

**SUBMISSION ON THE  
EXPOSURE DRAFT OF THE  
MEDICAL SERVICES (DYING WITH DIGNITY) BILL 2014**

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## **INTRODUCTION**

1. This paper has been prepared as a submission on the Exposure Draft of the Medical Services (Dying with Dignity) Bill 2014.
2. If the Bill were enacted, it would create a regulatory regime for voluntary euthanasia. It would 'recognise the right of a mentally competent adult who is suffering intolerably from a terminal illness to request a medical practitioner to provide medical services that allows the person to end his or her life peacefully, humanely and with dignity'. The enactment of the Bill will provide a humane, moral and civilised outcome for Australia.
3. This submission is provided in my capacity as Director of Ethical Rights Pty Ltd. I am a scientist, ethicist and ACT Chapter Coordinator for Exit International, the voluntary euthanasia organisation headed by Dr Philip Nitschke. I have been a strong advocate for individual rights and voluntary euthanasia since the 1990s. In this time I have been disappointed by the attitude, even arrogance, of those who think they know what is better for patients than the patients themselves. Whether or not I ever have the desire to request voluntary euthanasia, I want the option of voluntary euthanasia.
4. Many thousands of Australians, including hundreds of Canberrans, have acquired illegal drugs (imported or manufactured Nembutal) or other means by which they could terminate their lives peacefully without drugs. Flagrant breaches of the law have occurred because of Australians' demand for dignity in death and the lack of a voluntary euthanasia regulatory system.
5. Australia cannot continue to let people suffer when they are in the most desperate of situations. We must not let people live without dignity, suffer or vomit faecal matter if they are in the terminal stages of cancer (if living like that is not their preference). A large majority of Australians are dissatisfied with governments' ban on the right to die with dignity. Properly regulated voluntary euthanasia, as proposed by this Bill, must be permitted.
6. People should never be able to deny other Australians the right to choose. That would be arrogant. A denial of rights through imposing one's religious beliefs on others is a policy that even Barack Obama, using abortion as an example, has deplored. He said, 'if I seek to pass a law banning the practice, I cannot simply point to the teachings of my church or evoke God's will. I have to explain why abortion violates some principle that is accessible to people of all faiths, including those with no faith at all'. The same argument applies to voluntary euthanasia.
7. In Part 1 of this paper, I examine arguments in support of voluntary euthanasia, supporting the rights of individual citizens, and the desirability of the enactment of the Bill. In Part 2, I rebut the main arguments against voluntary euthanasia, which could be used against the Bill. I do not examine the Bill in explicit detail.
8. The arguments in this submission stand on their own if they are considered with an open mind, objectively and devoid of cultural and religious bias. The consequence of this is that the Committee should recommend that the Bill be enacted. Amendments may be required to ensure individual rights are upheld, and to address what is happening in the current unregulated environment. Senator Di Natale should be commended for his initiative in developing the Bill.
9. I would be happy to expand on my paper if required.

## **BACKGROUND**

10. A common definition of voluntary euthanasia is that it is the practice of ending life in a painless manner—a good death. Many voluntary euthanasia advocates define voluntary euthanasia as ‘a deliberate act intended to cause the death of a patient, at that patient's request, for what he or she sees as being in his or her best interest’.

11. These definitions have a broader scope than patients who are just terminally ill, as required by the Bill. They are about a patient's best interests. The Bill, if enacted, would allow that a person who, ‘in the course of a terminal illness, is experiencing pain, suffering, distress or indignity to an extent unacceptable to the person, may request a medical practitioner to provide dying with dignity medical services to the person for the purpose of ending his or her life’.

12. However it is defined, voluntary euthanasia is the humane, moral and civilised outcome for Australia and consistent with providing dignity for patients who want it.

13. The Bill, if enacted, would again allow the option of voluntary euthanasia in Australia. Voluntary euthanasia was permitted under the Northern Territory's *Rights of the Terminally Ill Act 1995*, which was subsequently repealed by the Commonwealth's *Euthanasia Laws Act 1997*. The Euthanasia Laws Act also prohibited the introduction of voluntary euthanasia legislation in the ACT and Norfolk Island.

## **PART 1. ARGUMENTS IN SUPPORT OF VOLUNTARY EUTHANASIA**

### **1.1 Rights of individuals in a democracy**

14. John Stuart Mill, one of the architects of democratic doctrine, advanced the principle that ‘the only purpose for which power can be rightly exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant’. Accordingly, democratic societies can make laws to prohibit murder and robbery, but should not make laws to prohibit sex before marriage, religion, or voluntary euthanasia. This is because patients who desire euthanasia for themselves are not physically harming other people.

15. Mill's philosophy can be reduced to the statement that, ‘in any legal issue between an individual and the state, the burden of proof for showing that an individual's behaviour is undesirable, always rests upon the state, not upon the individual’. The onus is thus on those opposed to euthanasia to substantiate why voluntary euthanasia is fundamentally flawed.

16. The concept of individualism is fundamental to democratic political theory. In a democratic society, individualism posits that latitude be given to individuals to behave as they wish, and to develop and satisfy their interests. Mill stated that ‘Over himself, over his own body and mind, the individual is sovereign’. To deny a person the right to live his or her life as he or she wishes implies that each individual does not know what is right for himself or herself.

17. Mill rightly acknowledged that that principle was only meant to apply to people in the ‘maturity of their faculties’. That is, only those who are mentally competent, which excludes

patients with dementia or those with clinical depression (while these conditions persisted), would be able to make a well informed decision about voluntary euthanasia.

18. Individuals can make important decisions about their bodies when they are young, for example, they can decide to participate in dangerous sporting activities. Women can choose to have an abortion. Perversely, it seems that somewhere between the ages of twenty (when some women might have an abortion) and seventy (the age of some terminally ill patients) women lose legal control of their bodies.

19. Members of the clergy, who seem to be the most vocal opponents of voluntary euthanasia, have imposed their values on other individuals through their opposition to a right to die, but I suspect that they would not entertain a reciprocal arrangement that impinged on their individual freedoms. In the spirit of Voltaire, the clergy and other euthanasia opponents most certainly can remonstrate with people requesting euthanasia to change their minds, but they ought not to be able to compel them by insisting on a legislative fiat in a democracy. Voluntary euthanasia is morally just precisely because it is voluntary.

20. Voluntary euthanasia supporters on the other hand do not insist that all people must have voluntary euthanasia, but rather that everybody be permitted to have the choice. For an issue as personal as one's own life and death, the choice of how you might die is one of the most personal decisions an individual should make. To be denied the right to make this decision is a blight on modern Australian democracy.

## **1.2 Whose life is it anyway?**

21. Sue Rodriguez was a Canadian who died in 1994 from Lou Gehrig's disease, but not before taking her case to the Canadian Supreme Court in an attempt to gain permission for her own legal euthanasia. In explaining her situation, she questioned that if she cannot give consent to her own death, then whose body is it? 'Whose life is it anyway?' After passage of the Euthanasia Laws Act in Australia, a majority of Australians would have asked the same question.

22. Bob Dent, the first of four people to die under the Northern Territory's Rights of the Terminally Ill Act, was adamant that the beliefs of others should not be forced on individuals. He said 'What right has anyone, because of their own religious faith to which I do not subscribe, to demand that I must behave according to their rules'.

23. Sue and Bob reflected what most people think: that a well-informed, mentally competent patient is best placed to make a decision about their own body. How could anybody, or any government, deny that simple fact?

## **1.3 Popular opinion in Australia**

24. The fact that many people favour a particular policy does not make it ethically 'right'. However, when it comes to public policy, and a choice of what people want for themselves (rather than others in the population), popular support for a policy is a strong argument in its favour.

25. Public polls have shown that about 82.5% of Australians (according to a 2012 Newspoll) support the option of active voluntary euthanasia. This is an increase from 80% in 2010, and

from 75% before the Euthanasia Laws Act was enacted. The question asked in these polls was ‘If a hopelessly ill patient, experiencing unrelievable suffering, with absolutely no chance of recovering, asks for a lethal dose, should a doctor be allowed to give a lethal dose or not’.

26. Voluntary euthanasia is therefore opposed by less than one in five Australians. Enactment of the Bill would be the best way to give effect to Australians’ overwhelming preference for a voluntary euthanasia regulatory framework.

#### **1.4 The current Australian situation**

27. While legislative reform is the main objective of the state and territory based Dying with Dignity organisations, it is also a desired objective of Dr Nitschke’s organisation, Exit International. Much of Dr Nitschke’s time, however, is devoted to complementary activities, in particular undertaking research and providing information on end-of-life options to the elderly and seriously ill.

28. His information and guidance not only fills the regulatory gap left by politicians who refuse to regulate voluntary euthanasia, but is also immensely comforting to the many thousands of Exit members in Australia and overseas who attend his workshops and read his books on end-of-life options. Acting on Dr Nitschke’s advice, thousands of elderly Australians, and many hundreds of Canberrans, have acquired their illegal drugs (stashed well away from inquiring eyes) or other equipment. That’s also why so many support him. People, including many average grandparents, need information on drugs now and cannot wait for politicians to legislate for voluntary euthanasia.

29. Other Australian doctors have admitted to assisting with voluntary euthanasia. Voluntary euthanasia campaigner and Victorian urologist Dr Rodney Syme admitted in early 2014 to giving a dying man (with oesophageal cancer) the drug Nembutal two weeks before the patient killed himself with it. Yet no legal action has been taken against Dr Syme and nor should it be. He acted in the best interests of his patient.

30. Australian doctors have been assisting patients with voluntary euthanasia for many years (a survey indicated more than a third of doctors have done so), albeit in an illegal environment. All of this activity is unrefuted, and no serious efforts are being made to stop any of this activity.

31. These matters suggest the following perplexing question. If governments are not intending to prosecute doctors who humanely assist with voluntary euthanasia when it is illegal, why do governments object to its legalisation?

32. Furthermore, many politicians have objected in the media to Dr Nitschke and other physicians operating in an unregulated environment. Instead, it would be preferable if politicians did their jobs and legalised voluntary euthanasia, rather than complaining about what’s happening in an unregulated environment. The enactment of the Bill is a necessary first step.

33. In the words of Marshall Perron, the former Northern Territory Chief Minister, who helped introduce the Northern Territory’s Act, ‘It is surely preferable to have voluntary euthanasia tolerated in particular circumstances with stringent safeguards and a degree of transparency, than to continue to prohibit it officially while allowing it to be carried out in secret without any controls’.

### **1.5 The issue of rational suicide**

34. The Bill refers to people who have a terminal illness. However, there have been a number of recent situations where elderly Australians, who have not been terminally ill, have committed suicide with the aid of Nembutal. I categorise such deaths as ‘rational suicide’ because these decisions have been made, it seems, by mentally competent people who are neither depressed nor terminally ill. Rational suicide is not a new issue in Australia, but the level of public debate on the issue is immature.

35. For three years, Lisette Nigot warned Dr Nitschke that she would take her life at 80 because she will have had enough by 80. A movie (*Mademoiselle and the Doctor*) documented her case. Iris Flounders chose to take her life when her terminally ill husband, Don, took his life with Nembutal. Neither Iris or Lisette were terminally ill, nor were they depressed. In both cases, the women emphatically told Dr Nitschke, friends and relatives to mind their own business.

36. There was barely any adverse commentary in the press on these matters, although there were ructions in the pro-euthanasia community regarding Lisette Nigot's case, particularly around where the line ought to be drawn. It is worth reiterating that while many people commit suicide, it is legal (perversely, voluntarily gaining assistance with suicide is illegal). It was not possible to dissuade these women from their suicides, and regrettably, this will sometimes be the case.

37. Rational suicides such as those above would seem to be consistent with Mill's philosophy on the rights of an individual and will continue to occur even if the Bill is enacted. I personally know many people who are not terminally ill, but who might consider taking Nembutal if a number of smaller untreatable illnesses were to adversely affect their dignity or quality of life. The Bill will not address their concerns, which are no less valid because they are not terminally ill. If the Bill is not amended to take these situations into account, then rational suicides will continue to occur in an unregulated environment.

38. In any civilised society, people do not want the option of euthanasia to be made available to those with impaired mental faculties, including the depressed. Good voluntary euthanasia legislation must set the limits so that only people with serious illnesses or poor quality of life can access drugs such as Nembutal, and that people who are depressed or anxious, or otherwise not of sound mind, cannot access voluntary euthanasia. The Bill draws the line at the patient being terminally ill. That is a wonderful start, but it leaves many Australians in the position where they will still be aiming to obtain drugs illegally, just in case, if they ever need them. In regulatory terms, more needs to be done.

### **1.6 Tolerance in Australia's multicultural society**

39. In recent times there has been debate on the diverse and multicultural society in which Australians live. Tolerance of the values of others is an important element of multiculturalism, however it is defined. To avoid a ‘tyranny of the majority’ situation, the values of different cultural, indigenous, ethnic and other minority groups must be respected.

40. It is surely hypocritical to claim that one is tolerant of others but simultaneously insist that their values about how they live their individual lives, such as a desire for the option of voluntary euthanasia, are wrong and cannot be practised. If some people object to voluntary euthanasia, they need not ever request euthanasia.

41. Moreover, if the values of some groups are unethical, particularly if they are discriminatory or hypocritical, they should be challenged. Religious people, such as Christians and Muslims, worship a god that, according to their scriptures, has murdered people. They choose to belong to religions that discriminate against women and homosexuals (despite claiming forms of equality). With such perverse and discriminatory values, they cannot take the moral high ground and demand that other people must conform to their values and eschew the option of voluntary euthanasia.

42. Tolerance for other people means people have the right to believe and act on their beliefs, so long as these beliefs do not adversely affect the rights of others.

### **1.7 Freedom of religious expression**

43. Another argument relates to s.116 of the Australian Constitution. Section 116 states that the Commonwealth shall not make laws 'for prohibiting the free exercise of any religion'. The clergy and most other euthanasia opponents rely on Christian ethical values. Clearly, those who support euthanasia rely upon different ethical values, such as might be compatible with a 'religion' based on the primacy of the quality of life, rather than, for example, a Christian 'existence for its own sake'. It could be argued that legislation that prohibits people from practising euthanasia could be in contravention of s.116.

44. Jainism can be considered as a religion that supports euthanasia, and if so, practice of this religion is prohibited by an unconstitutional law. Active voluntary euthanasia (so long as there are precautions to prevent abuse) is also supported by some other churches.

45. Despite the more liberal views of Christians, the clergy have been particularly outspoken against voluntary euthanasia. It is regrettable that their views do not reflect church membership and have been manifested in legislation that impacts on people who do not share their religion. The right for individuals to live their lives as they wish, without being constrained by the religious values of others, must be upheld.

### **1.8 Economic arguments**

46. There are limited resources available for health care in the Australian economy. Governments are frequently engaging in cost-cutting exercises, which are their prerogative, and this places further pressure on the health budget.

47. If people who want voluntary euthanasia are unable to obtain it, then Australian taxpayers' money is being spent to keep them alive when that outcome is not wanted or appreciated. It could otherwise be available for additional infant care, cancer therapy or emergency services, where it could save lives and improve the quality of life for others who want it. Such health budget savings, possibly of the order of \$100 million per year, could also be spent on additional palliative care.

48. One must question, as a serious matter of public policy, why public money should be spent on keeping patients alive who do not want to live, in preference to patients who do.

## **1.9 The human factor**

49. Throughout this paper I have been referring to the ‘patient’ or the ‘terminally ill patient’. These are rather impersonal terms, disguising the fact that patients are people—they are people with feelings, and they are loved by friends and relatives. These people must be treated in a humane and compassionate way. Australians are now living longer, and our ailments are often well treated with drugs. But for some people these drugs do not provide a good quality of life, and they may suffer from continuous pain, discomfort or loss of dignity. Some people would like to choose the option of euthanasia.

50. To deny terminally ill patients the right to euthanasia is to condemn them to a miserable existence, contrary to their wishes. It is hard to establish any difference in moral character between someone who denies a legitimate request for voluntary euthanasia, and who subsequently watches that person die a slow and painful death, and someone who watches a cancer-ridden pet writhe in agony without putting it down. Most people—82.5% of Australians—would argue that if you are terminally ill, are of sound mind and not clinically depressed, and choose euthanasia, then it is morally right. Many others argue that this right should be extended to include some who are not terminally ill, but perhaps seriously ill, or with many ailments, but who make a well-informed, rational decision about their end of life options. After all, it is their life. Nobody would want anyone else interfering with their life.

51. For acts such as voluntary euthanasia that impact directly on an individual, the moral and humane thing to do is what is right for the individual, and only each individual knows what this is. Voluntary euthanasia is moral and humane because it is what the individual wants. And that accords with common sense. It is difficult to deny patients the option of voluntary euthanasia when the patient considers voluntary euthanasia is in their own best interest.

52. In summary, not providing the option of voluntary euthanasia is inhumane and callous. In a humane society the prevention of suffering and the dignity of the individual should be uppermost in the minds of those caring for patients. When the quality of life is more important than the quantity of life, voluntary euthanasia is a good option.

## **PART 2. A REFUTATION OF SOME ARGUMENTS AGAINST VOLUNTARY EUTHANASIA**

### **2.1 Possible abuse of euthanasia legislation**

53. To assess if the Bill, if enacted, could be abused, it is useful to consider previous legislation. Four people made use of the Northern Territory’s Rights of the Terminally Ill Act before it was overturned. There were significant measures in that Act to ensure that patients were not improperly coerced into euthanasia.

54. Marshall Perron neatly encapsulated some of the more important measures in the Northern Territory’s Act to ensure it was not abused. Most of these measures seem to have been, incorporated in the Bill. Mr Perron said ‘Voluntary euthanasia is patient driven. The Northern Territory law dictates that the patient must personally initiate the process, consider the options for treatment and palliative care, be psychologically assessed, sign a request, obtain second opinions, consider the effect on the family, use qualified interpreters if necessary and endure a cooling off period. The patient can of course change their mind at any time and stop the process



instantly. Additionally, detailed records must be kept. Government regulations must be followed. The Coroner must be informed and has a statutory responsibility to report to the Attorney General and parliament any concern regarding the operation of the legislation. To kill another without these conditions being fulfilled is to commit murder under the Northern Territory Criminal Code—penalty being mandatory life in prison.’

55. Mr Perron also said that although more elaborate safeguards could have been put in place, the safeguards in the Northern Territory Act ‘prevent people who might opt for voluntary euthanasia simply because they are temporarily depressed, or who are being coerced by others, from being legally able to be assisted’. Any patients who request euthanasia under duress will not convince a jury of doctors that their decision has been made ‘freely, voluntarily, and after due consideration’, as the Northern Territory Act requires. Consequently, such patients will be considered ineligible for euthanasia.

56. No worst-case scenario is impossible, but it is extremely unlikely that voluntary euthanasia legislation, such as that proposed by the Bill, could be abused. Most Australian doctors would consider it improbable and an insult to suggest that, for example, a group of three doctors would maliciously collude to arrange the death of a terminally ill patient without the patient’s consent.

57. Nonetheless, a legislated regime must be preferable to the unregulated voluntary euthanasia activity that occurs now without any controls. If the Bill is not enacted, that will mean that politicians are effectively sanctioning the illegal activities of the thousands of Australians, and hundreds of Canberrans, who have been importing, and will continue to import, illegal drugs.

## **2.2 Patients being a burden**

58. Possibly the most pervasive (but not persuasive) argument against voluntary euthanasia, in terms of popular use by those who oppose euthanasia, is that of ‘being a burden’. This includes people who might not want voluntary euthanasia being encouraged to request it. This argument seems to be basically a catch-all for voluntary euthanasia opponents. The argument comes in a number of forms.

59. First, there are concerns that those who are vulnerable, possibly the elderly, disabled, members of certain racial or ethnic groups, and the poor, will be under pressure to have euthanasia, possibly because these people might not have appropriate access to medical, psychological or palliative care services. This argument is unfounded; because international experience is that this doesn’t occur. Appropriate safeguards have been established in international legislation to mitigate this risk.

60. Similar safeguards are in the Bill, involving three medical practitioners, one of whom is a qualified psychiatrist. According to the Bill, the medical practitioners are required to ascertain that they are satisfied that the terminally ill ‘person’s decision to end his or her life has been made freely, voluntarily and after due consideration’. It is improbable to imagine that a terminally ill person who wants to stay alive (but feels compelled to request voluntary euthanasia because society is not supporting them or that they otherwise feel pressure) could convince three medical practitioners that their decision to have euthanasia was made without pressure, coercion, or otherwise was not voluntary.

61. Second, an argument that has often been raised is that unscrupulous relatives, in attempting to rid themselves of a terminally ill parent or relative, will apply pressure to the terminally ill person to seek euthanasia. Such a scenario is highly improbable. My experience is that loving relatives are distressed by the fact that their relative is terminally ill. If unscrupulous relatives did exist, why would they provoke the possible ire of their terminally ill loved one, and possibly risk any possible inheritance, by implying that the person is a burden, or suggesting euthanasia when it isn't wanted? In this case their loved ones would literally be unloved. The safeguards noted above still apply.

62. Third, it is inconsistent with the Bill that people who aren't in imminent danger of death can have access to voluntary euthanasia. The Bill draws the line. If the Bill were enacted, it would be illegal for those who are not terminally ill to be eligible for voluntary euthanasia. Of course, whether the line ought to be drawn at terminally ill, seriously ill, or having a poor quality of life is another matter. The significance is that the Bill will draw the line so that only people who are terminally ill will be able to access voluntary euthanasia.

63. Can there be an ironclad guarantee that the legislation, if enacted, won't be abused? As with any similar legislation, such guarantees are impossible to make. Legislation against murder does not guarantee a society free of murder. Under the Bill, medical practitioners are required to keep a range of documentation. If the appropriate documentation is not retained, then there are penalties.

64. Why should a more stringent standard be applied to voluntary euthanasia for terminally ill people who need assistance to die? Terminally ill people on life support can request the removal of life support, and there is not the same level of regulatory oversight as proposed in the Bill to confirm their mental well-being, and confirm that they are not being coerced to die.

65. If being a burden were really a concern that would drive terminally ill people to seek legalised euthanasia, then there are many people who should be considering legalised suicide now because, according to some measure, they could be considered a burden. Everyone who obtains some benefit from others, whether it is people who are being cared for, children, elderly, pensioners, etc., is theoretically a burden on other people or society. But we do not find pensioners, and nor should we, claiming 'since I am a burden on society I should commit suicide'. In the context of the Bill, the burden argument can be addressed.

66. My situation is that if I am ever terminally ill, I will evaluate all possible information, including whether I am a burden on family or society. If I want to stay alive, then my quality of life will be my primary concern. The key consideration is that the choice must be for patients to make. Even if I were to make a poor decision about my life, it is my life. I would rather all decisions about my life, good or bad, were made by me, rather than having the values of other people forced on me, denying me the option of voluntary euthanasia if I were to choose it. The more than 80% of Australians who support voluntary euthanasia have a similar view.

### **2.3 International experience**

67. Some forms of euthanasia are legal in Belgium, Luxembourg, the Netherlands, Switzerland, and the US States of Oregon, Vermont, New Mexico, Montana and Washington. It seems legislators are starting to respond to the needs of terminally ill patients. Importantly, the legalised use of voluntary euthanasia in these jurisdictions is not out of control as has been claimed by those opposing voluntary euthanasia. Interestingly, but not surprisingly, the rate of

euthanasia in the Netherlands has decreased rather than increased. This is probably because, amongst other things, people are aware that a voluntary euthanasia option is available if they need it, so non-voluntary euthanasia, and suicide by premature access of more drastic and less dignified options, is not required.

#### **2.4 The ‘right to life’ and ‘sanctity of life’ arguments**

68. The right to life argument in the context of voluntary euthanasia has no ethical merit. The ‘right to life’ is no more than a ‘right’. The right to life is not a duty to live. The right to life does not demand that it must be exercised.

69. People have the right to stand on their heads in their back yard if they want to, but there is no compulsion to do so. Terminally ill patients who want euthanasia for themselves choose not to exercise their right to life. The clergy and other opponents of euthanasia might not understand this choice, but it is the choice of those who want voluntary euthanasia.

70. An often-touted argument deals with the sanctity of life. A problem is that the word sanctity only has meaning for those with particular religious beliefs. And it seems to be applied selectively. The Christian Bible is littered with instances of murder, sacrifice and torture, including of women and children, so the sanctity of life argument is not even respected by the Christian clergy.

71. It is also ironic that religious people, whose moral values permit them to worship a god that they consider has murdered thousands/millions of people (according to religious texts), want to deny others the right to take their own lives when they are terminally ill. Surely this is a morally perverted standpoint.

72. People with other beliefs, such as those who might, for example, have an objective of ‘to live my life as long as I am happy and healthy, and, if that is not possible, then to die with dignity’ are discriminated against by the sanctity of life argument.

73. If life were sacred, there would also be strong arguments against the withdrawal of life support (passive euthanasia), self-defence and suicide. It would follow that society should do its utmost to ensure that everyone stays alive no matter what the circumstances, and this would be unacceptable.

#### **2.5 An incorrect patient diagnosis**

74. Some euthanasia opponents claim that a terminally ill patient could be incorrectly diagnosed, and could possibly recover, so euthanasia should be forbidden.

75. It is foolish to claim that incorrect diagnoses and prognoses could never occur. But for all practical purposes, they can be ruled out. Dr Alistair Browne has remarked that ‘it is frequently beyond all reasonable doubt that the diagnosis is correct or some cure will not be discovered in time to help, and it is not clear why this should not be sufficient. The law has never taken a “pigs might fly” attitude towards the risks attendant on any activity. We only need to establish “guilt beyond reasonable doubt” to send a person to prison or even to his execution, and it is not possible to require more without making the enforcement of the law impossible. Why a more stringent standard should be demanded in the cases of assisted suicide and active voluntary euthanasia yet needs to be explained.’

## **2.6 The slippery slope argument**

76. The slippery slope argument is a common sensationalist argument of the clergy and other euthanasia opponents. It claims that if a right to assisted suicide and active voluntary euthanasia were instituted, it would lead to an increased rate of non-voluntary euthanasia, then euthanasia of those who are not attractive to society, those with fanatical political beliefs, extreme religious or cultural values and so on. Thus if we do not draw the line where it is, we will not be able to prevent substantial harm to others.

77. This argument has no merit. For there to be evidence of a slippery slope there would need to be evidence of more non-voluntary deaths within a tolerant, legalised voluntary euthanasia framework.

78. International studies have found that a ‘group of people being helped to die without consent existed in all surveyed countries, irrespective of whether there was an environment of decriminalisation or harsh legal sanction’. Moreover, it seems that a tolerant environment for voluntary euthanasia, decreases, rather than increases, the number of non-voluntary deaths. This has certainly been the case in the Netherlands. If there were a slippery slope, it is going the wrong way for those opposing euthanasia.

79. The line on what will be permitted will be drawn by the enactment of the Bill. If the Bill is enacted, voluntary euthanasia will only be available to mentally competent patients who are terminally ill under specified conditions. Despite scaremongering, there will be no slippery slope—parliaments will decide where the line is drawn. Good governance demands legislative oversight of voluntary euthanasia.

## **2.7 The palliative care option**

80. The clergy and other euthanasia opponents argue that assisted suicide and active voluntary euthanasia are unnecessary because of the extraordinary developments in palliative care and pain control. I suspect Angelique Flowers would have disagreed, but she suffered. Her compelling video to then Prime Minister Kevin Rudd is at [https://www.youtube.com/watch?v=jdx\\_d\\_EFDd4s](https://www.youtube.com/watch?v=jdx_d_EFDd4s).

81. Advances in palliative care are always welcome. In some, perhaps many cases, the need for assisted suicide and active voluntary euthanasia will be reduced through developments in palliative care. But these developments do not obviate the need for voluntary euthanasia nor can they control all aspects of a patient’s illness to the level desired by all patients. There are still numerous illnesses or conditions for which pain, extreme suffering, and loss of dignity are difficult or impossible to eliminate. Some patients will suffer the terror of breathlessness or vomit uncontrollably, others will be choking continuously or unable to swallow, others will be paralysed, and still others will be helpless, weak, incontinent and totally dependent on others. Even if pain and distress are not the major problems, there is often a strong fear of the dependency that would result if all bodily functions, mental and physical, were sufficiently impaired.

82. Palliative care is not an option for all people, since no amount of palliative care can relieve all distress. Voluntary euthanasia is a reasonable alternative for those who want it. Clearly, 82.5% of Australians, including the many thousands of members of Exit International and the Dying with Dignity organisations, want voluntary euthanasia as an option.

## **2.8 The concept of harm**

83. Some who argue against voluntary euthanasia claim that doctors must ‘first, do no harm’. Leaving a person, such as Angelique Flowers, to suffer when palliative care has not provided adequate respite from pain and suffering, is simply unacceptable. For many people, particularly terminally ill people, staying alive is doing harm. The option of a peaceful death, before one vomits faecal matter, is preferable for many people, such as terminally ill people with colon cancer. They should not be denied the right to have a peaceful death, a right that does not directly affect others.

84. It is arrogant to impose one’s belief systems on another individual, effectively denying the other the right of equality. Only individuals themselves know what harm is. Those who opt for quantity of life regardless of the pain or suffering might not want voluntary euthanasia, and they need never request it. However, as many patients, particularly terminally ill patients consider that the quality of their life is more important than staying alive, the option of a peaceful death to alleviate their pain and suffering is a more humane and valid alternative.

85. Denying an individual’s right to die is arrogance. Other Australians should have the right not to have others’ values and perspectives forced on them.

## **THE RIGHT TO DIE WITH DIGNITY IS JUSTIFIABLE**

86. I have provided substantial arguments in favour of voluntary euthanasia and the rights of an individual to choose how they should die and rebutted the major objections to voluntary euthanasia. Australia’s current legislative regime for euthanasia is violates an individual’s fundamental rights, is inappropriate in a multicultural society, runs contrary to popular opinion, is economically unsound, causes unnecessary pain and suffering, and is inhumane. It denies individuals the rights to their own lives.

87. If the status quo were to remain in Australia, it would have a deleterious effect upon those patients who would like to have the option of voluntary euthanasia. The right to die might be a right that is only ever exercised by a small minority of the population: terminally ill patients for whom palliative care is inappropriate, or perhaps people who might choose the option of rational suicide. However, those opposed to voluntary euthanasia should not, including by legislative fiat, deny individuals the right to die with dignity.

88. The arguments I have presented stand on their own if they are considered with an open mind, devoid as far as possible of any cultural, religious or other bias. They lead to the conclusion that the Medical Services (Dying with Dignity) Bill ought be enacted, possibly with amendments. If all individuals are to be respected, then Australia must observe the right to die with dignity. Despite the claims of those who oppose voluntary euthanasia, they do not know what is better for terminally ill patients more than the patients themselves. The rights of an individual must prevail.