally Ill Act 1995*, therefore has to dual impact of denying the Australians who elected the Northern Territory government actions of their legally elected democratic government, and forcing those who wish to make a choice to find a dignified and peaceful death to do so earlier than they might otherwise need to do.

For both reasons Senator Brown’s Bill for an Act to repeal the *Euthanasia Laws Act 1997*, need to be supported. I urge the Committee to do this.

Dr Linda Hort

27th March 2008