

Submission
of
Dr Philip Nitschke
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To
Standing Committees on Legal & Social Issues
(Legislation & References)

Date 29 July 2015

Inquiry into End of Life Choices

Dear Committee Chair,

I welcome this opportunity to respond to the Inquiry into End of Life Choices of the Parliament of Victoria with this written submission.

As the only doctor to have lawfully provided voluntary euthanasia to four patients in Australia, I suggest that I have unique insights into how a carefully-worded and construed end of life rights law can operate at a practical level.

I offer this submission as my contribution to the Parliament's consideration of an on end of life choices law in the near future.

In 1995 the Parliament of the Northern Territory passed the *Rights of the Terminally Ill Act 1995* (NT) (*'Roti Act'*). This was a civilized, humane and highly popular law that operated effectively for nine months until overturned by a conscience vote in the Federal Parliament of Australia.

Twenty years on and history has shown via the *Rights of the Terminally Ill Act* that end of life laws can be implemented in ways that give the terminally ill real choice in the final days, weeks and months of their lives.

In particular, a law that has the following safeguards should be especially considered:

1. The person must request assistance to die themselves
2. The request must be voluntary
3. The request must be repeated with a mandatory cooling off period
4. The person must have exhausted all palliative care options acceptable to them

5. The medical practitioners under whom the person is in care must be prepared to state the diagnosis
6. The person requesting the assistance must be of sound mind
7. The person requesting assistance must be aged 15 years or over
8. The person must be terminally ill or suffering unbearably with no hope of recovery.

The safeguards outlined above are taken from Part 2 of the *Roti Act*.

In 1996-97, these safeguards were effective in ensuring that the four of my patients who used the *ROTI Act* in 1996-97 were all terminally ill, of sound mind, had their medical options fully explained, were over 18 years and so on.

In this regard the *ROTI Act* worked well to ensure that only those people who met the stringent conditions of the Act had access to voluntary euthanasia.

Statutory interpretation principles dictate that the almost identical wording contained within the proposed bill would be similarly efficacious.

This should be treated as a source of reassurance and confidence by those tasked with the drafting of a Victorian bill of the same.

Concluding Comments

In 1996, Australia became the first country in the world to pass voluntary euthanasia/ dying with dignity laws.

At that time we were a world leader in the provision of laws that would allow a terminally ill adult of sound mind to be able to request medical assistance to die. Four months later this ground-breaking legislation was overturned by Federal parliament – in an act that still causes anger and resentment in the Northern Territory.

Since this time, countries such as the Netherlands, Luxemburg, Belgium, Columbia and States of America such as Washington, Oregon and Vermont have all seen fit to legislate on this issue. It is to their credit and Australia's shame that this has happened the way it has.

It is a great political irony that in the interim, the good people of Victoria have continued unabated their support to the poll question:

“If you are terminally ill, with no hope of recovery, do you think you should be able to ask for lawful assistance to die”.

That 70 to 85 percent of the Victorian population has consistently answered this question in the affirmative shows the strong level of community support for a law of this nature.

As one who was intimately involved in the elected hastened deaths of four terminally ill people, I have been at the coal face of this issue. Since I was able to participate in and be witness to the peaceful, dignified deaths which took place under the *ROTI Act*, I have also had to witness the terrible suffering that can occur when a very sick person is denied the right to self-determination at the end of their life.

The status quo is unacceptable. Current legislation that prohibits any assistance, or even accessing good information on how best to end life, causes despair and desperation, often leading to precipitous action. Desperate people do desperate things, and it is no surprise that the principal method of suicide in Australia in 2014, many in the context of serious illness, is hanging. This awful statistic should make us all hang our heads in shame. We can do better.

A civilized, compassionate country such as ours should have the courage to retrieve the issue of voluntary euthanasia/ dying with dignity, from the 'too-hard' basket.

My organization, Exit International, has focused in recent years of providing the elderly with access to information and means to peacefully and reliably end their lives. Much of our organisation's recent growth can be attributed to the failure of the political process in coming to terms with this issue. A common comment made by new members: "I can't afford to wait around for the politicians, I have to put my own plans in place",

Dying peacefully, with one's dignity intact and with loved ones present is not 'too hard'. To the contrary, it should be too hard to leave the unequal, unjust status quo in place.

For the reasons above I strongly support the introduction of an End of Life Choices Bill in the Victorian Parliament forthwith.

If further detail is required, or if questions arise, I would welcome the opportunity to physically attend and provide the committee with any information they may require.

Yours sincerely

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