26th February 2018

Committee Secretariat
Justice Committee
Parliament Buildings
WELLINGTON 6160

Dear Select Committee Members

Submission on End of Life Choice Bill

I wish to register my opposition to the End of Life Choice Bill. Legalising euthanasia / assisted suicide in New Zealand will inevitably place at risk many thousands of vulnerable New Zealanders including the elderly, the sick, and those both young and old struggling with depression.

In setting the context for some observations on this topic I first note the comments of psychiatrist Dr Leo Alexander. In 1946 Alexander was a consultant psychiatrist to the Nuremberg war crimes trials. He heard the evidence and personally interviewed some of the accused. Writing afterwards in the New England Journal of Medicine[1] about the roots of the Nazi genocide and how German physicians had been involved with it, he concluded

> *"...it is important to realise that the infinitely small wedged-in lever from which this entire trend of mind received its impetus was the attitude toward the non-rehabilitable sick...*
> *... It started with the acceptance basic in the euthanasia movement, that there is such a thing as a life not worthy to be lived....."* (NEJM July 1949, page 44)

Given that history has already given us such a clear warning of where the logic of euthanasia leads, it is difficult to understand why only seventy years later we are considering opening the door to this extremely dangerous practice again. Euthanasia has an historical pedigree which we ignore at our peril.

Of course assisted suicide supporters argue they simply want choice – that, unlike the German experience, the euthanasia they advocate will be purely voluntary. Indeed according to the advocates, not only will it be voluntary but it will in fact be an expression of a fundamental human right. Autonomous self-determining individuals have the right to choose the manner of their own death, we are told. This is the primary philosophical argument of the assisted suicide advocates.

The crux of this submission is that the key assumptions underlying this argument are flawed. Legalising euthanasia will affect many New Zealanders in ways that reflect neither their autonomy nor their independent voluntary choice. Instead they will be impacted because they are not autonomous but are members of a community. They will also be impacted because their "self-

determined" decisions will be strongly influenced by culture. That culture will not be of their own making. Rather it will be a culture created by the choices and desires of others – in particular the advocates of assisted suicide.

This failure of "voluntary" euthanasia to reflect autonomy and self-determination for many New Zealanders would be outworked in several ways.

1) Private choices have public consequences

If legalised, assisted suicide will quickly become treated as a fundamental human "right". Indeed, as already noted, this is a key premise upon which advocates base their arguments for legalisation. In our society the establishment of such "rights" generally carries with it the obligation of the State to protect and give effect to them. The State, it is argued, must facilitate the individual's choice. This requires governments to become involved in monitoring, regulating and funding the activities required for the exercise of the "right". However in doing these things, the actions of the State will inevitably involve the participation of other individuals who may hold deep ethical objections to assisted suicide.

Health Workers and conscientious objection

Firstly, health workers will find themselves under pressure to support (if not provide) "services" that they may profoundly disagree with. Sections 6 and 7 of the End of Life Choice Bill recognise this fact and attempt to deal with the issue. However these provisions are ineffectual. Section 6 states:

> **"This Act does not require a person to do anything to which the person has a conscientious objection."**

This wording is notably passive and very limited in scope. Whilst the Act in itself may not require an individual to participate in assisted suicide, it does not actively prohibit other persons, organisations or employers from requiring or pressuring an individual to be involved in some way. Social, employment and business pressures are real. There is nothing in the Bill which protects individuals from this. In particular there is nothing in the Bill which prohibits discrimination of any form against those who hold a conscientious objection.

The conscientious objection provisions of Section 6 of the Bill are also immediately contradicted by Section 7(2)(b). This *requires* a medical practitioner with a conscientious objection to actively refer a person seeking assisted suicide to those who can help them (specifically the SCENZ Group). The practitioner is legally obligated to do this. In an age of easy and rapid access to information, forcing medical practitioners with a conscientious objection to provide this information is unnecessary. It also means they have no choice but must become an involuntary participant in a process they may hold to be deeply ethically objectionable.

All New Zealanders and conscientious objection

The conscientious objection provisions of the Bill are also limited in that they do not recognise that all health services require support from the wider community. It is not just health workers who may have conscientious objections. Administrators, managers, suppliers of goods and services to maintain and operate facilities may all become involuntary participants in supporting the practice of assisted suicide. This is especially the case where a dedicated assisted suicide facility might be established. For example the Bill provides no protection to a trades business which, on the grounds of conscientious objection, does not wish to provide services to such a facility. One could well imagine such a business being subject to a complaint under the Human Rights Act simply for refusing on the grounds of conscience to provide services to a euthanasia clinic.

At a national level it is also highly likely that Members of Parliament will be required to vote for health budgets that include funding for a practice they may be opposed to. Individual taxpayers will also be required to pay via their taxes for choices made by others – choices which they may wish to have no part in.

These types of situations already occur in New Zealand in relation to terminating the lives of unborn children. There is no doubt that should assisted suicide be legalised the same issues of involuntary involvement will transpire. The involvement may only be indirect. However when dealing with matters relating to the sanctity of human life, even indirect participation would be deeply objectionable to many New Zealanders – as it already is with regards to abortion.

This issue of involuntary participation contradicts the assertion of euthanasia advocates that those who disagree with it need not be involved. Such statements are simplistic and unrealistic. None of us are entirely autonomous. Rather we live in a community where the choices of some, have public consequences for us all. This means that if assisted suicide is legalised in New Zealand we will all be implicated in the profound ethical problems it raises – even if we disagree with it. The conscientious objection provisions of this Bill do not, and in fact cannot, overcome this fact.

2) Normalising suicide

Individuals do not make choices in a vacuum. They make them in a cultural context. This means their decisions are very much influenced and moulded by social mores, conventional wisdom and cultural expectations about what is acceptable and normal. Legalising assisted suicide will be major step in altering our culture. This is because what we legalise we normalise. In legalising assisted suicide we will be normalising the concept that "there is such a thing as a life not worthy to be lived".

The implications of this will be profound and reach far beyond the lives of those who wish to avail themselves of assisted suicide when faced with a terminal illness. Of particular concern is the impact this will have on individuals suffering depression and struggling with suicidal ideation. The cultural acceptance and validation of the idea of a life not worth living will place these individuals at increased risk of taking their own lives via any method, whether assisted or not.

New Zealand has had a problem with high youth suicide rates. Having the government normalise, sanction and facilitate the taking of one's own life when it is considered no longer worth living will do little to help address this problem. Instead a culture of death as an acceptable and valid solution will be established. It is inevitable that vulnerable young people will be influenced by this culture. Campaigns to convince them otherwise will ring hollow.

In 2015 the Sydney Morning Herald [2] reported the story of Lucas Taylor, a 26 year old who took his own life using information and drugs obtained through Exit International forums. He was not suffering from a terminal illness. The tragedy of his death caused his mother to completely change her views on voluntary euthanasia. In the article entitled "Deaths among young an unintended consequence of euthanasia movement" she commented,

> *"The push is on the right of the individual - but there is no mention of the absolute havoc it leaves on the families it leaves behind. That may not be the case for a 95-year-old, but in our case - and in two other cases I know of - it has absolutely destroyed families."*
>
> *"There was no one present to urge restraint or at least some second thoughts about the permanency of suicide, other possible options and the fact that he would be wrapping up his pain and passing it on to his family for the rest of their lives."*

The story of Lucas Taylor illustrates how once the idea of "a life not worth living" becomes socially accepted, it is very difficult to stop it influencing vulnerable persons. It also illustrates that the idea of autonomous self-determining individuals deciding their own fate is inherently flawed. We all belong to others – in particular to our families.

3) Cultural pressure will be created

As well as validating and normalising ideas and actions, culture also strongly influences what individuals perceive to be "the right thing to do" in any particular situation. Given that we live in a society with an ageing population and increasing healthcare costs, this poses one of the major risks in sanctioning "voluntary" euthanasia.

In situations where on-going care of terminally ill elderly individuals may be expensive and time consuming, it is not hard to see how assisted "end of life management" will become viewed as the socially responsible course of action. It would be a very short journey from the right to die, to the duty to die.

Safeguards against personal pressure difficult

Euthanasia advocates argue that safeguards can be established to ensure individuals do not make their decisions under duress from family members or others. However in the privacy of family deliberations where elderly, frail and sick individuals may have to deal with the wishes of healthy and assertive relatives it is hard to see how safeguards could be policed and enforced.

The Bill's attempt at such safeguards in Section 8(2)(h) are especially weak. All it requires is that the first attending medical practitioner must,

> **"..do his or her best to ensure that the person expresses his or her wish free from pressure from any other person by—**
> **(i) talking with other health practitioners who are in regular contact with the person; and**
> **(ii) talking with members of the person's family approved by the person "**

This section presupposes that an individual requesting assisted suicide actually has other health practitioners who they are in regular contact with. This may not be the case. Even if they do, there is no guarantee those practitioners will have any particular insight into what pressures are influencing the individual. Talking with a person's family is also not necessarily an accurate method of determining if a person's request is being made freely. This is particularly the case if those family members are the source of undue influence on the person's request.

In matters of life and death it is not good enough to simply ask the medical practitioner to "do his or her best" by having a chat with another practitioner who may know nothing or with family members who may not be genuine. It should also be noted that medical practitioners are not necessarily experts in assessing the psychology of why an individual may be making a request for assisted suicide. They are trained to provide health care not to assess motives or psychology.

Not only is this safeguard extremely weak, it is also the only one in the Bill. There are no other checks on this critical question of whether a person is truly making a "free" choice. The Bill only requires the medical practitioner who gives the "first opinion" to make this rather perfunctory assessment. The medical practitioners giving the subsequent second or third opinions are not required to make any assessment nor are they required to check the veracity of the assessment made by the first practitioner.

Safeguards against cultural pressure impossible

Where effective safeguards against direct personal pressure are difficult, safeguards against cultural pressure are impossible. This is because culture is pervasive and its messages and values are often received and absorbed at a sub-conscious level. Individuals make their choices not necessarily because of conscious and critical deliberation, but because over time they have been immersed in a culture that influences their understanding of the "right thing to do". Hence to some degree their decisions are as much socially-determined as they are self-determined. Even if individuals consciously recognise the cultural pressure they are under to follow a particular course of action – this does not negate the pressure.

In a society which places very high value on the creation and enjoyment of personal and national wealth, sanctioning and normalising assisted suicide risks creating a new ethic of social responsibility. Die early and save dollars.

In summary, this submission has focussed on the rationale, used by euthanasia advocates, that autonomous self-determining individuals should have the right to choose the manner of their death. This rationale is flawed because none of us are fully autonomous. We are inter-dependent and our relationships mean assisted suicide will impact on and involve others beyond the individuals who choose it. It is also flawed because individuals do not make their choices in a neutral space but rather in a cultural context. Sanctioning assisted suicide will contribute to the formation of a culture of death as a solution, or even as a duty. This will place vulnerable New Zealanders at risk.

I would appreciate the opportunity to discuss this submission with the Committee.

Yours sincerely

Ewen McQueen
26th February 2018

References

1) Alexander L., "Medical Science Under Dictatorship", The New England Journal of Medicine Vol 241 No. 2 July 1949

2) "Deaths among young an unintended consequence of euthanasia movement: mother", Sydney Morning Herald July 13, 2015