Speaking the truth in love
Eph 4:15

17 July 2017

The Hon Trevor Khan MLC
NSW Parliamentary Working Group on Assisted Dying
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SYDNEY NSW 2000
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Dear Mr Khan

Re: public consultation on the *Voluntary Assisted Dying Bill 2017* (NSW)

Thank you for the invitation to make a submission regarding the *Voluntary Assisted Dying Bill 2017* and to address the grave questions of life, death, and human dignity, which it raises for the people of our state. The Catholic Church has a long and ongoing tradition of accompanying and caring for the dying and for their families. Death and dying are fundamental human experiences which touch us all deeply and reflect the profound truth of our dependence upon – and need for – each other. As the largest non-government provider of health care and palliative care services in the community,[1] we have been privileged to walk with many Australians as they enter the last stage of their life journey and to endeavour to make this journey as peaceful, positive and supported as possible.

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[1] "...providing approximately 10 percent of hospital and aged care services in Australia, including around 30 percent of private hospital care as well as approximately 5 per cent of public hospital care." *Cf.* Catholic Health Australia, *Voluntary Assisted Dying Bill Discussion Paper* (Ministerial Advisory Panel, April 2017), http://www.cha.org.au/images/20170413_Assisted_Dying_Vic_-_FINAL.pdf Accessed 14 July 2017.

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77 hospitals and 440 aged care facilities are operated by different bodies of the Catholic Church within Australia, which include both public and private services.[2] Of these, 9,800 hospital beds (including over a quarter of all private hospital beds Australia-wide), and 24,700 residential aged care beds are provided by the Catholic Church, with 19,300 home care and support clients serviced nationwide.[3]

We hold that every life – in sickness and in health – has a meaning and a dignity that can never be lost or taken away. We believe that the human person is made in the image and likeness of God; created to love and to live in relationship with others. The terminally ill should never be made to feel that they are "burdens" upon their family, friends or community, but, rather, be loved and supported in their final journey and treated with the dignity, respect and care that every human being deserves.

The plea of some of our fellow citizens for assisted suicide to be made legal is a symptom of an intense loneliness and hopelessness that has afflicted our culture. All too easily, we can forget or neglect the responsibilities and care that we owe to those who are nearing the end of their lives. When our fellow human beings who have given so much to others feel there is no way forward except through taking their lives, it is a profound wake-up call to us all.

I appreciate that you and the other members of the Parliamentary Working Group who have produced this Bill for consultation are motivated by deep concern and compassion for the plight of the terminally ill who wish to end their lives. I too share this compassion for those whose suffering or fear of dying is so acute and painful. But, as every family touched by the suicide of a loved one knows all too well, suicide is never the answer to such suffering or fear. Rather, we are called to accompany people in their illness and suffering and to be there for them, recognising the care and contribution that they, in turn, have given to us over their lifetimes.

The vulnerability of older people

The desire of a person with a terminal illness to take their own life does not arise solely from the fact of their illness, but is deeply influenced by their social environment, the quality of care they are able to access, and the cultural messages about illness, disability and aging which they receive. Tragically, we know that older Australians are particularly vulnerable to suicidal ideation. Australian men aged 85 and older have the highest

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[2] Catholic Health Australia, *Strategic Direction Statement 2020*. http://www.cha.org.au/images/2020_CHA_Strategic_Direction_Statement.pdf Accessed 14 July 2017.

[3] Ibid.

suicide rate in the country – more than double that of teenagers.[4] Monash University Professor Paul Komesaroff has identified lack of support for older Australians as being a critical factor, together with the messages they receive about older people using "too many" health resources, and their own strong sense of responsibility and desire not to be a "burden". Professor Komesaroff calls this a "*terrible tragedy*", because "*these are the people who have actually created the wealth*".[5]

The vulnerability of older people to suicide may be seen in the US state of Oregon, where assisted suicide is legal and where deaths under this law increased by 80% between 2013 and 2015.[6] The median age of death by assisted suicide was 73 years.[7] Almost half of those who died under Oregon's assisted dying law nominated "*feeling a burden on family and friends*" as a reason for ending their lives.[8]

In the Netherlands we have witnessed a steady increase in the amount of involuntary deaths from euthanasia. In 2015 there were 7254 assisted deaths, 23% were not reported and 431 deaths were without explicit request.[9]

The elderly and those who are suffering a terminal illness need to know that their lives still have value and that they will never be regarded as a "burden" on the New South Wales community or on our health care system. We must assure them that the care which they may need at the end of their lives in no way deprives them of dignity, but, rather, is a reflection of their true dignity and of the gratitude and care which we as younger generations owe to them for all they have contributed to our community and our nation.

State-sanctioned suicide: a troubling Rubicon

The *Voluntary Assisted Dying Bill 2017* is deeply troubling. It seeks to give the sanction and support of the state to the suicide of vulnerable human beings, and to involve not

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4 K. Chow, 'Australian men over 85 have the highest rate of suicide, ABS data shows', *ABC News*, May 31, 2017. http://www.abc.net.au/news/2017-05-30/australian-men-aged-over-85-have-the-highest-rate-of-suicide/8569740

5 Ibid.

6 A. Schadenberg, 'Oregon 2015 Assisted Suicide Report Shows Another 26 Percent Increase in Assisted Suicide Deaths', National Right to Life News, February 16, 2016. http://www.nationalrighttolifenews.org/news/2016/02/oregon-2015-assisted-suicide-report-shows-another-26-increase-in-assisted-suicide-deaths/#.WV4KJ4SGNaR.

7 Oregon Health Authority, *Oregon Death with Dignity Act: Data Summary 2016*. http://www.oregon.gov/oha/ph/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year19.pdf.

8 Ibid.

9 Centraal Bureau Voor de Statistiek May 24, 2017 http://statline.cbs.nl/Statweb/publication/?DM=SLNL&PA=81655NED&D1=a&D2=a&D3=a&D4=l&VW=T

only medical practitioners, but family and friends, in these deaths. Assisting a person to end his or her life is a grave attack upon human life and human dignity. To approve and support such an act constitutes a rejection of the value and worth of the person who is suffering – a value which no illness, disability, state of dependency, pain or hopelessness can extinguish.

The traditional legal, social and cultural prohibition of the killing of human beings remains the foundation stone of a just and humane society and of the rule of law. Laws prohibiting a person from assisting another to commit suicide uphold the integrity of our social fabric and the obligations of care and respect which we owe to one another. These laws also preserve the integrity of medicine as a life-giving and healing profession. The confidence and trust which we are able to place in our physicians depends upon the knowledge and faith that our doctors are dedicated to preserving life – that they will never attempt to harm or kill us, or assist us to harm or kill ourselves.

"A plea for help"

Solidarity with those facing death calls us to encourage them when they are fearful, recognising that the desire to hasten death is a cry for help:

"the request which arises from the human heart in the supreme confrontation with suffering and death, especially when faced with the temptation to give up in utter desperation, is above all a request for companionship, sympathy and support in the time of trial. It is a plea for help to keep on hoping when all human hopes fail."[10]

Every suicide represents the tragic and terrible loss of a person who still had much to give, not least through their influence upon family, carers, neighbours and community, and through the meaning and witness which their life gives to others. 'Dignity therapy' – pioneered by the great Canadian psychiatrist Dr Harvey Max Chochinov – has shown how powerfully the opportunity to create meaning at the end of life can bring people who were previously desirous of a hastened death to a renewed sense of hope and peaceful acceptance of the natural timing of death.[11]

The tragic effects of suicide

By implicitly endorsing the idea of a "good" suicide, the *Voluntary Assisted Dying Bill 2017* would present a grave threat to the lives of the terminally ill, the disabled, the depressed, the young, and other vulnerable groups in our community. Suicide has a tragic and well-documented "ripple effect", with US states which have legalised assisted

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[10] John Paul II, *Evangelium Vita*, 67.

[11] See www.dignityincare.ca; H.M. Chochinov, *Dignity Therapy: Final Words for Final Days*, Oxford University Press, New York, 2012.

suicide in recent years seeing a significant increase in total suicides and no reduction in non-assisted suicides.[12] There is compelling evidence that physicians themselves suffer serious emotional and psychological effects from their involvement in the assisted suicide deaths of their patients, and from pressure to participate in these acts once they are made lawful.[13]

In considering to what extent the claims of personal freedom and autonomy should be allowed to defeat the legitimate claims of the community to mutual care and solidarity, we must acknowledge the truth that our individual actions and choices around dying can and do affect the lives – and deaths – of others. Once assisted suicide is legalised, pressure is inevitably applied to "extend" these legal provisions to persons who are not suffering a terminal illness, but mental or emotional pain or disability. This can be seen in the tragic case of 23 year-old rugby player Daniel James, paralysed in a football accident, who was assisted to commit suicide in Switzerland in 2008, and in the 2016 Canadian assisted suicide law, which facilitates the deaths of persons with *"serious and incurable illness, disease or disability"*.[14]

Specific concerns regarding the *Voluntary Assisted Dying Bill 2017*

The Bill's supposed "safeguards" are, quite simply, wholly inadequate to prevent the deaths of vulnerable persons that would inevitably occur should this legislation become law. The required medical and psychological assessments of the person requesting assisted suicide must be provided by practitioners who are not close relatives; however, the term *"close relative"* is defined by the Bill in such a way as to exclude sons and daughters-in-law, grandchildren, and other relations who could potentially have a significant interest in the person's death, and who would be, because of their family relationship, incapable of providing an impartial professional assessment.

The psychological assessment required by the Bill is in itself problematic. Assessing whether a person who is suffering physically and emotionally is of "sound mind" is a task fraught with much subjectivity and disagreement. A 2014 study published in the BMJ *Journal of Medical Ethics* found widespread difficulty in obtaining consensus on the

[12] D.A. Jones & D. Paton, 2015, 'How does legalization of physician-assisted suicide affect rates of suicide?' *Southern Medical Journal*, vol. 108, no. 10, pp. 599-604.

[13] K.R. Stevens Jr, 2006, 'Emotional and psychological effects of physician-assisted suicide and euthanasia on participating physicians', *Issues in Law and Medicine*, vol. 21, no. 3, pp. 187-200.

[14] L. Carr, 'Legalising assisted dying is dangerous for disabled people, not compassionate', The Guardian, September 9, 2016. https://www.theguardian.com/commentisfree/2016/sep/09/legalising-assisted-dying-dangerous-for-disabled-not-compassionate.

mental competency of a patient and significant divergence of opinion between doctors, nurses, social workers and patients' families. [15]

Whilst the Bill would restrict assisted suicide to persons diagnosed with a terminal illness by their primary medical practitioner (a person who may actually be a family relation, as per the Bill's definition of *"close relative"*), the Bill provides no definition of, or objective criteria for, the requirement of pain and suffering. The patient must be *"experiencing severe pain, suffering or physical incapacity to an extent unacceptable to the patient"*. This provision is clearly not limited to physical pain, nor does it require *any* physical pain or even manifestation of symptoms. It could conceivably cover the anticipation of future suffering; e.g. a patient who is so distressed by the diagnosis of a terminal illness that he or she decides to seek assistance to suicide. It is not difficult to imagine a person in particularly lonely or vulnerable circumstances being traumatised by a sudden diagnosis and opting for a quick death, which the Bill's "cooling-off period" of a mere 48 hours would do little to prevent.

Disturbingly, the Bill would not only turn medical professionals into dealers of death, but a patient's own family member or friend (their "nominee") could legally be authorised to administer the fatal substance. The Bill provides that a patient may *"rescind a request for assistance at any time"*. But having obtained the substance, should the patient change his or her mind and no longer wish to die, there is absolutely no safeguard against the "nominee" deciding to administer the substance to the patient anyway. The documentation required by the Bill would authorise the nominee to do so and would form his or her defence to what would be, in fact, a homicide.

Finally, whilst the Bill would permit a close relative to challenge a request for assisted suicide in the Supreme Court if the relative was concerned the patient was not of sound mind, there is no provision for other legitimate parties - such as a close neighbour, friend or carer - to do so. The Bill would nullify the natural protective effects of a patient's community - the people who see them daily and care for them - who may not necessarily be the same people the Bill defines as their "close relatives".

Premature death: a "false choice"

I would like to offer for your reflection the words of Baroness Jane Campbell of Surbiton, who has battled severe spinal muscular atrophy for over 50 years. Speaking in the UK House of Lords in 2014 about an assisted suicide bill very similar to the *Voluntary Assisted Dying Bill*, Baroness Campbell said:

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[15] R. Aydin Er & M. Sehiralti, 2014, 'Comparing assessments of the decision-making competencies of psychiatric inpatients as provided by physicians, nurses, relatives and as assessment tool', *Journal of Medical Ethics*, vol. 40, no. 1, pp. 453-457.

"The Bill purports to offer choice–the option of premature death instead of pain, suffering and disempowerment–but it is a false choice. It is that of the burglar who offers to mug you instead. That is not choice. Pain, suffering and disempowerment are treatable–I have to believe that–and they should always be treated. My long experience of progressive deterioration has taught me that there is no situation that cannot be improved."[16]

Baroness Campbell emphasised the importance of providing palliative care and concluded that *"We must put our energy into providing the best support, be it medical, social, practical or emotional, to disabled people and terminally ill people. We are nowhere near that yet. Helping people to live with dignity and purpose must surely be our priority."*[17] As someone who has had direct experience of the great challenge of severe illness and disability, and who daily is privileged to walk with others in this situation, I strongly endorse and support Baroness Campbell's call.

The tragedy of assisted suicide – and of every suicide – is that death is always premature; days, experiences, reconciliations, memories and moments of a person's life are extinguished before they are allowed to exist. True support for the person means helping them to live life to the end, recognising the truth that their life is a gift – both to themselves and to the whole community. As Dame Cicely Saunders, a pioneering figure of the palliative care movement, once explained: *"You matter because you are you. You matter to the last moment of your life, and we will do all we can, not only to help you to die peacefully, but also to live until you die"*.[18]

Life and death take place in community

On the 4th of July, Pope Francis tweeted that *"Defending human life, above all when it is wounded by illness, is a commitment of love that God entrusts to all men"*. His words remind us all of the solidarity that we owe to one another as fellow men and women, sharing in one human experience, one humanity – of which illness, disability and death are a universal and inevitable part. Each of us enters the world entirely dependent upon others, and most of us will live out our final months, weeks or days needing the care and support of others to comfort and sustain us.

Whilst our dying is an intensely personal experience, it is also an experience of the community in which we have lived and loved. In this sense, like birth, it is not simply a private, but a public event. The laws of our State must never endorse or facilitate a person's suicide, but must continue to affirm the dignity of every human life and the

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16 House of Lords Daily Hansard, July 18, 2014. http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/140718-0001.htm#st_30.

17 Ibid.

18 R. Twycross, 'A Tribute to Dame Cicely Saunders: 1918-2005', http://www.stchristophers.org.uk/about/damecicelysaunders/tributes.

necessity and value of each and every person who belongs to our community and lives among us.

Conclusion

The *Voluntary Assisted Dying Bill 2017* would constitute a grave rejection of our responsibility to provide terminally ill members of our community with the true compassion, care and support they need and deserve. It would endorse and promote the idea that there is such a thing as a "good" suicide. It would turn ordinary members of the community – friends and family – into dealers of death, and would violate the trust placed in medical practitioners as persons who try to heal, save and comfort life, not destroy it.

I urge you and your colleagues in the strongest possible terms to withdraw this Bill that would only exacerbate the profound tragedy of suicide and prematurely end vulnerable lives. I encourage you all to dedicate greater resources to ensuring that we provide the palliative care, practical support and hope each of us needs to meet death with peace and serenity and "*to live until we die*".

Yours sincerely in Christ

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