## Health and Environment Committee

**From:** Angus Doig [redacted]
**Sent:** Friday, 2 July 2021 8:52 AM
**To:** Health and Environment Committee
**Subject:** I oppose the "Voluntary Assisted Dying" Bill

**Categories:** Submission

Re: I oppose the "Voluntary Assisted Dying" Bill

Dear Health Committee Members,

Consent and undue influence
Justice shall be on trial for as long as the euthanasia debate continues, and shall be condemned when the Bill inevitably passes (I say inevitable for the cause of justice always falls fowl of the whims of the crowd, whose opinion changes from age to age without valid justification). There are several elements to the crime of euthanasia, each of which ought to be considered in turn to decide whether they justify killing the terminally ill: (a) that the victim be terminally ill and suffering, (b) that they have no more than 12 months remaining, and (c) that they fully consent to the killing. In other words, society must weigh this person's life as being hopeless, and the victim must do likewise, before someone is permitted to cause their death.
The primary concern regarding any law is that it be just, whether or not it receives the assent of the majority. Plato in his Republic made very clear and compelling arguments for why truth, justice, goodness, and wisdom are incongruous with public opinion, for the opinions of the crowd are ever-changing, whereas these virtues are constant and objective, distinguishable from mere opinions and perspectives. 'For, what is public opinion but a cloud of error, compared with the light and purity of one's conscience?' (Saint Augustine, On the Happy Life). We should listen to Plato, who wrote that rather than appealing to the 'strong' as the source of justice, we ought to appeal to objectivity and reason to decide whether a law is not just.
One very basic understanding of 'justice' is that it is to reward the good and punish the evil. But evidently there are few adherents to this belief, for in our society the evil are rewarded with life, and the good with death. For the gravely ill are often abandoned, rejected, deprived of hope, and soon to be killed, whereas the most egregious criminals receive care, clemency, and hope. I do not make the cruel demand that criminals ought to be put to death as well, but rather implore you to provide the sick and elderly with at the very least the same degree of care as they receive, applying to the rationale behind prohibiting the death penalty to the circumstance of a person suffering from a terminal illness. So, what are the reasons for prohibiting the death penalty? We prohibit it because: (a) we value the sanctity of life irrespective of the quality of that life, and (b) we can never be completely certain of one's guilt, and therefore do not want to take the risk of taking away an innocent person's life. These are good justification, but I ask why we should not apply these principles to the issue of euthanasia. What is the difference between these parallel circumstances that prohibits killing in the former case, and not to the latter?
Is it that the terminally ill have little time left, and that therefore the value of their lives is diminished or destroyed? Given that an element of the proposed law is that the subject has a projected life span of not less than one year, this is evidently the proponents' justification for creating an exception to the crime of murder. The inevitable inference from this argument is that the value of one's life id proportional to the amount of time they have left. But such a conclusion is entirely inconsistent with our current legal system and the common values of our present society. If one murders another who would have otherwise died by another cause (such as cancer), he will still be liable for murder under s302 of the Criminal Code (Qld), the law recognising the perpetrator was the cause of death, not the underlying illness. Sine qua non the murder, the victim would not have otherwise died then and there, and so the person who caused the death is found guilty of murder. The vulnerability of the victim (that they are ill, in pain, and are close to death) are aggravating factors, not mitigating factors, in sentencing. The law recognises such vulnerability as an aggravating factor because of the victim's inability to protect himself.

If a reduced life span does not justify murder, it follows that the determinative factor must be consent. Certainly, our legal system has consideration for whether there is consent in cases such as assault and rape, but it also imposes a limit of what someone can 'consent to'. An example is grievous bodily harm – the House of Lords in Brown v Brown found that consent is irrelevant in cases of grievous bodily harm. It has long been recognised that neither is the victim' consent a justification or defence to murder. The reason why the law has imposed limitations on the value of consent in these situations is because it recognises that the value of life and body is naturally inherent – it cannot be determined by a mere state of mind.

Our society seeks to protect the vulnerable by making laws which limit what can and cannot be done to them. And it recognises that those who are suicidal are among the most vulnerable (let alone the sick and dying). That is why large amounts of resources and great effort is funnelled towards preventing suicide. We identify such people as being vulnerable because is contrary to the natural human instinct that seeks self-preservation. Suicide, on the other hand, is permanent self-annihilation. It is for this reason that a police officer is under a duty to prevent someone in custody from committing suicide, and why health care professionals and police officers are given extraordinary powers under the Mental Health Act to detain someone who seeks to cause harm to himself. So why should the state attempt to prevent the suicide of healthy people, but not that of sick people? In all of these cases, vulnerability is the essential factor which justifies restraining one's liberty, and imposing liability. The state is unconcerned with the quality of the subject's life, or whether they are in a sound mind – for it is suggested that no one who wishes to end their life is truly of sound mind. And who is most vulnerable (and least likely to be of sound mind) that the terminally ill, who have lost all hope and wish to end their lives? Why should the state sanction what it prohibits? Are these people not deserving of the same protections we provide for those who are healthy and depressed? According to the advocates of our society, they are not. One need only look at the abysmal state of aged and palliative care. There is often a shortage of medical practitioners who care for the welfare of their patients, while the elderly is often abandoned by their families, ignored, and forgotten. I myself witnessed this when my Grandmother was dying of dementia – in a ward of 20 residents, only around 5 visitors came to the ward to visit their loved ones. By Grandmother was not provided with any form of pain relief until her final week, despite undergoing excruciating pain. The terminally ill are suffering from neglect, and far from remedying this situation, our society just wants to kill them – as if their lives have no value!

Children of today have little care for the welfare of their parents – all that they care about is their undeserved inheritance. This gives children a reason to pressure their parents to assent to euthanasia, in the hope of receiving this money before it is chewed up by the costs of their care. And we cannot doubt that the beneficiaries of the victims' estates will be the same people who hold special positions of power over them (and exercise undue influence). A terminally ill person is in an inherently vulnerably position in which they are unable to make sound decisions – this is why we have powers of attorney, why trusts are created in their favour, why their ability to contract and other rights are restricted. It is because of their inability to properly consent that the law of equity will vitiate a contract where undue influence is exercised over a vulnerable person. Undue influence impedes the ability to properly consent to anything. Should not the contract to end one's life be vitiated for the same reasons? – for undue influence is inevitable in these situations, regardless of the safeguards Parliament might create.

Earlier we saw that a rationale behind prohibiting the death penalty is that we can never be certain of one's guilt, because we are bound to make mistakes no matter how effective the justice system might be. As Jeremy Bentham said, it is better to preserve 10 guilty people than to condemn one innocent person. The same principle is equally applicable here: though it is a condition of the new law that the victim ought to be of 'sound mind', how can we ever be sure that that person is indeed of 'sound mind'? We cannot. It is certain that among those determined to be of sound mind, some, indeed many, will not be. The consequence is that some who will not truly wish to be killed (who are depressed, acting under undue influence, and those not of sound mind) we be killed. This is unjust.

The legalisation of euthanasia is a truly unjust and unwise solution to the issue of euthanasia. I hope that I have achieved what I wanted in setting out the various reasons why creating an exception to murder is wrong. Of course, the unjust cause shall prevail, for it always does. If Socrates could not, in exposing the truth, defend himself in court, then how shall I, a mere university student, defend the cause of truth and justice against the overwhelming voice of folly? No one today has any care for truth, justice, or wisdom. The majority opinion (which changes like the seasons) is so difficult to overcome. But I make this plea

anyway, in the interests of the truth, which at the very least deserves a defence.
Angus Doig.

Sincerely,
Angus Doig
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