

## Submission to the Legal and Social Issues Committee Inquiry into End of Life Choices

The Committee of the Melbourne Catholic Lawyers Association (CMCLA) welcomes the opportunity to present this submission, opposing any recommendation that euthanasia be legalised being made, to the Legal and Social Issues Committee's End of Life Choices Inquiry. This submission will briefly address:

- (a) the history of prior attempts to legalise euthanasia; and
- (b) three potential legal and ethical implications of any recommendation by this Inquiry that euthanasia be decriminalised, namely:
  - (i) the creation of a 'duty to die' for patients;
  - (ii) undermining the protection currently given to vulnerable people contemplating ending their lives, and those who try to stop them, by sections 6B(2) and 463B of the *Crimes Act 1958* (Vic); and
  - (ii) restrictions being placed on the rights of medical and other health practitioners with a conscientious objection to the practice of euthanasia.

Australian Parliaments, with the exception of the Northern Territory in 1995, have repeatedly rejected attempts to legalise euthanasia.<sup>1</sup> The CMCLA believes that these attempts at legalisation have failed as lawmakers were concerned that it would not be possible to provide sufficient safeguards to prevent the legalisation of euthanasia being abused, or to prevent the right to die becoming a duty to die for certain patients.

Once we take the step as a society to say that, under certain circumstances a life is not worth living and you may choose to end it, we automatically create an underclass of people will be pressured (either directly or indirectly) to choose to end their lives, even if they never sought this 'right' in the first place. People who are terminally ill and who feel unwanted, or that they are a burden to their families, may feel a duty to exercise their right to die to spare their families or to preserve resources. With an aging population, it appears unlikely that as a society we will be able maintain the existing levels of expenditure on welfare. Once people are told that they can choose to die, it is possible that arguments will be made that they should choose to do so, in order to reduce the burden on the state.

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<sup>1</sup> Recent examples include the rejections of the Rights of the Terminally Ill Bill 2013 (NSW) and the Voluntary Assisted Dying Bill 2013 (Tas).

## 2.

Our current laws provide a strong bulwark against this pressure being brought to bear on vulnerable people and also protect those who seek to stop people from killing themselves. While suicide is no longer a crime in Victoria,<sup>2</sup> section 6B(2) of the *Crimes Act 1958* (Vic) provides that any person who:

- (a) incites any other person to commit suicide and that other person commits or attempts to commit suicide in consequence thereof; or
- (b) aids or abets any other person in the commission of suicide or in an attempt to commit suicide,

is guilty of an indictable offence and section 463B provides that every person is justified in using such force as may reasonably be necessary to prevent the commission of suicide or of any act which he believes on reasonable grounds would, if committed, amount to suicide.

The legalisation of euthanasia, and its acceptance as an end of life ‘choice’, will see these protections weakened and effectively denied to those who actually need them the most, the physically and/or mentally ill. It will also start to send a message undermining the great work that organisations such as Beyond Blue and Lifeline do in encouraging people not to kill themselves. Thus, the CMCLA believes that the legalisation of euthanasia would be an abdication of one of the primary responsibilities of the state, namely protecting the lives of all its citizens, not just those who are ‘wanted’ or able to support themselves and is strongly opposed to such a move.

Although it may be argued that adequate safeguards will be put in place if euthanasia is legalised, experience with start of life ‘choices’ in Victoria shows that these safeguards can be eroded over time. Few would have thought that Victoria would move from the limited exceptions in the *Menhennitt ruling*<sup>3</sup> to allowing abortion on demand in the first 24 weeks of pregnancy, or on the basis of ‘social circumstances’ up until birth,<sup>4</sup> but it had done that.

The CMCLA is also deeply concerned about the impact the legalisation of euthanasia will have on the rights of medical and other health professionals who have a conscientious objection to the practice of euthanasia. This concern has been raised (again) by experience with start of life ‘choices’ in Victoria and also in

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<sup>2</sup> *Crimes Act 1958* (Vic) s 6A.

<sup>3</sup> *R v Davidson* [1969] VR 667.

<sup>4</sup> *Abortion Law Reform Act 2008* (Vic) ss 4-5.

3.

Tasmania. Both States now have legislation which effectively forces medical practitioners to refer patients seeking an abortion to doctors who do not have a conscientious objection to the practice,<sup>5</sup> even though the referring doctors feel that this forces them to co-operate in the killing of an innocent human being. The CMCLA strongly urges that, if the Inquiry recommends that euthanasia be legalised, it also recommends that medical and other health professionals who have a conscientious objection to the practice not be forced to participate in the practice, including by referral.

The CMCLA notes that the role of palliative care is part of the terms of reference of the Inquiry and strongly supports steps being taken to improve palliative care so that people can be made as comfortable as possible as they approach the end of their lives.

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Secretary Melbourne Catholic Lawyers Association  
for and on behalf of the  
Committee of the Melbourne Catholic Lawyers Association



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<sup>5</sup> *Abortion Law Reform Act 2008* (Vic) s 8; *Reproductive Health (Access to Terminations) Act* (Tas) 2013 s 7.