



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON END OF LIFE CHOICES IN THE ACT

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Submission Cover Sheet

End of Life Choices in the ACT

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To the Select Committee on End of Life Choices in the ACT:

I have a dear friend who has been told that she has only months to live. Those last few months she is living with the knowledge that at the end she will drown in her own bodily juices.

My friend doesn't have to imagine what that death will be like. She knows exactly how it will be for she has had two dress rehearsals already. Each time she was dragged back from the edge, to face it all over again.

I have other friends, one haunted by the memory of her sister's dreadful death, another by the terrible dying of her father.

Why are Australians forced to suffer in this way? Why indeed, when reputable polls show that a minimum three quarters of Australians are – and have been for over a decade - in favour of *Voluntary Assistance in Dying (VAD)*. It is more than time that Australian Parliamentarians took heed of this demand.

1. Palliative Care: Patients facing a terrible death should be legally able to request and receive assistance to die. Palliative care can and does relieve the pain of many of those dying, but palliative care proponents themselves agree that approximately 5% of the dying cannot be relieved and the sufferer dies in agony. 5% sounds a small percentage, but translated into an actual number of people it makes a brutal impact.

The close relatives of those dying also suffer and, like my friends, are haunted for the rest of their lives by the memory of dreadful death.

Nor is pain always the principal reason why a person wants to die. The disease he is suffering sometimes destroys the quality of life so much that the sufferer wants desperately to stop living it. It is unacceptable that in this day and age the dying should be forced to suffer unnecessarily in such a way.

2. Opposition to Legalising VAD: For religious and other reasons, the idea of assisting a human being to die, particularly with Government concurrence, is abhorrent to some.

(i) The major opposition to legalising medically assisted dying comes traditionally from religious bodies. Despite widespread disrepute and decreasing membership, these often wealthy bodies still retain great influence in the political world.

(ii) Others fear the abuse of legal VAD. Opponents talk constantly of the danger of abuse, particularly of elderly persons, yet a few minutes reading of any daily newspaper will produce evidence that much abuse

already exists. There is also much talk of the infamous *slippery slope* – claims that once the law is instituted it will be quickly be extended, its conditions loosened.

Proof substantiating these allegations can never be produced.

By contrast, in Oregon meticulous statistics have been kept on the VAD process since it's inception 20 years ago. When queried on October 30, 2018, a Research Analyst of the Oregon Health Authority informed me that he was not aware of any confirmed or prosecuted incidents of misuse of the Law which became legal in 1997.

3. Safeguards: Any proposed VAD bill must be widely circulated in draft form and the comments received taken into careful consideration in its final drafting. Strict safeguards must be written into the Bill to protect societal interests such as religious belief, the need to protect the vulnerable from exploitation, mistake or duress or the reluctance of some physicians to be involved. Age limits, medical parameters and the procedures, defences and precautions safeguarding against abuse **of any kind** must be clearly set out. It should be specifically stated that no physician or other health carer can be penalised for refusing to take part in VAD.

3. An essential human right: Legalising the right to carefully monitored VAD would give Australians an essential human right which they lack at present. Unlike most similar liberal democracies, Australia has no Bill of Rights to protect human rights in a single document - it is the only democratic nation in the world without a national charter or bill of rights. As a result, our Constitution contains few protections for what we now call human rights, in particular a citizen's right to assisted suicide. This attitude is bolstered by UN acceptance that governments may, at wish, proscribe assisted suicide. Australia however goes further – rather than accepting assisted suicide, anyone assisting in a suicide is punishable stringently by law for doing so. Exemption from this law is granted only when the attending physician is able to establish that the drug was intended to relieve suffering not to hasten death – i.e. *double-effect* or *terminal coma*

In shaming contrast, in February 2015 the Canadian High Court ruled unanimously that Canadian legislation prohibiting assisted suicide was invalid, being a violation of the right to life, liberty and security of the person under the Canadian Charter of Rights and Freedoms. This right is also protected in the International Covenant on Civil and Political Rights (ICCPR), which Australia has adopted.

Commenting on opposition worries that vulnerable people could be coerced into dying the Canadian High Court Judges considered that the risks associated with physician-assisted death could be limited through a carefully designed and monitored system of safeguards. A theoretical or speculative fear could not, in their opinion, justify an absolute prohibition.

4. Many Politicians misunderstand and are misusing the term “Conscience” vote. Every person accepting election to Government accepts at the same time three distinct responsibilities: to his party, to the electorate who voted him into place and to his own conscience.

The conscience vote declared by a party means only that the politician is free from the normally accepted duty of voting in accordance with his party’s directions. Two other responsibilities remain, to vote in accordance with his electorate’s wishes and in accordance with his own personal conscience. If he is unable, by reason of that conscience, to vote in accordance with his electorate’s wishes, then he should **refrain** from voting.

5. Voluntary assisted dying already happens frequently in Australia in different guises - including double effect and terminal coma - and is unregulated. Those who die thus are the fortunate ones. Less fortunate are those who are forced in despair to die alone, at the end of a rope, over a high cliff or in the agony of poisoning gone wrong.

6. Position in ACT:

Voluntary Assisted Dying is now legal in Victoria. In New South Wales, South Australia and Tasmania it was rejected by one or two votes. The remaining States and the northern Territory are preparing VAD bills. There is no reason why eligible adults in the ACT should be denied this right.

Some years ago my much-loved Alsatian, Sheba, reached the stage where movement was painful, where she was no longer able to do anything but sit and suffer. One morning our vet came for coffee, we gave Sheba her favourite biscuits and then quietly, in her own basket with her family around her, she was put mercifully to sleep.

Why are human beings in the ACT denied a dog’s death!

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