

To: Lara Giddings MP and Nick McKim MP  
Parliament House, Tasmania  
Via email: premier [at] dpac.tas.gov.au

## **Submission regarding the report 'Voluntary Assisted Dying'**

Civil Liberties Australia (CLA) would like to compliment Ms Lara Giddings MP and Mr Nick McKim MP on the leadership they have shown in bringing on a discussion in Tasmania about the most important and challenging issue of Voluntary Assisted Dying.

Our organisation has a keen interest in the rights of the individual: because of this, we are supporters of voluntary assisted dying. Our members in Tasmania – in fact, throughout Australia – strongly support people being able to choose for themselves their way of dying, opting for help to fulfill their wishes if needed.

We note that most proper research surveys, over more than 30 years, show better than 72% of the population support sensible legislation around voluntary assisted dying. Newspaper/online 'pop' polls generally show better than 80% support.

CLA believes there are basic points of principle all parliamentarians should bear in mind when discussing your proposal. To that end, we're writing in similar terms to each member of the Tasmanian Parliament. We would be pleased to meet with you or any member of the Tasmanian Parliament, in public or private, to discuss the points we raise below.

### 1. MPs don't condone inflicting pain on others

Good people don't stand for election to Parliament to impose laws that force citizens of sound mind but frail body to live in suffering against their stated wishes. Voluntary assisted dying laws – available to people who freely choose to utilise them – are the only compassionate response to helping constituents achieve what they desire. We agree with the doctors' statements in the discussion paper that palliative care will relieve pain and suffering in many situations, but not all.

### 2. MPs don't turn ordinary, caring people into criminals

It is not the role of government to make criminals out of those compassionate health care professionals and family members who seek to alleviate sometimes profound physical suffering. Such people should not face jail. Yet that is exactly what current Tasmanian law does: it causes anguish to the terminally ill, and criminalises caring people who help them for the best of motives.

Section 163 of the Tasmanian Criminal Code makes it illegal to assist another to die and section 53 states that 'no person has a right to consent to the infliction of death upon themselves'. While breaching section 53 does not make it strictly illegal for a sick person to end their life with the help of another, it does arguably turn sick and dying patients into criminal accomplices.

### 3. Parliament is an enabler of people's aspirations

The role of Parliamentarians generally is to be enabling guardians of society. If at all possible, it is their role to respect the wishes of the overwhelming majority of citizens, helping people achieve what they want. In particular in this case, MPs have to power in their vote to permit dying people of sound mind to do with their own bodies as they wish. We believe the fundamental right to have control over your own body is one of the most basic but also one of the most important rights enjoyed by human beings.

### 4. Inherent rights over our bodies is uncontroversial

Rights over our own bodies are well accepted and uncontroversial. For example, people are free to choose to give birth, to create another human at the beginning of the life cycle. If this right is unhindered by state and religion at the beginning of life, it makes no sense or logic for state or religion to attempt to hinder death at the other end, when the death is a personal choice for one's self.

In fact, neither state nor church does hinder suicide by criminalising it (not that either can, in practical terms). So the issue is not about freedom to choose death, which is an inherent and existing right, but the freedom to choose help to achieve someone's right to die.

### 5. Current law is discriminatory against the sick and disabled

A right only becomes important when someone takes it away. Under current law, a person has the right in Tasmania to end their own life if they are well. That is, if they are fit enough to commit suicide, they are free to do so. Only when they are not well does the state take away their right to end their life. This is a discriminatory approach against the sick in general and, most importantly, against the physically-disabled terminally ill in particular.

There is a parallel with free speech. Only when the right to free speech is used to say things that confront us do people try to take the right away. But that is the very point at which it becomes most important to stand up for the right to free speech. What use is free speech if it can only be exercised in a way that pleases everybody?

Similarly, what use is the right to control over your own body, if you cannot use the right when your body inflicts intense pain and suffering that palliative care can no longer relieve?

## 6. Laws should not enforce religious beliefs

Religious groups argue that voluntary assisted dying ignores the belief that God created life and only God can take it away. CLA agrees that it does, for people who believe in sanctity of life, and/or in a religion. But for those who do not believe in a religion or such 'sanctity', the current legislation ignores their right to hold such religion-free beliefs, and to act on them.

The state has no place, in Australian society, in imposing religious beliefs on its citizens: we are a secular nation, under the Australian Constitution. Currently, the State of Tasmania enforces the religious beliefs of people of faith on all Tasmanians, including the majority who are not religious.

CLA strongly urges Tasmanian MPs to create an end-of-life law that caters for every citizen of Tasmania, rather than one currently catering only for religious people. A law which permits voluntary assisted dying – obviously with strict safeguards – will cater for those of no religious belief, who will be free to choose how their life ends. It will cater also for people of strong religious belief, who will be free to choose to not be helped to die if they are in great pain. At the moment, one group of Tasmanian society is forcing its (religious) belief system on the rest of Tasmanian (non-religious, secular) society.

## 7. Model enables freedom of choice

We believe the voluntary assisted dying model proposed in your paper achieve an appropriate balance of freedom of choice, with proper safeguards. It caters for people who live with intense pain and suffering and who, after careful thought and discussion with their doctor, wish to bring their suffering to an end through an assisted death.

The model also caters for people who will never want to access or participate in an assisted death because of their beliefs. Under the model, assisted dying is voluntary: there is no mandated requirement for religious people to choose assisted death (i.e. it cannot be forced on anyone, unlike the reverse situation which now operates). The proposed model also respects the right of any doctor and/or health care worker to not participate in an assisted death.

## 8. Please adopt an evidence-based approach

Finally, CLA strongly endorses an evidence-based approach to policy development. Only through taking account of evidence will governments or parliaments be able to effectively achieve their stated goals. In Tasmania we have access to years of evidence from Oregon and Washington State in the USA, The Netherlands and Belgium, four jurisdictions to have legislated for voluntary assisted dying. We urge MPs to make use of this advantage and access the lived experience and statistics from these four countries.

The practical reality is that, while the arguments against voluntary assisted dying are well known and well practised, they are based on emotion and religious belief, not evidence. For example, arguments like selfish, money-hungry children preying on vulnerable parents are not borne out by the evidence in the four jurisdictions.

In conclusion, again congratulations for introducing this important discussion. We hope CLA's submission will help you and other MPs by reminding you of your role as freedom-enablers, in this case, freedom of choice over our individual end of life.

We acknowledge that a number of detailed and specific questions are posed in the discussion paper. We have not addressed them in this submission, but would be happy to assist on a working party or review team to assist a first draft of actual legislation.

Yours sincerely

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