

**SENATE COMMITTEE INQUIRY INTO SUICIDE IN AUSTRALIA
VINCENT PHELAN'S SUBMISSION
14 OCTOBER 2009**

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SUMMARY

The Senate Inquiry is about Suicide. Suicide, Death, and Dying, are all taboos. We live in a death-denying society. Even in hospitals, no one is allowed to die. We are kept alive at all costs, many against our wills. (See Dr Khadra's book *The Patient*). If someone does die, the police are called and start looking for someone to blame or to sue. (Michael Jackson) This Submission argues that death is part of life, it is perfectly natural, and should be studied as any other natural phenomenon without the fear and superstition which usually surrounds it. (See para 2 *The Senate*)

Suicide requires a totally new approach from the government and society. This Submission argues that suicide is neither a sin morally nor a crime legally but a natural human right. For a growing group of adults, especially the seriously ill and the elderly, suicide is a rational and potentially necessary option. To plan one's death and take control of one's own dying, by falling asleep and not waking-up for instance, is an aspiration shared by all. The Senate is asked to repeal laws that discriminate against the elderly, and to act responsibly in enabling those who consider their lives having come to an end to be well-informed and to self-deliver peacefully and reliably when they choose.

VINCENT PHELAN
Chapter Coordinator (EXIT)

WHO AM I?

Mortal mind in mortal body. 78 years of age. My doctors tell me I'll have a stroke or heart attack tomorrow or the next day. I do not have an immortal soul. My life began at birth. It will end at death. I intend to take control of my own dying. I therefore have a vested interest in suicide.

WHOM AM I DEALING WITH?

The Senate. The Senate is a worry. The Senate is comprised of 76 individuals who (many or most) manifest strong religious beliefs. The worry is whether these Senators can be objective enough to legislate on a religious taboo like death, dying and suicide.

The Senate indulges in parliamentary prayers invoking an imaginary offshore deity to guide it in its decision-making. This is a worry.

The Senate thinks suicide is a sin. Suicide is not a sin or a crime. It is a right.

The Senate gave us the *Suicide and Related Materials Act 2006* forbidding discussion of suicide on the telephone, by email, or by fax. Thousands of elderly law-abiding citizens have now been turned into potential criminals.

The Senate is trying to force Dr Philip Nitschke offshore. His *Peaceful Pill Handbook* is a best-seller on the Amazon Book List and is freely available all over the world. But banned in Australia. By the Senate.

The Senate overturned the *Rights of the Terminally Ill Act* of the Northern Territory in 1996. Now the terminally ill have no rights whatever.

The Senate is supporting Senator Stephen Conroy in his current obsession to censor the internet. One of his aims is to deny information on suicide to those of us who have a right to it and need it most, i.e., the terminally ill and the elderly.

The Senate thinks we are all depressed. Whereas those of us in my age-bracket who have thought long and hard about these things for years are well balanced. We have decided to live our lives to the full while we can, but with a pill in the cupboard for the day we need to self-deliver. This is perfectly rational.

The Senate, therefore, is a worry. Are we to expect more of the same? Or can we look forward to an open-minded investigation of suicide in all its aspects including elderly people as well as the young, and rational suicide as well as irrational?

SOME CASE STUDIES

DIY Suicide

i intend to take the peaceful pill the day before I have a stroke. But it might happen that I have to take the peaceful pill the day after I have a stroke. Then I'll need someone to take the top off the bottle. I am committing no crime self-delivering like this. Suicide is not a crime. But the compassionate person taking the lid off the bottle for me is liable to 14-years imprisonment.

Assisted Suicide

My friend Stan was not so lucky. We had often discussed this matter and had decided that if a stroke were to 'kill us dead' we would be happy. But Stan's stroke only half killed him. And we're not happy. I recently visited him in the Aged Care Home. He's a sorry sight. Blind, without speech, and paralysed. The last thing in the world he wanted was to be incarcerated like this in a state of complete helplessness and dependence, never again to make a decision. There's no recovery, and he knows it. His quality of life has come to an end. Rather than a cure, he is being offered prolonged dying. This can go on for months and years. Stan wants to self-deliver but can't do it alone. He needs assistance. But it's against the law.

Senators debating a change in the law might like to put themselves in Stan's place. There is no privacy. Three or four beds in a room with no doors. Open doors for the toilets and showers with someone to wipe your bum if you are lucky. No meaningful communication between one inmate and another. They're all gaga or paralysed or in wheelchairs or drugged to the eyeballs with medication. Dozens of inmates are stacked like sacks of potatoes round the walls in a state of chemical oblivion. Others are bedridden. They are turned every three hours if sufficient staff is available. Food is put in their mouth at one end and cleaned-up when it comes out the other. Many of these don't want to go on living like this. They are being kept alive against their will. They might be alive but they are not living a life. The RSPCA would impose heavy fines for treatment of dying animals in this way. But our superstitious laws insist that humans must be treated not like animals. The Senators are implored to repeal such outdated laws before they themselves end up in such a predicament.

Christian Rossiter in Perth was another such case who requested the right to die rather than continue for years in his unwanted predicament. Justice Wayne Martin of the Supreme Court in Perth heard the case and ruled that Christian Rossiter did indeed have the right to die. But rather than a quick and peaceful death, he had to endure the worst possible way of dying - starvation. Mercifully, after five days, a fever ended his sufferings.

Assisted Suicide can take many forms. In Oregon USA a doctor prescribes a drug to be taken at a later date by the patient. The Chemist dispenses, a neighbour may collect, friends and loved ones may assist and attend the death. All of this without incurring a punishment. Not so in Australia. Here, the doctor prescribing, as well as the chemist dispensing, and anyone else who remotely had anything to do with the suicide would be charged with the crime of Assisting-a-Suicide if not Manslaughter. Our Exit Members would love to be able to attend the bedside of a loved-one when self-delivering. Priests sit with the dying. Doctors and nurses and family-members also attend the dying. Why can't we? It's not unlike emigrating when all the friends and the family gather around to say farewell. When I self-deliver, I want my family and friends with me. But if the Senators don't make a change in the law, my attendants will incur a 14-year gaol sentence.

Voluntary Euthanasia

Angelique Flowers went public with her dying. She was a 31-year old writer who died last year with Bowel Cancer after suffering from Crohn's Disease for 16 years. Her video was shown to the audience on a live episode of Tony Jones' ABC TV program *Q and A* where 90% of the audience thought she should have the right to euthanasia while the politicians on the panel, Tony Abbott and Maxine McHugh, disagreed. The video showing Angelique dying and vomiting faecal matter was sent by Dr Philip Nitschke to PM Kevin Rudd. On the video Angelique said: *"All I want after 16 years of painful Crohn's disease and now Cancer is to die a pain-free peaceful death... but I am denied this right"*. Further she said: *"The Law wouldn't let a dog suffer the agony I'm going through before an inevitable death. It would be put down. Yet under the law, my life is worth less than a dog's"*. Still there has been no change in the law. Voluntary Euthanasia nowadays is generally defined as *Physician Assisted Dying*, meaning a lethal injection given by a doctor to a requesting patient who is terminally ill and close to death. (Professor Colleen Cartwright) Exit members try to self-deliver well before they arrive at this advanced stage of helplessness.

SOME RECENT PRONOUNCEMENTS

Senators will be familiar with the definition of *Assisted Suicide* which has undergone a change in England subsequent to the Debbie Purdy case in London (2009). No longer *"A malicious act goading someone to kill himself"*, but *"A compassionate act of love assisting a loved one to self-deliver."*

The chief executives of two of Melbourne's leading hospitals, the *Austin's* Brendan Murphy, and *The Royal Children's* Christine Kilpatrick, say we need to break taboos and have a national conversation to improve the quality of death in our hospitals. They say emotion, high expectations, and a lack of communication among doctors and families are leading to unnecessarily extended treatment of some patients at death's door. (See Nick Miller's Article in *The Age* 10 October 2009).

"So many people are being kept alive in circumstances that they would not want", says *Austin's* Dr Bill Sylvester, *"because doctors don't have the courage to make decisions"*. Senators don't have the courage to make decisions either, it seems to me.

Justice Wayne Martin in Perth, already quoted, ruled that Christian Rossiter had the right to die.

Justice J. McDougall in Sydney ruled that we have a right to reject medical care. In a landmark decision in the NSW Supreme Court on August 6, 2009, he ruled that doctors and paramedics must withhold lifesaving medical treatment if a patient has previously made a Living Will. (i.e., Advance Directive) The Judge called this: *"A competent adult's right of autonomy or self-determination, ie. the right to control his or her own body"*. He also

quoted the following: “Every human being of adult years and sound mind has a right to determine what shall be done with his own body” (Cadozo 1914)
“A person is entitled to make his own decisions about his life” (King 1983)

The Conflict according to Judge McDougall

The competing interests are:

- 1) an adult patient’s right of self-determination
- 2) the interest of society in the preservation of life

The Judge’s Decision:

“The individual patient’s right is paramount” “Whenever there is a conflict between a capable adult’s exercise of the right of self-determination and the state’s interest in preserving life, the right of the individual must prevail”.
(Lord Keith of Kinkel) “The principle of the sanctity of life must yield to the principle of self-determination”. (Lord Mustil)

THIS SUBMISSION REQUESTS:

1. That the banning of Dr Philip Nitschke’s Book *The Peaceful Pill Handbook* be lifted, and that the compassionate doctor be allowed to continue his work unimpeded.
2. That *The Suicide and Related Materials Act (2006)* be repealed forthwith, and elderly people no longer be threatened legally for discussing suicide.
3. That the act of parliament which overturned *The Rights of the Terminally Ill Act (1996)* be repealed and that the Northern Territory, the ACT, and any other Territory be free to legislate on end-of-life choices as they see fit.
4. “I planned my career, I planned my retirement, now I’m planning my death”. (VP) The Senate is implored to make laws that allow me to proceed as I have planned.
5. Medical advancements and technology have enabled us to be kept alive indefinitely, but many of us do not want to be kept alive. Kindly make legislation which will grant us our wishes.
- 6) For people who are seriously ill and for an increasing number of elderly, suicide is a way out of a life they consider not worth living. Senators are exhorted to take this into consideration.
7. Elderly people, like me, desire and have a right to knowledge about end-of-life choices. (See *Human Rights Commission 2009*) Kindly legislate so that we can access information and proceed as planned.
8. The view of suicide that intrinsically links a person’s decision to die to depression and mental illness is seriously questioned. Are our elderly citizens who have thought about this for years, and still loving life, deluded? I think not. They’ve probably given more time and thought to it than the

Senators have. It is not a DEATH WISH but an ACCEPTANCE OF DEATH.
Kindly legislate accordingly.

9. Aged Care and Palliative Care might be second-to-none but some patients still wish to self-deliver. That is their right. The Senators are asked to be mindful of this in their deliberations

CONCLUSION

Who owns me?

“Everyone of right mind has the right to self-deliver at the time and place of their choice”.

That’s what I think.

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