



**To: Secretary, Legal And Social Affairs  
Committee, Victorian Legislative Council**  
**Re: Inquiry Into 'End Of Life Choices'**

Dear Ms Topic,

I write to you in my capacity as Professor of Philosophy at the University of Reading, England, and as a private citizen. I wish to make a submission concerning the current inquiry being held by the Council into the possibility of legalising voluntary euthanasia in the State of Victoria.

**My background**

I am an Australian citizen, born in Melbourne and a graduate (BA, LLB) of the University of Melbourne in 1986. I graduated with a PhD in Philosophy from the University of Oxford in 1992, having been awarded two scholarships by the University of Melbourne. I was appointed a Lecturer in Philosophy at the University of Reading, UK, in 1992 and have been Professor of Philosophy since 2003.

I am the author of around sixty peer-reviewed articles in philosophy as well as four books, and editor of five others. I am also Editor of the journal *Ratio*, a leading peer-reviewed journal of academic philosophy. I have spoken at scores of conferences in the UK and abroad, and in 2013 delivered the Hourani Lectures in Ethics at the State University of New York, Buffalo – one of the most prestigious lecture series in ethics in the world. I am an internationally respected academic philosopher known for my speciality in ethics/moral philosophy. I have written books and articles on ethics, including the topic of euthanasia, voluntary and otherwise. My CV is attached for your perusal, and I would draw your attention in particular to my book *Applied Ethics* (Blackwell, 2000), which devotes a chapter to the topic of euthanasia. My website is [www.davidsoderberg.co.uk](http://www.davidsoderberg.co.uk).

**Some key issues**

There are many, many reasons why the legalisation of voluntary euthanasia would be deeply wrong. I cannot possibly go into them all, but refer you to the relevant chapter of my *Applied Ethics*, as well as my more technical article from 1997, 'Voluntary Euthanasia and Justice', and the extended discussion of the sanctity of life in my book *Moral Theory* (Blackwell, 2000). There is abundant evidence of both actual abuse and potential abuse of any such legislation, given the way legalisation has played out in the small number of countries and states where voluntary euthanasia has been allowed. I cannot rehearse the abundant evidence

here, but it is readily available both in terms of statistical generality and in terms of individual cases.

To balance the individual human cases and appeals that have been presented to you, I strongly recommend the book by Rita Marker, *Deadly Compassion* (William Morrow, 1995), which I reviewed for the Australian magazine *Quadrant* (which review I will email to you in due course). Marker demonstrates conclusively, with the benefit of inside knowledge, that for all the talk of compassion in pro-euthanasia circles, the reality is quite different – if not in every case, certainly in many cases, sufficient to make the very idea of legalisation highly worrisome.

It is a well-known maxim of jurisprudence that hard cases make bad law. Legislators, as I am sure you know, must not allow themselves to be swayed by emotion or individual appeals based on hardship. There is no question that there exist individuals in dire medical situations who genuinely, sincerely, want their lives to be ended by someone else because they cannot or will not do it themselves. Yet it is equally true that there are also people – probably many, many more – who are not in such a position but who, if Parliament legalised voluntary euthanasia, would be at least *likely* to find themselves victims of abuse of such a law, no matter what the official safeguards in place. Such people are naturally not going to make submissions to you in large numbers since most of them will not even be able to predict that they might end up as victims of exploitation of the law. Yet victims many will surely be – their lives cut short – if a law made for the putative benefit of a few were capable of application, whether twisted or not, to people for whom it was ostensibly not intended. That reason *of itself* should be enough to take legalisation off the table, given that what is at stake is human life and death, not mere inconvenience or regulatory burden.

### **The argument from autonomy – bad through and through**

In my submission I want to focus exclusively on the argument that perhaps has been the one most forcibly presented to you – the argument from autonomy. You will have been told that ‘my body belongs to no one except me’, or ‘my body does not belong to God or the government’ or some such specious slogans. As sound bites they work a treat. But they are no replacement for a good argument, one that any intelligent person without a degree in philosophy can understand.

The argument offered by supporters of legalisation who derive their position from considerations of autonomy is founded on the key premise that everyone has the inalienable right, as autonomous agents, to choose the time and means of their own death; or some variation of this premise amounting to the same idea.

Put negatively – the most artful way of presenting the case – the thought supporters have is that it is not for ‘God or the King’, as it were, to dictate to me whether, when, or how I may end my own life, and certainly not if I, personally, consider my life to involve unbearable suffering. For the law to prevent me from ending my own life at the date of my choosing is to ‘violate my autonomy’, effectively to control my body and what I do with it at a critical – maybe the crucial – stage of my existence.

There are many variations on the autonomy theme; no doubt you have heard most of them. I submit to you that no matter how many slogans, buzz words, appeals to human rights, to

government coercion, freedom, choice, and the like, which supporters of legalisation exploit, these never will and never can add up to a *good argument*, one based on sound logic and common sense. They will and never can add up to more than what they are – a bunch of slogans and catch phrases. I will now proceed to give you many reasons why this is so – *any one of which* should be sufficient to compel you, in conscience, and in your wisdom as legislators for the *common good of society*, to decide firmly against legalisation and to send a strong message to Victorians – and all Australians – that *no citizen* will ever have the *legal right to be killed* – whether by a doctor, a friend, a relative, or anyone else, for *any* reason.

I will make my objections to the ‘autonomy argument’ as clear and concise as I can. They are not technical; they are not academic (albeit a technical, academic defence can be and has been given); they are not obscure or filled with jargon. They are obvious; they appeal to logic and common sense. And, as I suggested, if you are persuaded by *any one* of them, this should be sufficient for you to put the whole euthanasia debate on a very distant backburner.

**1. Whose autonomy, anyway?** Voluntary euthanasia (hereafter VE) is supposed to be for the autonomy of the requester. (I will not say ‘patient’ because if legalised the law will not apply, whether officially or unofficially, *only* to people with medical conditions.) It is, however, more about the autonomy of third parties who will become, literally, legalised killers. Yes, I can enhance my autonomy if there is a law permitting *others* to kill me, but to pretend that it is *all* about requester autonomy is false. The ramifications for the autonomy of *others* is every bit as significant. Is there evidence of a groundswell of opinion among people who themselves want to be legally allowed to *kill* other people? Or is there – of far *less* significance, mind you – a groundswell of opinion among people who want *others* – not themselves – to be allowed to kill *other* people? The second question might easily be confused with the first, but the first is far more important, for the obvious reason that it is all too easy to clamour for *other* people to have the right to do highly controversial things. But do the people who might end up being the ones who *do* what is highly controversial *themselves* want such a right?

Is there likely to be pressure on people, whether doctors or not, to ‘euthanise’ requesters? Even with a conscientious objection clause built in, pressure is in my view a distinct possibility, if not probability. (And I am not even speaking of the pressure that will inevitably be applied to many people who do not want to be killed, thus infringing hugely on their autonomy.) The pressure may only be emotional or psychological, but the very fact that even *one* person, under such a law, could find themselves pressured to kill another human being, would be a disgrace to a civilised society. Think in particular of doctors, whose profession by its very essence is supposed to be about *healing*, not *killing*. You do not heal a person by killing them. You do not cure them of their suffering by killing them. You do not eliminate pain by eliminating the patient. Turning doctors into legalised killers of their fellow citizens, even if no doctor *strictly* is obliged to do so by the letter of the law, is to pervert the very profession itself and turn it into a fundamentally different kind of profession, the consequences of which, beyond VE, are at best impossible to predict. The impact of VE upon the autonomy of those who might end up *killing* people should be considered very carefully, even more so than the autonomy of those who will be killed.

**2. Self-destructive autonomy?** Supporters of VE typically appeal to the boundless value of autonomy. It is supposed to be a fundamental value, a precious right, inalienable, inherent in every human being, and so on. So they support the autonomy-based right of a person to do what? To destroy their own autonomy! This is a pure self-contradiction. How can autonomy be a fundamental, inalienable right that somehow trumps all others if it can justify a person's using their autonomy to *destroy their autonomy*? There are no more choices to be made when you are dead. There is no more autonomy to be exercised. Yet if autonomy is so valuable, why don't supporters of VE devote their undoubted energies to finding ways to *improve the conditions* of suffering people so that those who suffer can have *more autonomy* than they currently have, *more* choices available to them, e.g. concerning pain control, disability amenities, at-home care, community support, worthwhile activities appropriate to people in various states of pain and suffering, and so on? Isn't *that* the right approach to take for people who *really* value autonomy?

**3. Is autonomy fundamental, anyway?** In any case, by what distorted reasoning is autonomy so basic and unconditional as to allow even that a person might have a right to be killed? Society infringes on people's autonomy *all the time* and in *all sorts of ways*, and people rarely complain – nor should they, because most of the grounds are perfectly legitimate! Should autonomy justify the legality of not wearing a seat belt? What if I am a perfect driver, never going to endanger myself or another person – why not make an exception for me? Because laws are *made for the majority, not the minority*. We *all* have to wear seat belts, even the perfect drivers. And rightly so. Moreover, there *are* no perfect drivers, so the very idea of an exception is unreal. As there are no perfect drivers, so there are no perfect doctors, no perfect relatives, and no sufferers who are *so* clear-headed, *so* in tune with their own wishes and desires, and *so* rational that they could clear-headedly want to be killed. But if you disagree that does not matter, since as I have emphasised, laws are not made for the perfect, but *for the rest of us*.

From seat belts, to food labelling, to driving tests, to paying taxes, to health and safety, to public hygiene, to compulsory licensing, testing, regulating, record-keeping...where do we stop? All of these activities and procedures severely infringe the autonomy of individuals and groups. Yet in any decent, well-organised society, at least the *principle* of such limitation is well accepted and even encouraged. Might there not be some very good reasons, heard so often from the mouths of opponents of VE, that also justify limitations on autonomy here as well – indeed in one of the most important aspects of life, namely the manner of our death? I find it beyond credibility that supporters of VE cannot see this point. But if you do, and if you harbour the sorts of doubt I do, you simply cannot recommend legalisation.

**4. Autonomy to the max?** Supporters insist that autonomy is so sacred (funnily enough, they are often almost religious in their zeal) that it simply must extend to the timing and manner of our death. Well then, presumably it is sufficiently sacred that it might justify legalising the following:

- selling oneself into slavery (for whatever reason)
- having oneself mutilated, e.g. a limb amputated, because one feels one's body is somehow not 'right' without amputation
- putting oneself into the care of a 'dietitian' who will starve a person to the point of severe illness because one's body shape is not 'right'.
- putting oneself into the 'care' of a professional pimp so one can work the street as a prostitute (for whatever reason). If one is of age and acting autonomously, why shouldn't this be legal? Or is it that laws are not made for the minority?

It only takes some imagination to conceive of all the transactions that logically would have to be made legal if having one's very life taken away were also legal. Why does this argument alone not reduce the autonomy case for VE to utter absurdity?

**5. Whose body is it, anyway?** The partisans of autonomy deny that our bodies belong to 'God or the King', and so on in typical slogans that, like all propaganda, bypass the intellect. But suppose they are right. Then to whom does my body belong? To *me*, of course, say the partisans. I own my body. But do I? What does it even *mean* to say that I own my body? If I own it, can I sell it? (See objection 4.) Can I destroy it whenever and however I like, irrespective of the impact on the autonomy of others? (See objection 1.) If it is all about *self-ownership*, then why should a line be drawn between, say, 'unbearable suffering' and 'minor suffering', or terminal illness and non-terminal illness?

All VE legislation, actual and proposed, throughout the world, and despite all the actual abuse that happens in every single jurisdiction in which VE is legal, draws some distinction of principle between legitimate and illegitimate circumstances in which VE is allowed. But if it is all about self-ownership, then why should any such boundary be drawn? Won't it be artificial?

Supporters reply: but the law always draws limits to what one may and may not do with one's own property. I own my car, and I may drive it, but I may not drive it into a pedestrian. I own my house, and I may live in it, but I may not use it as a drug factory. I rejoinder: all right, so we can say fairly generally that the limitation usually drawn on the use of property involves actual or potential harm to others. (This is very loose: in Victoria as in many other jurisdictions it is illegal even to use a drug of dependence whether or not it harms anyone but the user.) If harm to others is where the boundary should usually be drawn, then VE should not be legal in cases of actual or potential harm to others. And I submit that this will cover the *vast majority* of cases where VE might be requested, since in the *vast majority* of such cases there will be family, friends, loved ones, dependents, associates, and so on, who are quite manifestly *harmed*, or likely to be harmed, by the requester's being killed. No matter that the harm may often be emotional or psychological rather than pecuniary or physical (though it may be these as well): harm is harm, and the fact is that when someone dies it is nearly always the case that others lose. For we are *not* islands, individuals responsible only to ourselves, but members of families, communities, societies, countries: what we do, and what happens to us, has implications that ripple beyond the confines of our own skin. The Council would do well to bear this in mind.

Suppose, then, that the supporters and opponents of VE agree on this – that it must, *somehow*, be proven beyond, say, a balance of probabilities, that no third parties will be harmed by a proposed case of VE before it can be allowed. This leaves the small remainder – those cases where a hypothetical lone individual, acting on their own free will, requests to be killed. My original objection stands: should not *any* reason be legitimate as a ground for killing them? Depression? Existential angst? General unhappiness with life? A sense of personal or professional failure? Simply being ‘tired of life’? A desire to make some sort of political or philosophical statement? How about euthanasia as performance art? Would anyone dare to ridicule such pretexts as never, ever, likely to be raised by some person or other? Surely the supporter of VE, if they have followed my argument thus far, must consent to all of them. Again, I submit, this reduces the very idea of VE based on autonomy to utter absurdity.

To return to the original question of the present item: maybe my body belongs to *no one*. Maybe it’s just not the *sort of thing* that can be, literally, *owned*. Surely this is a possibility the Council must consider. If it has any plausibility, this must raise sufficient doubt to dispose of the self-ownership line of argument as simply too tenuous, too debatable, to be the ground for such a radical legislative step.

### Concluding recommendation

I submit to you that there is more than sufficient ground to throw out any justification for the legalisation of voluntary euthanasia based on autonomy. Any *one* of the reasons I have offered is adequate in itself. *Combined*, the case is overwhelming. If the Council is minded to recommend legalisation, then another ground must be sought.

I end by asking the Council: what might that ground be? In my long professional experience writing about, studying, and debating all facets of the voluntary euthanasia question, one or other variation of the autonomy argument has always seemed to me – and to many other philosophers – the *most plausible*. If this is correct, then all other grounds for legalisation will be *inferior* to the one I have just refuted. This leaves me wondering on what plausible ground legalisation *could* be recommended by you. If autonomy does not suffice, what does?

I contend – without being able to argue for it here, which would require an extensive argument by elimination of all alternatives – that there is no better justification than the appeal to autonomy. More strongly, I submit that all other grounds for legalisation pale in comparison to the autonomy justification. They are radically inferior, indeed – if I may speak more boldly than I already have – they are hopeless. If the Council wishes me to address any of them, I am happy to do so, but I fear I have taken up enough of your time already.

Thank you for reading this submission.

Yours sincerely,

