AUSTRALIAN CATHOLIC BISHOPS CONFERENCE

Bishops Commission for Life, Family and Public Engagement

Archbishop Peter Comensoli (Chairman)
Bishop Timothy Harris
Bishop Michael Kennedy
Bishop Richard Umbers
Monsignor Carl Reid

22 December 2020

Professor Richard Eccleston
Chairperson
University of Tasmania's Independent Review of the End-of-Life Choices (Voluntary Assisted Dying) Bill 2020

Email: VAD.Review@utas.edu.au

Dear Professor Eccleston

Independent Review of the End-of-Life Choices (Voluntary Assisted Dying) Bill 2020

This submission from the Australian Catholic Bishops Conference (**the Conference**) has been prepared by the Bishops Commission for Life, Family and Public Engagement (**BCLFPE**).

The Conference is the assembly of Catholic Bishops of this country and the means by which the Bishops act nationally and address issues of national significance. The BCLFPE is one of the commissions established by the Conference to address important issues both within the Church and the Australian community. The BCLFPE has responsibility for life issues such as euthanasia.

Catholic providers operate Australia's largest non-government grouping of hospitals, aged and community care services, providing approximately 10 per cent of healthcare services in Australia and 13 per cent of all palliative care hospitalisations in Australia. This care is delivered in accord with best practice technically and ethically.

This submission will focus on the problems surrounding the implementation and administration of euthanasia legislation and particularly the *End-of-Life Choices (Voluntary Assisted Dying) Bill 2020*, including:

- an explanation of why euthanasia is ethically unjustifiable;
- an analysis of the failures of safeguards in other jurisdictions;
- the impact of euthanasia on medical professionals;
- the need to provide medical professionals with conscience safeguards; and,
- the imperative to first provide adequate palliative care to all Tasmanians who need it before offering lethal drugs.

COVID has demonstrated the high value Australians put on human lives and especially the lives of vulnerable people. The community has made enormous sacrifices to help protect the lives of neighbours, family and strangers. Euthanasia goes directly against that stance, defining whose life is valued and whose is not.

GPO Box 368
CANBERRA ACT 2601

F (02) 6247 6083
T (02) 6201 9862

www.catholic.org.au
church.life@catholic.org.au

The Conference believes that a radical change to civil society's most foundational law, overturning the prohibition on the intentional killing of citizens, is ethically unjustifiable, cannot ensure the legal protection of the vulnerable, and would fail to uphold the dignity of the dying.

World-leading Australian expert in medical law and ethics, Professor Margaret Somerville, points out that "euthanasia is special (among ethical debates) because there's nothing new about it. We've always got old, suffered, become terminally ill, been dying and somebody could have killed us, and we said 'No, that is wrong. We don't do that.' So that's why euthanasia is so important because if we change that, we're changing the very roots of our society. I think we're changing the essence of what it means to be human if we start killing each other."[1]

Euthanasia refers to deliberately ending someone's life in order to relieve their suffering.2 When it is done at the request of the person it is referred to as voluntary euthanasia. Euthanasia can be achieved by a lethal injection or by intentional neglect. Euthanasia is not turning off a life support machine where there is no prospect of recovery. It is not ending treatment that is overly burdensome. It is not giving someone pain relief that might unintentionally hasten their death. In good palliative care such pain relief will rarely if ever shorten life.

Assisted suicide is a variation of euthanasia and refers to when someone is provided with a lethal dose of drugs which they can take later, at a time of their choosing, to end their own life.

These ways of ending people's lives are sometimes referred to by terms which seem designed to obscure meaning and avoid referring to the deliberate ending of a human life, like 'voluntary assisted dying'.

Community attitudes are often gauged today through opinion polls which may give higher or lower numbers of support depending on how the question is framed. In one instance, support for euthanasia fell away by up to 20 per cent if the words "assisted suicide" were used in the question. Furthermore, when participants in polls were exposed to counter arguments to legalisation, support wavered even further, in one poll from 73 per cent to 43.[3] Polling needs to be framed correctly to get an accurate understanding of public opinion.

The Conference will argue the best way to improve care and respect for the human dignity of people at the end of life and to dignify people as they are dying is to:

- Affirm the inherent and absolute value of every person's life at their most vulnerable;
- Reject attempts to legalise the deliberate killing of citizens at the hands of others;
- Encourage people to discuss and plan for their end-of-life care; and

[1] Professor Margaret Somerville, presentation at The University of Notre Dame, Sydney. 30 June 2015
[2] Suffering may be physical, such as pain, or 'existential', such as fear of loss of control.
[3] Jones, D, *Assisted Suicide and Euthanasia: a Guide to the Evidence*, Anscombe Bioethics Centre, August 2015, page 5.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

- Increase government investment to provide adequate palliative care, respite care and psychosocial support for carers, to back up the strong community commitment to supporting the care of people as their life comes to an end.

Euthanasia is not compatible with good medical care

Lethal drugs are not compatible with good medical care because:

- Euthanasia or assisted suicide cannot be made safe;
- There is no dignity in giving sick people a lethal dose;
- Where euthanasia has been legalised, it has been disastrous for the vulnerable;
- Euthanasia undermines true autonomy.

Euthanasia or assisted suicide cannot be made safe

The clear conclusion of reason and experience is that euthanasia or assisted suicide cannot be made safe, because no law can prevent vulnerable people from abuse. Legalised euthanasia endangers the lives of people who are seriously ill, elderly, have a disability, have low self-esteem or are otherwise vulnerable. Vulnerable people must continue to have our care and the protection of our laws.[4] Where people are suicidal and want to end their life, the community should offer care and treatment, not a lethal injection.

The evidence from places that have attempted to legalise and regulate euthanasia is that it is not possible to draft safeguards that would effectively protect vulnerable people from subtle or overt pressure to request euthanasia.

Professor Margaret Somerville, points out that "physician-assisted suicide and euthanasia involves taking people who are at their weakest and most vulnerable, who fear loss of control or isolation and abandonment – in a state of intense 'pre-mortem loneliness' – and placing them in a situation where they believe their only alternative is to kill themselves."[5]

It is not possible when euthanasia is legal to prevent someone from feeling or being made to feel they are a burden. It is not possible when euthanasia is made socially acceptable to prevent other people deciding that certain patients would be better off dead. What such vulnerable people would hear from the community – from euthanasia laws and a legal system which permits deliberate killing or assisted suicide – is that they are thought to be better off dead or that the community thinks it would be better off if they were dead.

Euthanasia advocates argue that giving someone a lethal dose is a private decision, but allowing euthanasia would make a person's death a public act, necessarily involving, in addition to the sick person, medical professionals, law-makers and regulators, as well as family and the wider

[4] Boudreau, JD and Somerville, MA, Euthanasia is not medical treatment. *British Medical Bulletin*, 2013; 106:63.
[5] Somerville, MA, "Death talk": debating euthanasia and physician-assisted suicide in Australia. *MJA* 2003; 178:173-4.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

community.[6] It therefore has an impact not just on how one person dies but on how all of us will live out our last days and will die.[7]

Once a community accepts the idea that doctors or others can end people's lives for one reason or another, it is difficult to argue that those people's lives might not be ended for some other reason or that other people's lives should not also be ended.

Legal euthanasia would also put at further risk suicidal people, who deserve help rather than assistance to kill themselves. Legal euthanasia would clearly signal there are some people who would be better off dead. There are already media reports on how the euthanasia movement's detailing of methods of suicide is leading to the deaths of young people, who could otherwise have been helped.[8]

There is no dignity in giving sick people a lethal dose

Human dignity, as understood in international human rights instruments, sound secular ethics, as well as the Christian tradition, is at the centre of our common humanity. It is the basis of our equality at law, our human rights including the right to life, and the care we have a right to expect from others. No matter our personal circumstances, our dignity as unique and irreplaceable human beings cannot be lost or volunteered away. Our dignity does not depend on whether we are useful, healthy or wanted, or even whether we appreciate ourselves and our rights. Whatever the motive, killing someone is no way of recognizing their inalienable dignity or their inviolable right to life.

Doctors can either affirm the dignity of their patients by offering them ongoing care, or add to their sense of hopelessness by words or actions that imply their life is not worth living. We do not demonstrate respect for the dignity of others at their most vulnerable by telling them by our words or actions that we think they would be better off dead or that others would be better off if they were dead. Especially where care is insufficient and symptoms are not adequately addressed, people can experience a loss of meaning and hope, even depression. Undiagnosed depression is, in fact, very common in the terminally ill.[9]

Speeding someone's death also dishonours the very important remaining part of their life and deprives people of a valuable and special time, even when confronted with suffering and pain.[10] Laws allowing euthanasia effectively say to people at a very low ebb: "we do not regard the rest of your life as valuable; in fact you might well be better off dead." Legalising euthanasia makes frail and ill people more likely to feel they are a burden on their families or the community and

[6] *Ibid*.
[7] Boudreau, JD and Somerville, MA, Euthanasia and assisted suicide: a physician's and ethicist's perspectives. *Medicolegal and Bioethics*, 2014; 4:7
[8] Butt, C, Deaths among young an unintended consequence of euthanasia movement: mother. *The Sydney Morning Herald*, 13 July 2015.
[9] Street, A and Kissane, D, Dispensing Death, Desiring Death: An exploration of medical roles and patient motivation during the period of legalised euthanasia in Australia. *Omega*, 1999-2000; 40(1):246.
[10] Boudreau, JD and Somerville, MA, Euthanasia is not medical treatment. *British Medical Bulletin*, 2013; 106:62.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

can add the extra dimension of making them feel they are somehow selfish for not 'volunteering' to die.[11]

For us to continue to trust doctors, it is necessary to be confident that they will refuse to kill people. In a similar way, the mutual respect and trust that we share as a community is dependent upon our continued refusal to allow people to be killed.[12]

The experience of legal euthanasia

Amongst those jurisdictions that have experimented in legal euthanasia are Victoria, the Northern Territory, Belgium and The Netherlands.

In Victoria, where euthanasia has been legal since June 2019, the number of people who have died by euthanasia or assisted suicide is ten times higher than the Victorian Government expected. The Victorian Premier estimated that "around a dozen people" would die by euthanasia or assisted suicide in the first twelve months of the scheme and the number would grow over time to 100-150 people dying by euthanasia in following years.[13] In fact, 124 people died in the first year alone. There is limited data available to assess the safety of the scheme.[14]

In the Northern Territory where euthanasia was legal in 1996-97:

- There was a procedure set out for patients wanting approval for euthanasia, which meant steps like a psychiatric assessment were seen as barriers to overcome rather than a key safety check;[15]
- "Four of the seven cases had symptoms of depression";[16]
- Fear of what might happen was a major reason given for wanting euthanasia,[17] and
- Some desperate people engaged in doctor-shopping as they sought a doctor willing to endorse their death.[18]

In Belgium, where euthanasia has been legal since 2002:

- There are more than five deaths by euthanasia every day;[19]

[11] Tonti-Filippini, N, *About Bioethics: Caring for people who are sick or dying* (Ballan: Connor Court, 2012), p. 106
[12] Somerville, MA, "Death talk": debating euthanasia and physician-assisted suicide in Australia. *MJA* 2003; 178:174.
[13] The Victorian Government expects about a dozen people to use the laws in the first year. *ABC News*, 16 June 2019, see: https://www.abc.net.au/news/2019-06-16/the-victorian-government-expects-about-a-dozen/11214608?nw=0
[14] Voluntary Assisted Dying Review Board, *Report of Operations: January to June 2020*. State of Victoria, Safer Care Victoria, August 2020. See: https://www.bettersafercare.vic.gov.au/publications/VADRB-january-to-june-2020
[15] Street, A and Kissane, D, Dispensing Death, Desiring Death: An exploration of medical roles and patient motivation during the period of legalised euthanasia in Australia. *Omega*, 1999-2000; 40(1):246.
[16] Kissane, DW, Street, A and Nitschke, P, Seven Deaths in Darwin: case studies under the Rights of the Terminally Ill Act, Northern Territory, Australia. *The Lancet*, 1998; 352(9134):1097-1102.
[17] Street, A and Kissane, D, Dispensing Death, Desiring Death: An exploration of medical roles and patient motivation during the period of legalised euthanasia in Australia. *Omega*, 1999-2000; 40(1):246.
[18] *Ibid*.
[19] Caldwell, S, Five people killed every day by assisted suicide in Belgium as euthanasia cases soar by 25 per cent in last year alone. *Daily Mail*, 29 May 2014.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

- Almost one third of cases of euthanasia in Flanders are now without explicit consent;[20]
- Only half the euthanasia cases are reported as legally required;[21]
- The law was changed in 2015 to remove any age limit so competent children can request euthanasia with their parents' consent;[22] and
- Life-ending drugs are administered by nurses in almost half the cases of assisted death without an explicit request.[23]

In the Netherlands, where euthanasia has also been legal since 2002, but was tolerated under guidelines even before that:

- 23 per cent of deaths by euthanasia are not reported to authorities;[24]
- There were 310 euthanasia deaths without explicit consent in 2010;[25]
- Euthanasia, once tightly restricted to consenting adults with terminal illness, is now permitted from 12 years of age with parental consent and from 16 years of age without parental consent;[26]
- The Groningen protocol allows for the euthanasia of newborns with poor prognosis, in agreement with the child's parents.[27]

Professor Theo Boer, a former supporter of euthanasia and member of a Dutch euthanasia Regional Review Committee since 2005, warned the United Kingdom not to legalise euthanasia, saying "beginning in 2008, the numbers of these deaths show an increase annually, year after year… Euthanasia is on the way to becoming a 'default' mode of dying for cancer patients."[28]

The risk of "bracket-creep" is confirmed by a study[29] published in August 2015, which found in The Netherlands 3.3 per cent (one in thirty) of deaths were by euthanasia in 2013, three times the percentage in 2002, while in Flanders, Belgium the study showed 4.6 per cent (one in twenty two) of deaths were by euthanasia in 2013, up from 1.9 per cent in 2007.

In summary, public records in the Netherlands and Belgium indicate the situations where euthanasia may be applied have been progressively extended beyond the relief of the suffering of the terminally ill under the loose guidelines applied in these countries. This should give

[20] Chambaere K, Bilsen J, Cohen J, et al, Physician-assisted deaths under the euthanasia law in Belgium: a population-based survey. CMAJ 2010;182:895–901.
[21] Smets T, Bilsen J, Cohen J, et al, Reporting of euthanasia in medical practice in Flanders, Belgium. *BMJ* 2010; 341:c5174.
[22] Dan, B, et al, Self-requested euthanasia for children in Belgium. *The Lancet* 2014; 383:671-2.
[23] Inghelbrecht, E, et al, The role of nurses in physician-assisted deaths in Belgium, *CMAJ* 2010; 182(9):905-10.
[24] Onwuteaka-Philipsen, BD, et al, Trends in end-of-life practices before and after the enactment of the euthanasia law in the Netherlands from 1990 to 2010: a repeated cross-sectional survey. *The Lancet*, 2012; 380(9845):908-15.
[25] Statistics Netherlands, see: http://statline.cbs.nl/StatWeb/publication/?VW=T&DM=SLen&PA=81655ENG&LA=en
[26] Dan, B, et al, Self-requested euthanasia for children in Belgium. *The Lancet*, 2014; 383:671-2.
[27] *Ibid*.
[28] *The Daily Mail,* 10 July 2014.
[29] Lerner, B and Caplan, A, Euthanasia in Belgium and the Netherlands: On a Slippery Slope? *JAMA Intern Med*. Published online August 10, 2015. doi:10.1001/jamainternmed.2015.4086.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

Tasmanians, especially the most vulnerable and their loved ones, real cause for concern about the perils of going down this dangerous path.

Euthanasia undermines true autonomy

The autonomy of people who are sick, frail, have a disability or who are dying is commonly already compromised by their condition. By legalising euthanasia the community adds to their sense of being a 'burden' and 'expendable' and to the pressures upon them 'to end it all'. In the name of autonomy, euthanasia actually reduces the freedom of such persons.

John Keown argues "the fact that, through depression or pain or loneliness, some patients may lose sight of their worth is no argument for endorsing their misguided judgement that their life is no longer worth living. Were the law to allow patients to be intentionally killed by their doctors, it would be accepting that there are two categories of patients: those whose lives are worth living, and those who are better off dead. What signal, moreover, would that send out to people who are sick, elderly, have a disability, or who are dying?"[30]

No serious-minded doctor would give a lethal dose to a patient just because the patient asked: the doctors would have to come to his/her own judgment that this person was an appropriate candidate for euthanasia. In the end it is the doctor, not the patient, who decides whether to grant or administer a lethal drug or not. Thus in the name of autonomy euthanasia further undermines patient autonomy by potentially giving doctors arbitrary power of life and death over their patients.

There is compelling evidence that doctors themselves suffer serious emotional and psychological effects from their involvement in the euthanasia or assisted suicide deaths of their patients, and from pressure to participate in these acts once they are made lawful.[31]

Having accepted that doctors may sometimes decide that certain patients are 'better off dead' or are appropriate candidates for euthanasia, a next logical step is that a doctor would make that decision on behalf of someone not able to request death. Why should a patient be denied what the doctor may regard as good treatment – euthanasia – just because she or he is not able to request it?[32] The slide from voluntary to non-voluntary euthanasia has already demonstrably occurred in some jurisdictions and some euthanasia advocates themselves see voluntary euthanasia as the first step towards providing this 'mercy killing' to others who do not or cannot ask, such as children, people who have a severe disability or who are unconscious. Once again, euthanasia endangers the autonomy of these people.

[30] Keown, J, Mr Marty's muddle: a superficial and selective case for euthanasia in Europe. *Journal of Medical Ethics*, 2006; 32:31-2.
[31] K.R. Stevens Jr, Emotional and psychological effects of physician-assisted suicide and euthanasia on participating physicians. *Issues in Law and Medicine* 2006; 21(3):187-200.
[32] *Ibid*.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

Though the 'right to be killed' has been unknown to international human rights instruments and thinking, were there really such a right, it would imply a duty on the part of health professionals and others to collaborate in killing, whatever their conscientious beliefs.[33] Thus euthanasia is not only about the rights of the suffering person: it inevitably affects the freedom of medical professionals who are asked to assist or turn a blind eye, of by-standers, of regulators and others.

Euthanasia is not compatible with good medical care and would in fact undermine both the good care of people as they reach the end of their life and the autonomy which euthanasia purports to offer.

Palliative care

The Catholic Church has a long tradition of caring for the ill and dying and for their families. It does so in accord with the classical healthcare ethic that holds that every human person is made in the image of God and so their life is precious. The terminally ill should never be made to feel that their lives are "unproductive", "futile" or a "burden", but they should be loved and supported in their final journey.

Good palliative and pastoral care, not killing, is the answer to relieving pain and suffering for the dying. Palliative Care Australia says that good, well-resourced palliative care gives people the ability not only to live well in their illness, but to die well too. Pastoral experience suggests that people's sense of meaningless or hopelessness in suffering can also be addressed. Families also speak of how this time with a person they love who is well cared for and supported, can be very special – a gift – both to them and to the person who is dying.

The Grattan Institute wrote of the importance of improving investment in home-based palliative care in Australia, noting that "… while 70 per cent of people say they want to die at home, only about 14 per cent do so" and "to reach this number will require a major increase in the availability of community-based palliative care."[34]

If compassion were our real motive we would ensure that everything possible was being done to address people's physical, psychological and spiritual pain before entertaining more drastic measures.

Legalised euthanasia would mean that respect for the lives of people is no longer assumed, but depends on whether they have the will to defend their life or have others willing to stand up for them.[35]

[33] Boudreau, JD and Somerville, MA, Euthanasia and assisted suicide: a physician's and ethicist's perspectives. *Medicolegal and Bioethics,* 2014; 4:4.
[34] Swerissen, H and Duckett, S, *Dying Well*. Grattan Institute, September 2014. Pages 26, 27.
[35] *Ibid*, p. 99.

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

Conscientious objection

Conscientious objection is a fundamental human right. It is a necessary and integral part of the right of freedom of thought, conscience, religion and belief, as set out in article 18 of the International Covenant for Civil and Political Rights.

Health staff, including medical doctors and nurses, should not be compelled to undertake a course of action in which they would not voluntarily engage and which is contrary to their conscience and/or religious beliefs.

There should be provision for conscientious objection to be made on behalf of a hospital, health service or other institutional or corporate body. For example, many who work in a Catholic hospital and many who come to be cared for in a Catholic hospital do so because of the ethos and beliefs of the service provider. Health care is integral to the mission of the Church, and Catholic providers of health and aged care services are committed to developing a culture that affirms life and healing. Euthanasia and assisted suicide are not considered quality end-of-life care in accordance with *The Code of Ethical Standards for Catholic Health and Aged Care Services in Australia*.[36]

Conclusion

The Conference does not believe that radical changes to civil society's most foundational law, prohibiting the intentional killing of citizens, are necessary to provide good care for people at the end of their life and to dignify the dying.

What is needed is a firm commitment from governments and the broader community to:

- Affirm the value of people at the end of their lives and reject attempts to introduce deliberate killing;
- Encourage people to discuss and plan for their end of life care; and
- Increase government investment to provide adequate palliative care, respite care and psychosocial support for carers – particularly extra home-based palliative care - to back up the strong community commitment to supporting the care of people as their life comes to an end.

We implore you to recognise the indignity of euthanasia and assisted suicide and to recommend health services be upgraded so all Tasmanians who need palliative care have guaranteed access.

[36] *Code of Ethical Standards for Catholic Health and Aged Care Services in Australia*. Catholic Health Australia, 2001. See: https://cha.org.au/code-of-ethical-standards

GPO Box 368
CANBERRA ACT 2601
F (02) 6247 6083
T (02) 6201 9862
www.catholic.org.au
church.life@catholic.org.au

I would be happy to answer any questions the Committee may have. I can be contacted via Mr Jeremy Stuparich, Public Policy Director at the Conference on 02 6201 9863 or at policy@catholic.org.au

Yours sincerely

MOST REV TIMOTHY J HARRIS
Bishop of Townsville

Bishops Delegate for Euthanasia

GPO Box 368
CANBERRA ACT 2601

F (02) 6247 6083
T (02) 6201 9862

www.catholic.org.au
church.life@catholic.org.au