

**SUBMISSION TO THE  
AUSTRALIAN ATTORNEY-GENERAL'S DEPARTMENT ON THE  
CONSOLIDATION OF COMMONWEALTH ANTI-DISCRIMINATION LAWS**

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## **INTRODUCTION**

1. In this brief submission I contend that any discrimination is unacceptable if it has the effect of denying the equality of people and unfairly affecting their interests. Such discrimination should be prohibited and should not be tolerated in religion or any aspect of society.
2. Nobody wants to be discriminated against or otherwise afforded lesser rights and opportunities than other people. If we assume the equality of people (incontrovertible to reasonable people), then it follows that we should prohibit societal or other structures that discriminate or otherwise deny equality to people.
3. My related submission to the National Human Rights Consultation, included at Appendix A<sup>1</sup>, recalls the Consultation's statement that, 'Human rights are about equality and dignity for everyone in Australia. Human rights are important to Australia's democracy'. Human rights can be considered as basic rights and freedoms to which all humans are entitled, but they cannot be guaranteed if discrimination, including religious discrimination, is permitted.

## **DISCRIMINATION AND THE IMPOSITION OF RELIGIOUS VIEWS DENIES EQUALITY**

4. People are denied equality and dignity if they are discriminated against based on their sex, religion, sexual preference, age, colour, race, language, genome, disability, marital status, etc. Perversely, many religious organisations, which often claim to take the moral high ground, preach discrimination and actively discriminate as their religious texts and church practices discriminate against women, homosexuals, non-believers and people of other religions. Women and homosexuals are forbidden from taking leadership positions in most churches, and religious texts often denigrate and vilify people of other religions.
5. To highlight the malaise with which society blandly and lethargically avoids confronting the injustice of religion-based discrimination, it should be stated that the (sex, sexual preference and religious) discrimination that pervades Christianity, Islam and other religions is ethically as repugnant as the racial intolerance and discrimination that has ruptured societies over the centuries.
6. Would Australians have confidence that public servants with discriminatory religious views would treat unmarried bisexual pregnant women as equals of other candidates at interview? Would we have confidence that religious Prime Ministers or politicians could divorce themselves from their indoctrination and make informed and objective decisions about the role of, for example, women in the workforce or gay marriages, or make an objective decision about whether they should legislate for voluntary euthanasia or embryonic stem cell research, if perchance it conflicts with their belief systems? Some politicians and the clergy are even today making feeble attempts to justify their discrimination on the basis of sexual preference by speaking out against gay marriages.

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<sup>1</sup> National Human Rights Consultation Submission can be found at [www.ethicalrights.com/images/stories/pdf/ERHumanRightsConsultation.pdf](http://www.ethicalrights.com/images/stories/pdf/ERHumanRightsConsultation.pdf). A related submission (submission 1667) to the to the Australian Human Rights Commission's Inquiry into the Freedom of Religion and Belief in the 21st Century, is available at [www.ethicalrights.com/images/stories/pdf/ERFreedomofReligionandBelief.pdf](http://www.ethicalrights.com/images/stories/pdf/ERFreedomofReligionandBelief.pdf)

7. The perception, and most probably the reality, is that religious indoctrination lays the foundation for a person's true beliefs—discriminatory beliefs that deny equality and that are clearly unacceptable in a secular, modern, multicultural and progressive Australia.

8. The world has a long history of religion-fuelled hostility, which is a logical consequence of thousands of years of religious discrimination, denial of rights, intolerance of other religions, and religions imposing their beliefs on others. Only when people can believe freely in what they will, religious discrimination ceases and religions no longer oppress or impose their religious values on others, can Australia and the world move confidently on a track towards a tolerant, less divisive and more egalitarian future respectful of human rights.

## **A HYPOTHETICAL DISCRIMINATORY RELIGION**

9. A case has been made that religions should only be permitted when they do not discriminate, are not imposed on others or otherwise deny people equality, dignity or other fundamental rights.

10. Consider the following scenario. What if a new religion were to be established tomorrow in Australia, and an inspired person drafts a religious text that reflects the perfect views of their new and perfect God. The newly drafted religious text includes the following verses attributable to the new God.

- An Aboriginal person should learn in quietness and full submission. I do not permit an Aboriginal person to teach or to have authority over a non-Aboriginal person; the Aboriginal person must be silent.
- Any Aboriginal person who is arrogant enough to reject the verdict of the priest who represents your God must die.
- An Aboriginal person who works on God's holy day will be put to death.
- If a person has sex with an Aboriginal person, both of them have done what is detestable. They must be put to death; their blood will be on their own hands.

11. The above verses are racist, abhorrent and disgusting. They deny Aboriginal people rights. Such a religious text would be treated with the contempt that any racially discriminatory text deserves. The proponents of the new religion would say that God moves in mysterious ways or that the text is not meant to be taken literally. Neither explanation conceals the underlying racism and discrimination.

12. The astute observer would realise that these verses have been extracted from the Christian Bible and reworked to substitute the phrase 'Aboriginal person' in biblical verses that condemn women, non-believers, a person who works contrary to God's laws, and homosexuals<sup>2</sup>.

13. If the newly drafted religious text is disgusting, discriminatory and unacceptable in modern society, then so is the Christian religion, with its racism, sexism, religism<sup>3</sup>, homophobia, and particular nastiness. However, religious people do not seem to comprehend that their religious

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<sup>2</sup> 1 Timothy 2:11-12, Deuteronomy 17:12, Exodus 35:2 and Leviticus 20:13 have been reworked to substitute the phrase 'Aboriginal person'. Numerous other biblical verses are disgusting because of their discrimination against women, homosexuals and non-believers.

<sup>3</sup> This word is taken to mean discrimination against people of different religions, belief or non-belief systems.

texts represent the uneducated and far from enlightened views of primitive people, and serious belief in such discriminatory values is unworthy of civilised society, and a modern, secular and progressive Australia.

## **CONCLUSION**

14. If the current failings of Australia's regulatory system for discrimination are not addressed, then Australia is effectively condoning inequality. If Australia is to be regarded as a civilised and progressive society, as is my fervent hope, we cannot permit discrimination against members of our own society.

15. Religion and other structures that discriminate and impose themselves on other people should be considered similarly to a newly drafted religion that discriminates against Aboriginal people: unworthy of a following, worthy of contempt, and unworthy of any exemption from anti-discrimination legislation.

16. I am available to discuss the issues I've raised.

**APPENDIX A.  
SUBMISSION TO THE NATIONAL HUMAN RIGHTS CONSULTATION**

**SUBMISSION TO THE  
NATIONAL HUMAN RIGHTS CONSULTATION**

**Dr David Swanton  
June 2009**

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## **INTRODUCTION**

17. This paper has been prepared as a submission to the National Human Rights Consultation.
18. This submission focuses on developing a compelling case for some human rights that are not currently observed, or not observed to the extent they ought to be, in Australia and the world. In particular, the submission focuses on those individual rights that are generally opposed by most religious leaders. This submission helps the Consultation Committee meet its objectives by providing arguments for the observation of some specific human rights.
19. I am a scientist and ethicist who approaches issues, including human rights issues, with objectivity and who makes decisions on significant issues based on evidence. I do not believe in any gods or deities and am not religious. I contend that in a democracy an individual's rights are paramount, and that all people should be equal in rights and dignity.
20. According to the Consultation's discussion paper and website, 'Human rights are about equality and dignity for everyone in Australia. Human rights are important to Australia's democracy'. Human rights can be considered as basic rights and freedoms to which all humans are entitled. Most people would agree on those general definitions. However, religious influence has ensured that human rights are *not* respected in Australia.

## **THIS SUBMISSION**

21. This submission focuses specifically on fundamental individual rights that are contentious, the subject of debate on ethical grounds and not currently observed in Australia. If individuals have equal rights, then a compelling case can be made that there are some rights that must be observed, including
- the right to freedom of belief and non-belief,
  - the right to freedom of choice in belief,
  - the right to die with dignity and live with dignity,
  - the right to freedom of speech, and
  - the right to equality (including the right not to be discriminated against by others).
22. This submission focuses on the lack of equality in Australian society on matters directly relevant to the well-being of individuals and on the widespread discrimination in Australian society that affects Australia's political, legal, social and cultural environments. This submission focuses on the abuses of human rights that occur as a result of most religious observances and discrimination.
23. Some of this submission's more significant points are the following.
- 23.1 Religions are belief systems usually based around stories in primitive and ancient religious texts. Most mainstream religions have a terrible history and reputation of being imposed on others, discrimination, violence, and oppression; in addition, they are scientifically flawed and reflect the ethical standards of primitive peoples. Nevertheless, they continue to survive mainly through childhood indoctrination.

23.2 Australians must have the right to freedom of belief, non-belief and religion. Australians can believe what they will, but under no circumstances should they be permitted to discriminate against other people, including women, homosexuals and non-believers, or impose their values on others, as these deny fundamental rights protected under the Universal Declaration on Human Rights. Discrimination is abhorrent, and if it remains a feature in religions, it will continue to deny Australians fundamental rights and have a divisive effect in Australian culture.

23.3 Australians should be encouraged to think critically about issues and question their beliefs so they can freely determine how they should live their lives. Not only should religions not be imposed on Australians by physical, emotional or legislative means, Australians must have choice in determining their beliefs, and not have religions forced on them, especially at school. People should have the right to freedom of choice in belief, because to impose, especially upon children, a belief system, without providing choice, is not freedom of belief. If we have no right to choose, we have no freedom. Under no circumstances should religions or any one religion be tax-exempt or favoured. Australia must be a secular state with full separation of church and state if there is to be a right to freedom of belief, non-belief and religion.

23.4 Australians cannot, as a civilised society, continue to let people suffer when they are in the most desperate of situations. We must not let people live without dignity, suffer or vomit faecal matter if they are in the terminal stages of cancer, and they have chosen not to suffer. The large majority of Australians are dissatisfied with governments' denial of the right to die with dignity. Properly regulated voluntary euthanasia must be permitted. The continued intransigence and reluctance of many politicians to support terminally ill Australians in their desire to obtain information about voluntary euthanasia and end of life options is to be deplored, as it effectively is imposing politicians' religious beliefs on others.

23.5 Good government policy should not be about denying the right to freedom of speech for elderly Australians. Acting under religious influence, the Federal Government has banned information, if transmitted electronically, that predominately elderly Australians would use to make informed end-of-life decisions about their own lives. This effectively forces undesirable religious values on people who want this information, denying them equality and the right to determine their own lives consistent with their own belief systems. It is discriminatory and unjust for religious people, who do not want voluntary euthanasia, and who might want to die with pain, suffering and indignity, to impose their views on people not of their religion.

23.6 People should never be able to deny other Australians the right to choose. That would be arrogant, and that denial of rights through imposing one's religions beliefs on others is a policy that even Barack Obama (using abortion as an example) has deplored: 'if I seek to pass a law banning the practice, I cannot simply point to the teachings of my church or evoke God's will. I have to explain why abortion violates some principle that is accessible to people of all faiths, including those with no faith at all'. The same argument applies to voluntary euthanasia.

23.7 Nobody wants to be or deserves to be discriminated against, because they will be denied equality. If beliefs or religions discriminate against others or are imposed on others, then these belief systems are unacceptable because they would hypocritically deny equality by doing unto others what people don't want done unto themselves.

24. The arguments in this submission stand on their own if they are considered with an open mind, objectively and devoid of cultural or particularly religious bias. The consequence of this is that the Committee should recommend that substantial changes be made to the rights that must be observed in Australia to ensure that all Australians are afforded the same rights. If these changes occur, there is great promise that Australia can grow to be a more prosperous, egalitarian, tolerant and inclusive society worthy of the title of ‘civilised’, and lead the world in the acknowledgement and protection of human rights.

25. I would be happy to expand on my paper if required.

## **THE CONSULTATION COMMITTEE AND PROCESS**

26. It is interesting to note that the Consultation Committee overseeing the consultation is chaired by Father Frank Brennan, a Jesuit priest. While he may be impartial in his deliberations, and I am not casting aspersions on his integrity, the *perception* must be that a leader in a church that discriminates against women, homosexuals and non-believers, that opposes euthanasia, abortion, embryonic stem cell research, and the use of condoms to restrict the spread of diseases such as AIDS, that indoctrinates children from an early age in beliefs that are not scientifically or otherwise credible, and that receives substantial tax benefits from the Australian government, is unlikely to make recommendations to support rights that have implications contrary to the beliefs he holds dear. Unfortunately, any conclusions that the Committee recommends that are consistent with his Catholic beliefs must necessarily be tainted with this perception of bias.

27. Interestingly, while voluntary euthanasia received widespread applause at the Canberra Community Roundtable meeting and has 70-80% popular support, the right to die with dignity has been omitted as a major category on the consultation’s website.

28. I would hope that the integrity of the consultation process is not compromised. I am pleased that a consultation process is being undertaken and I wish the Committee well in its deliberations.

## **INDIVIDUAL RIGHTS**

29. Australia recognised too late that denying women the right to vote (150 years ago), the white Australia policy (60 years ago), and the policies that discriminated against Aboriginal and Torres Strait Islander people (even until recently), were unethical and wrong. Today these policies are rightly seen as a violation of human rights. These policies, just as that of slavery in early nineteenth century America, were considered acceptable at the time because they had popular appeal at the time. However, all of them violated the fundamental rights of an individual—nobody would like to be discriminated against, yet societies discriminated against certain groups of people.

30. Why didn’t objective argument reveal these problems at the time? One reason is the prevailing religious influence that retarded social progress and muted objective discussion. This religious influence still pervades a more secular Australian society today. Objective argument can be used today to find those human rights that should be, but are not being, observed.



31. Responsible individuals must have rights over their own lives and the right to believe what they will, only if they do not discriminate against others or impose (unethically and hypocritically) their views on others through physical, emotional, legislative or other means, or otherwise oppress or deny other people their rights or freedom of choice. My analysis in this submission has been developed in support of this philosophy.

## **PART 1. HUMAN RIGHTS THAT SHOULD BE PROTECTED**

32. This paper makes strong cases for the following rights to be observed.

Right 1. The right to freedom of belief and non-belief (people can have their belief systems as long as they are not imposed on others or result in discrimination against others).

Right 2. The right to freedom of choice in belief (belief systems and religions should not be imposed on anybody, including children).

Right 3. The right to die with dignity and live with dignity (including the option of voluntary euthanasia).

Right 4. The right to freedom of speech (the right to access information, including that relating to voluntary euthanasia, including on electronic media).

Right 5. The right to equality (including the right not to be discriminated against by others) (including the rights of people, particularly women, homosexuals, and non-believers not to be discriminated against).

33. These rights are not protected in Australia. Arguments for their observance are developed in the following sections.

### **RIGHT 1. THE RIGHT TO FREEDOM OF BELIEF AND NON-BELIEF**

### **RIGHT 2. THE RIGHT TO FREEDOM OF CHOICE IN BELIEF**

34. I need to make some relevant observations about religion to set the framework for my response to the issues before the Consultation. This is because most religions adversely affect human rights relating to equality and dignity. Most religions discriminate and are imposed on others. In both these respects, religions deny other people fundamental individual rights. This discrimination, and the imposition of religious values on others, must not be allowed to continue in a modern, progressive society that values equality and dignity. It is difficult to talk of religions as a whole, given that adherents to even the mainstream religions interpret the allegedly perfect religious texts differently. However, the issues I raise in this submission do seem, with perhaps an occasional exception, to be problems for all mainstream religions, and hence for Australian society.

35. This submission emphatically makes the case that religions discriminate and that discrimination is wrong because it denies people the right of equality. That conclusion alone has significant implications for the right to freedom of belief and our society.

### **Why are people religious?**

36. Religion, by its nature, is a faith, a belief system, and many people believe in religions regardless of what evidence there is to the contrary. Most world religions are based on religious texts written many hundreds or thousands of years ago by people with ancient, superstitious, and primitive customs and ethical systems. They had essentially no scientific knowledge, their understanding of the world was poor, and they created gods to explain what they could not.

37. Unsurprisingly, religious texts such as the Bible are scientifically flawed, and the god theories of religions are inconsistent with available evidence. Despite what religious leaders may suggest is revealed in their (allegedly infallible and perfect) religious texts, there is no credible evidence, and certainly not in the scientific literature, for gods, devils, fairies, angels, ghosts, that the universe was created, heaven, hell, a resurrection, a virgin birth, souls (something that survives death), miracles (events that are contrary to scientific understanding), or that prayers work. In the 21st century, it is delusional, by definition, to have a religious belief in imaginary gods that have characteristics or perform deeds *contrary to scientific and credible evidence*.

38. Further, contrary to religious teachings, men are not superior to women, heterosexuals are not more worthy of rights than homosexuals, non-believers should not be discriminated against or have religions imposed on them, and children should be given choice in belief and not have a single religion thrust on them.

### *The indoctrination test*

39. Beliefs in imaginary beings and things are propagated mainly through indoctrination. My standard indoctrination test is the following: consider what religion people would follow if they were raised in a country of a different religion by parents who fervently followed that other religion? As an example, a Christian should consider being raised by Muslim parents in a Muslim country, and Muslims should speculate about being raised by Christians in a Christian country. Buddhists, Jews, Hindus and other religious groups should ask similar questions.

40. Would they still follow the same religion? If their answer is no, then they should question why they follow the religion that they do, because clearly their religion is subjective, and a function of their indoctrination. They have admitted that if they were indoctrinated in a different religion in a different culture, they would change their religion.

41. If their answer is yes, then perhaps they should try to objectively explain the geographical distribution of religions around the world. If a Catholic said they would be a Catholic regardless of whether they were raised by Muslim parents in a Muslim community, it should be asked why they are so special, because the overwhelming majority of children raised by Muslim parents in Muslim communities become Muslims. Children growing up in a Muslim community do not suddenly have a revelation of ‘Yes, Catholicism is for me’.

42. Many people might think that, as adults, they are making a choice about which religion is right, but this does not explain the high correlation between the religion of indoctrination and an adult’s final religion. The geographic distribution of world religions and cultures is best described by this indoctrination theory because the correlation between religion and geography (culture) is so high.

43. Those indoctrinated people who identify strongly with mainstream religions usually rely on religious leaders to tell them what to do, how to behave, what’s right and wrong, and what to believe in, rather than thinking for themselves. They would probably acknowledge that their gods proclaim that killing is wrong but also that their gods have then (hypocritically) murdered people (including children). These gods are often sexist, racist, and homophobic; a reflection of primitive society, for this is how the religion gave comfort to the primitive peoples that created the gods. Unfortunately, their modern day followers still adopt many of these primitive beliefs. In

the 21st century, it is disappointing that people still consider that these gods, guilty of discrimination and atrocious acts, are worthy of worship.

### **Discrimination and the imposition of religious views denies equality**

44. People who have been indoctrinated in a religion cannot argue from reason that it is right, because if they had been raised elsewhere they would have followed a different religion. They are not philosophically wedded to any one religion. This also means that objective argument cannot be used to justify or rationalise an ethical system based on religion, as religion is subjective. This lack of objectivity means it is particularly important that religious people do not impose their religious views on others by physical, emotional, legislative or other means.

45. Why is this so? Should people have the right to impose their religions on others? For many religions, Christianity included, doing so would be hypocritical. Christians would not wish Islamic or Jewish, or even non-religious (atheistic and agnostic) beliefs, habits or customs to be forced on them. It is hypocritical and unethical for Christians to do unto others what they would not want others to do unto them.

46. This statement can be made more general, more universal. The same weight should be given to the views, values or interests of others as one gives to one's own interests. This is the most fundamental ethical principle. It follows that the values of any one individual should not be forced on others and that all people should have the same rights. This principle guarantees in theory that all people have equal dignity and rights, as reflected in Article 1 of the Universal Declaration of Human Rights (UDHR), 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'

47. An individual should have the right to express and adopt their own religions and belief systems. As a fundamental human right, people should be able to believe what they will, to the extent that it does not interfere with other people's human rights. However, this right is denied people if organised religion is imposed on, discriminates against, or oppresses them.

48. Furthermore, for there to be a right to freedom of belief, there must be freedom of choice in religion and belief. There cannot be freedom if there is no choice. No religions and no one religion can be favoured.

49. A denial of choice is a denial of a freedom and a denial of a right, whether it be in religion or politics. Freedom of choice in belief is rarely the situation in Australia for children, where even in government schools, religion, usually Christianity, is being imposed on others by stealth and by childhood indoctrination before people's analytical skills are fully developed. Freedom of education does not occur because children are not given choice in religious education; more often than not they are indoctrinated in one religion from an early age.

50. Nobody would like to be discriminated against based on sex, religion, sexual preference, colour, race, language, genome, disability, marital status, etc, and therefore religions should not discriminate against others. Religious organisations teach discrimination (their religious texts and church practices discriminate against women, homosexuals and non-believers) but then often complain when its victims voice vehement objections.

51. Sex discrimination in Christianity and Islam is as abhorrent as racial discrimination was in South Africa (or anywhere). Discrimination is wrong because it denies people rights and unfairly affects their interests. Discrimination is abhorrent and should not be tolerated in religion or any aspect of society.

52. While it is important to respect the right of all to believe what they wish, honouring any gods that commit foul deeds should be discouraged and deplored, lest it affect how people behave in society. For example, on a Sunday, indoctrinated religious people can say with total conviction, ‘God killed people in the Bible because he is good and just, God punishes those who do not believe in him, sex before marriage is wrong, contraception is wrong, God believes men are better than women and so women cannot assume positions of leadership in the Church, and as homosexuals are worthy of punishment they cannot join the priesthood’. The next day, perhaps in their public service job, they might try to advocate the opposite view: that all murder is wrong, people have freedom of belief, condoms should be used, and that women and homosexuals should be afforded the same rights as others. The perception, and most probably the reality, is that religious indoctrination lays the foundation for a person’s true beliefs—discriminatory beliefs that deny equality and that are clearly unacceptable in a secular, modern, multicultural and progressive Australia.

53. Would Australians have confidence that public servants with these religious views would treat unmarried bisexual pregnant women as equals of other candidates at interview? Would we have confidence that religious Prime Ministers or politicians could divorce themselves from their indoctrination and make informed and objective decisions about the role of, for example, women in the workforce or gay marriages, or make an objective decision about whether they should legislate for voluntary euthanasia or embryonic stem cell research, if perchance it conflicts with their belief systems? Some politicians and the clergy are still making feeble attempts to justify discrimination on the basis of sexual preference by speaking out against gay marriages.

54. Do Australians think the clergy’s views on these matters are made objectively? Even if politicians and the clergy could demonstrate that they could treat people equitably and make public policy decisions based on evidence, their analytical skills have been severely compromised and the perception is that they do not do so.

55. There is danger in religious belief systems adversely affecting how people reason and how our society can grow and evolve. Organised religion can have deleterious effects on society. If organised religions preach scientific, ethical or other wrongs, either overtly or stealthily, and discriminate against others then these wrongs will eventually be propagated. Women, homosexuals, non-believers (including atheists and agnostics) and others who are not favoured by gods or priests are discriminated against and oppressed, often by stealth. Women, homosexuals and non-believers are disadvantaged because they are denigrated and denied rights by religions.

56. When was the last time a woman or homosexual was allowed to lead their Christian or Islamic church? Discrimination means they are not afforded the human right of equality.

57. The world has a long history of religion-fuelled hostility, which is a logical consequence of thousands of years of religious discrimination, denial of rights, intolerance of other religions, and religions imposing their beliefs on others. Only when people can believe freely in what they will, religious discrimination ceases and religions no longer oppress or impose their religious values

on others, can Australia and the world move confidently on a track towards a tolerant, less divisive and more egalitarian future respectful of human rights.

### **A hypothetical religion**

58. A case has been made that belief and religions should only be permitted when there is right to freedom of choice in religion, and when they do not discriminate, are not imposed on others or otherwise deny people equality, dignity or other fundamental rights.

59. Please consider the following scenario. What if a new religion were to be established tomorrow in Australia, and an inspired person drafts a religious text that reflects the perfect views of their new and perfect God (and it seems most religions need to have a god or two to be competitive, but there are exceptions). The newly drafted religious text includes the following verses attributable to the new God.

- An Aboriginal person should learn in quietness and full submission. I do not permit an Aboriginal person to teach or to have authority over a non-Aboriginal person; the Aboriginal person must be silent.
- Any Aboriginal person who is arrogant enough to reject the verdict of the priest who represents your God must die.
- An Aboriginal person who works on God's holy day will be put to death.
- If a person has sex with an Aboriginal person, both of them have done what is detestable. They must be put to death; their blood will be on their own hands.

60. The above verses are racist, abhorrent and disgusting. They deny Aboriginal people rights. Such a religious text would be treated with the contempt that any racially discriminatory text deserves. The proponents of the new religion would say that God moves in mysterious ways or that the text is not meant to be taken literally. Neither explanation conceals the underlying racism.

61. The astute observer would realise that these verses have been extracted from the Christian Bible and reworked to substitute the phrase 'Aboriginal person' in biblical verses that condemn women, non-believers, a person who works contrary to God's laws, and homosexuals<sup>4</sup>. If the newly drafted religious text is disgusting, then so is the Christian Bible, with its racism, sexism, religism<sup>5</sup>, homophobia, and particular nastiness. However, Christians do not seem to comprehend that the Bible represents the uneducated and far from enlightened views of primitive people, and serious belief in such discriminatory values is unworthy of civilised society, and a modern, secular and progressive Australia.

62. The right to freedom of belief is important. However, if belief systems, including those in the mainstream religions, deny other people their rights and are channelled through organised religion that involves discrimination and the imposition of primitive ethical values on others, then these belief systems are unacceptable. Religion that discriminates and imposes itself on

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<sup>4</sup> 1 Timothy 2:11-12, Deuteronomy 17:12, Exodus 35:2 and Leviticus 20:13 have been reworked to substitute the phrase 'Aboriginal person'. Numerous other biblical verses are disgusting because of their primitive ethical commentary, discrimination against women, homosexuals and non-believers, and advocacy of slavery and sacrifice. Many verses are also scientifically 'wrong'.

<sup>5</sup> This word is taken to mean discrimination against people of different religions, belief or non-belief systems.

other people should be considered similarly to a newly drafted religion that discriminates against Aboriginal people: unworthy of a following and worthy of contempt.

63. If no change is made to the current human rights regime in Australia, then Australia is effectively condoning discrimination. A new religion that discriminated against Aboriginal persons would be no less discriminatory than mainstream religions such as Christianity and Islam. Discriminatory religions must not be allowed to exist.

### **Religion in Australia**

64. Many Australians are not religious. The 2006 census showed that 18.7% of Australians had no religion (a trend that has been increasing), the same percentage as that of Anglicans in Australia. Further, it is reasonable to assume that the 11.2% of people who did not address the census question are more likely to be of no religion. That is about 30% of Australians have no or little desire for religion, and based on trends from previous Census results, this figure will increase in the future. Atheists, or better perhaps the term rationalists, broadly, are people who happen not to believe in a god or gods because there is no evidence that any gods exist<sup>6</sup>.

65. People with religious beliefs should have the same human rights, and no more, than others in society, including people who are not religious or who otherwise choose to believe in things only when there is credible evidence. No person or religious organisation should discriminate unfairly, oppress or denigrate others, or impose their religious views on others, including on atheists or non-believers. To do so is to deny people the fundamental rights of equality and dignity.

### **The right to non-belief**

66. The right to freedom of religion and belief should include the right to not believe and to act on one's beliefs as long as they do not directly affect others. Sex before marriage, consensual homosexuality and other consensual sexual behaviour, abortion and voluntary euthanasia would thus be allowed.

67. Why

- do many religious schools generally refuse to recruit qualified teachers who do not share the religious values of the school?
- do publicly funded hospitals run by certain religious orders not permit women to undergo certain sterilization operations, when it may be more efficient to do so when the woman is, for example, having a Caesarean operation?
- are religious organisations permitted to run schools, hospitals, aged-care facilities and other institutions, be in receipt of public money, yet limit their services to those consistent with their own belief systems, not the belief systems of the people using their services?
- are commercial bus companies permitted to ban atheists from advertising on buses, something that would not be denied to religious people or organisations?

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<sup>6</sup> The term atheist (meaning not a theist) describes what people are not, believers in gods, and atheists have a range of views on other issues. It would be more positive to categorise people by something that they are, perhaps rationalists.

- are non-charitable elements of religious organisations permitted to run businesses without paying tax, which disadvantages more efficient businesses and Australians in general?

68. Discrimination is incompatible with equality. Currently, Australians are not equal.

69. In all of the cases above, non-religious people are disadvantaged. The fact that the non-charitable elements of religions do not pay their share of tax means that other Australians, including low-income earners, pay more tax because religions do not. This inequitable distribution of taxpayer funds is discrimination against non-religious people. Low-income earners pay tax but religions do not. This is inequitable and wrong.

70. Religious organisations in receipt of public funding, such as for schools or hospitals, must not be permitted to discriminate against non-religious Australians. Publicly funded institutions should not show religism (discrimination based on religion). Taxpayers should not fund discriminatory organisations.

### **International agreements**

71. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) and of the UDHR refer to the right to freedom of thought and religion. These rights would be more commendable if they also referred to the right to non-belief. The rights refer to the right for people to manifest their religion or belief in worship, observance, practice and teaching. If any worship, observance, practice and teaching of one religion results in discrimination or the imposition of one's belief system on others, then this is unacceptable, because it places greater emphasis on the interests of one person over another. In this respect, the ICCPR and UDHR are flawed. If discrimination is acceptable in one instance, it can never be ridiculed for what it is—a denial of equality.

72. Christian, Muslim and other religious teaching that discriminates against women, homosexuals, non-believers, or people not of their religion, effectively violates Article 1 of the UDHR. Religions deny women, homosexuals and non-believers equality and rights. There are no female role models in the leadership groups of many churches, as women and homosexuals are precluded from the right to lead mainstream religions.

### **Problems with the Australian Constitution**

73. The Australian Constitution has problems that deny Australians equality.

#### *Section 116*

74. Section 116 seems to be a perfunctory effort to stipulate that there should be a separation of church and state in Australia and that Australia should be a secular society<sup>7</sup>. These are noble objectives, but the Constitution does not achieve them.

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<sup>7</sup> Section 116 of the Commonwealth of Australian Constitution Act states that:  
The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.



75. Section 116 is a denial of legislative power to the Commonwealth, but it does not ensure separation of church and state and does not offer any protection for those who do not believe in supernatural/imaginary gods. If religions are exempt from paying tax under the Income Tax Act, then this legislation favours religions over other groups of people, including over those who do not have a religion. This undermines the perception of a separation of church and state. The separation of church and state must be enshrined in the Constitution if there is to be right to freedom of belief and non-belief.

76. Section 116 does not prohibit religious schools, in receipt of public funding, from discriminating against well-qualified (usually science) teachers who have no religion. The Constitution does not, but must, protect individuals against discrimination by private-sector organisations, including organised religion if all Australians are to have the right of equality. Inequality through discrimination, because of religious belief, is abhorrent and unacceptable.

### *The Constitution's preamble*

77. Aside from s.116, there are other religious problems in the Constitution. When one religion is favoured, the right to freedom of religion or belief is compromised.

78. The Constitution's preamble requires a more secular approach because it effectively discriminates against non-Christians. Although the preamble has no legal force, it contains a reference to the Christian God. There is no *perception* that Australians will treat other belief systems and non-believers/atheists with the same rights as Christians, given that the Christian God has such prevalence in the Constitution, albeit in the preamble. It is subservient, irrelevant and demeaning that the preamble says we are humbly relying on the blessing of Almighty God. It is undignified to humbly rely on anything if, as a nation, we are to forge our own identity and determine our destiny with pride. The words 'Almighty God' may have some meaning for Christians and religious people, but it is gobbledegook to those who are not. Some may argue that the reference to God should reflect the historical nature of Australia's early white Christian-based society, but this constitutes a denial of Aboriginal belief systems and of the multicultural and desirably secular nature of modern Australia. The Christian belief in God does not deserve a place in a legal, and political, document. While many people might choose to follow the Christian religion, it is wrong and divisive to include such religious perspectives in a Constitution belonging to all Australians.

79. If Christians do not think that reference to Almighty God in the preamble is discriminatory, what would they think if a reference to Almighty Allah, Thor or Zeus were substituted, or even added to the preamble? Imagine the outcry. The Christian response would be that there should be right to freedom of religion, but only if it is Christianity. This attitude is unethical. Equality is right and discrimination is wrong.

80. Simply stated, the Constitution is no more a place for a religious statement than the Bible is for noting our humble reliance on our Prime Minister. The Constitution should aim to be inclusive of all Australians, rather than divisive.

*Separation of church and state*

81. Australia's Head of State is the Queen of Australia, Her Majesty Queen Elizabeth II. She is also Supreme Governor of the Church of England, a position that is very relevant to the church, although it is mostly symbolic. The problem that there is not a full separation of church and state begins here. Australia's Head of State should have nothing to do with religion. The perception is all wrong. When Australia becomes a republic or before, there must also be a separation of church and state in Australia.

82. As noted above, s. 116 of the Constitution does not require that there be a separation of church and state or that non-believers have the same rights as believers. This must be rectified. If it is not, religions will continue to be favoured, discrimination will occur, and Australians will suffer the consequences. A secular Australia means that there can be a right to freedom of belief and non-belief.

**Political and legal problems**

83. There are political and legal elements of society that unfairly favour religion or a religion. Why should people with like belief systems and interests have any more rights in government or public institutions than people who have the same sporting interests, such as members of a tennis club?

*Parliamentary prayers*

84. The Christian prayer at the beginning of each sitting day in Parliament is as antiquated and discriminatory as the Constitution's preamble. Parliament is not a church, and should not be imposing religious values on parliamentarians. Most Australians would vehemently oppose the use of daily prayers in schools, universities and hospitals, yet there are daily prayers in Parliament.

85. If I were a parliamentarian, I would be extremely offended that I must observe a prayer from a belief system that is not mine, and particularly given that this religion is the cause of such intolerance and discrimination, including against women, homosexuals and non-believers.

86. The perception of a separation of church and state seems a spurious concept when daily prayers occur. It is unethical to impose Christian prayers on others when Christians would vehemently reject other religions' prayers. Can people imagine the outcry from well-known Christian parliamentarians if a prayer to Allah was substituted for the Christian prayer, even if it occurred on a pro rata basis according to religious numbers? Christian leaders (in religion and politics) hypocritically do unto others what they would not permit others to do unto them.

*Chaplaincy program*

87. The National Schools Chaplaincy Program is an attempt by the government to indoctrinate children in religion. Chaplains are expected to provide general religious and personal advice, comfort and support to all students and staff, regardless of their religious denomination, and irrespective of their religious beliefs. This is not compulsory, but the government is spending public funds to promote religion by stealth in the school system. This is unacceptable. Through

denial of religious choice and the presence of mainly pro-Christian chaplains, the government hoped to promote Christianity in schools. It is unlikely that the government would have funded the chaplaincy program if the only chaplains available were non-Christian.

### *The taxation system*

88. Australian religions are exempt from Income Tax, Capital Gains Tax and possibly other taxes. Religions can invest their money tax-free and cross-subsidise any of their 'business' activities. Colloquially, Australians call this a lurk, and they do not come any bigger. If estimates that churches' annual turnover of \$20 billion per year are in the right ballpark, Australia could be forgoing well over a billion dollars per year in taxation revenue. Governments and politicians must question why religions are permitted to bank billions from their tax breaks; billions that governments could be using for the benefit of all Australians, especially during economically challenging times. Religions are not treated equally to other organisations, and consequently their members are favoured over other Australians.

89. The Roman Catholic Church is the wealthiest non-profit organisation in Australia and one of its largest organisations, with approximately 180 000 employees. Yet it runs schools, hospitals, aged-care facilities, employment services and many other businesses without paying tax that other Australians would pay. Non-religious Australians find it difficult to establish schools, hospitals etc when their religious competitors do not pay tax. Religions are effectively cheating ordinary Australians. If some of that taxation revenue forgone were instead spent on Australia's poor and needy, on education and health, on medical and scientific research, on climate change, on energy efficiency, on improving the lives of Australians, and on foreign aid, Australia would be much better for it.

90. Nobody really knows what religions do with their money (perhaps propping up the rich parent religions overseas), as they are not accountable. The tax-exempt situation for religions is clearly discriminatory and unacceptable. It is quite extraordinary that this religious discrimination has existed for so long. Religions must not be exempt from any taxation and they must be accountable. This is fundamental if Australians are to be considered as equals.

91. Both major parties support daily Christian prayers in Parliament. Religions are tax-exempt and lack transparency. This is religious discrimination at the highest level. There can never be a right to freedom of belief, non-belief and religion if the Constitution and daily prayers send a pro-Christian message and the taxation system has a religious bias.

### **Religious influence on government**

92. Religious or faith-based groups have undue influence over government. Australian governments in all jurisdictions have been reticent to introduce social change. The rights of homosexuals to marry, the rights of terminally ill people who seek voluntary euthanasia, the rights of women seeking abortion, and the use of embryonic stem cells in research are some contemporary issues that have been opposed for religious reasons. These issues have majority support in the community and do not directly affect other people. However, the number of religious politicians seems disproportionate compared to the proportion of religious people in Australia (perhaps 8% of Australians are regular churchgoers).

93. Politicians, through legislative action, should forbid organisations, including religions, to discriminate against particular groups of Australian people, such as women, homosexuals and non-believers. However, with few notable exceptions, politicians have been reluctant or lack the moral fortitude to stand up to the organised religions.

### **RIGHT 3. THE RIGHT TO DIE WITH DIGNITY AND LIVE LIFE WITH DIGNITY**

94. Voluntary euthanasia is the right to die with dignity and end one's own life in a painless manner and so avoid pain, suffering and indignity. People should have equality and dignity in life, and in how they end their life. The right to live life with dignity is very much understood and by all, but it must be complemented by a right to die with dignity. The right to die with dignity is the last dignified decision that many people would like to make in their lives.

95. The ICCPR and UDHR effectively state that all human beings are born free and equal in dignity and rights, and that these rights derive from the inherent dignity of the human person. People who would choose to have voluntary euthanasia are concerned about their dignity and quality of life, rather than the extension of their life if this involves unnecessary pain, suffering and indignity.

96. Christian religious teaching, manifested through the votes of Christian parliamentarians, effectively violates the ICCPR and UDHR, because governments deny those who are terminally ill the right to choose their most dignified option in dying. Clearly, people who are 'born free and equal in dignity and rights' should have the right to choose voluntary euthanasia and determine how they live and die.

97. There are many elderly Australians who, in the absence of legislation, are choosing to take control of their lives and develop their own end of life options. Elderly people are seeking information on their options for a peaceful death, either travelling overseas to acquire suitable lethal drugs, making use of overseas legislation (in Switzerland in particular) that permits euthanasia, or attempting to manufacture drugs to have something in the cabinet—just in case their illness worsens.

98. These people are everyday Australians, who are taking matters into their own hands to ensure that they do not have unnecessary pain and suffering if they have a serious terminal illness. They are denied the right to determine what is best for themselves. They are denied the right to determine what is right for their body. They are denied the right to die with dignity. This is unacceptable.

### **Physician assisted death**

99. Physician-assisted death occurs in Australia despite it being illegal. About one third of doctors have provided medication with the intent of hastening the end of life. About 80 per cent of Australians support euthanasia, the administering of a lethal dose, at the request of a terminally ill patient, to hasten death. According to Tony Jones on a recent Q&A program, 90 per cent of the audience supported euthanasia. A guest on the program, opposition shadow minister Tony Abbott, did not; as he argued that while we might feel for our fellow human beings, there will be a slippery slope where there will be all sorts of pressures on all sorts of vulnerable people. There is no slippery slope. Experience overseas indicates that legislation does not result in

increased death rates; in fact, the trend is slightly the other way. Our politicians, our legislators, can draw the line in the sand about what is and what is not permitted. Unfortunately many politicians, particularly those who have been indoctrinated by religion, are burying their heads in the sands of denial.

### **Angelique Flowers**

100. It is difficult to comprehend how many politicians could ignore, or at least fail to act in response to, the incredibly moving and very sad story of Angelique Flowers, the 31 year old writer who recently died after years of Crohn's disease and then agonising bowel cancer<sup>8</sup>. She had palliative care, which is important, but it did not alleviate her suffering. Nobody should have to suffer to the extent she did, and vomit faecal matter at the end, but she did. That she had to suffer that way could drive many other Australians to an early demise, in fear, not of death, but of unbearable pain and suffering.

101. The Pope's arrogant statement that the ill should pray to find 'the grace to accept, without fear or bitterness, to leave this world at the hour chosen by God' is meaningless to those who do not believe in a god, and to many who do. One might suspect that Angelique Flowers would have been very unimpressed, and that most would classify the Pope's stance as inhumane. In her eloquent video appeal to Kevin Rudd, which was forwarded to him by Dr Philip Nitschke (head of Exit International), Angelique said that 'all I want after 16 years of painful Crohn's disease and now cancer is to die a pain-free peaceful death'. 'Because euthanasia was banned in Australia I am denied this right...' Further she said that '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.'

102. All politicians should consider heartfelt appeals such as that of Angelique Flowers. We cannot, as a civilised society, continue to let people suffer when they are in the most desperate of situations. The large majority of Australians are not satisfied with the denial of the right to die and the continued intransigence and reluctance of many politicians to support terminally ill Australians. All we need is more politicians with compassion, legislative skills, and fortitude to ensure that individuals have the right to live, and end, their lives with dignity. This is a right that Angelique Flowers was denied. No Australians should have to suffer as she did.

103. I am middle-aged, I am healthy, and I am not terminally ill. People who want the option of voluntary euthanasia are usually older than me. Nonetheless, I want information on my life options and on my end of life options. My life is *my* life. Elderly people, with greater vested interests in end of life options, are particularly desperate for information. With every sad case that reaches the media, and in the absence of regulatory regimes, more people are seeking practical end of life solutions to terminal illnesses, which are becoming more prevalent as our population ages.

### **The case for voluntary euthanasia**

104. Consistent with the beliefs of 70-80% of Australians, people should be able to choose if they want the option of voluntary euthanasia. Simply stated, people of sound mind, who are

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<sup>8</sup> [http://www.youtube.com/watch?v=jxdx\\_EFDd4s](http://www.youtube.com/watch?v=jxdx_EFDd4s), accessed 29 April 2009.

terminally ill, should be able to choose how to end their lives, and be able to gain assistance if they cannot do so themselves.

105. Appendix 1 provides a comprehensive case for voluntary euthanasia—the right to die with dignity. I have highlighted key statements in this appendix. However, organised religion, and religious parliamentarians, continue to deny Australians this basic individual right—they are effectively imposing their religious beliefs on other Australians. This is an unacceptable imposition of politicians’ religious beliefs (mainly Christian) on other people.

106. It denies people the right to practice their own belief that euthanasia is right, because the clergy and politicians force a Christian ethic upon them. This is unacceptable.

107. If people do not want voluntary euthanasia, they do not have to have it—it is *voluntary*. Australians must ask how many Christians, whose ethical standards allow them to worship the mass-murdering biblical God (including of children), can demand that others must not die with dignity but instead suffer with indignity.

108. Organised religions and politicians must not deny the right for people to choose their end of life options. People who oppose voluntary euthanasia for terminally ill people because they oppose it for themselves, are being unethical, oppressive, and are arrogantly imposing their religion on other people. This denies terminally ill people the right to choose what to do with their own lives.

109. It is their life, and it should be their choice in how they should live and die. A right to life should be balanced by a right to die, if that is the wish of the individual. They are both rights, not duties.

#### **RIGHT 4. THE RIGHT TO FREEDOM OF SPEECH**

110. Religions, via Christian parliamentarians, have now made it illegal to discuss voluntary euthanasia issues on electronic media, such as the internet, because the Commonwealth Parliament has legislated a ban on the electronic transmission of information about voluntary euthanasia. A ban has also been placed on the sale of *The Peaceful Pill Handbook*, by Dr Philip Nitschke and Dr Fiona Stewart, a book that provides information on end-of-life options. In the absence of supportive voluntary euthanasia legislation, Australians are nonetheless attempting to download the information in this book, and attending meetings, to make informed end-of-life decisions.

111. Why should something that is of interest to elderly people be prohibited from discussion via electronic media, when euthanasia supporters talk about these issues in person or via Australia Post, if not to try to undermine the euthanasia movement? The right to freedom of speech for euthanasia advocates is being denied by politicians who want to do whatever they can to impose their religious views on others by suppressing discussion on euthanasia issues.

112. Good government policy should not be about denying the right to freedom of speech for elderly Australians. It is wrong to ban information or speech that predominately elderly Australians would use to make informed decisions about how they should live, and end, their own lives, because this forces other people’s religious values on them.

113. Barack Obama, as a Senator, correctly recognised that governments must not legislate based on politicians' religious beliefs. Governments require a universal principle, one amenable to reason, to legislate. He said 'Democracy demands that the religiously motivated translate their concerns into universal, rather than religion-specific, values. It requires that their proposals be subject to argument, and amenable to reason. I may be opposed to abortion for religious reasons, but if I seek to pass a law banning the practice, I cannot simply point to the teachings of my church or evoke God's will. I have to explain why abortion violates some principle that is accessible to people of all faiths, including those with no faith at all.'<sup>9</sup>

114. With few exceptions, Australian politicians do not have the same ability as President Obama to separate their religious beliefs from their political responsibilities. They must understand that their religion is not amenable to reason, and must not be forced on others. Denying the freedom of speech to those supporting voluntary euthanasia is an imposition of mainstream religious views on people who are not of those religions. People should have the right to express their views, and present reasoned arguments, and not have others' views forced on them.

## **RIGHT 5. THE RIGHT TO EQUALITY (INCLUDING THE RIGHT NOT TO BE DISCRIMINATED AGAINST BY OTHERS)**

115. As noted above (in the section 'The right to non-belief'), there is discrimination against people who do not follow religion in Australia. Religions deny Australians equality.

116. Australian governments have often stressed the importance in a democratic system of respect for individual conscience, with political rhetoric of the form 'The Government regards the protection of individual rights as fundamental and inalienable'. However, this does not seem to extend to people who have different beliefs about how individuals should live and die—why then has the government legislated against voluntary euthanasia for those who want it?

117. Can there be freedom of religion and belief if people are discriminated against because of their beliefs? It is hypocritical that Christians and Muslims do not want to be discriminated against because of their religion while they discriminate on race, sex, sexual orientation, and religion, and want the freedom to continue to do so. If religious discrimination is not banned, then on what basis can any discrimination be ethically wrong? The right to freedom of religious belief can only be acceptable when it does not result in discrimination or the imposition of belief systems on others.

118. Australians, whether they are women, homosexuals, non-believers, or religious, must not be subjected to discrimination. It leads to fear, intolerance, and all too often to religious violence. Australians are equal, and must be treated with the dignity that equality implies.

119. Discrimination against Australians is unacceptable. Discrimination denies people equality and rights, and is contrary to Article 1 of the UDHR.

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<sup>9</sup> <http://www.secularism.org.uk/newline.html?df=20081031>, quoted from 31 Oct. 2008, accessed 19 Feb. 2009.

### **Religious agencies discriminate in delivering government services**

120. Religious agencies should not deliver government services. Religious agencies follow religious texts that discriminate against others, including women, homosexuals, non-believers and people not of their religion. They impose their religious views on others, overtly or stealthily. Religious schools discriminate against teachers who do not have the same religious values. Organisations that discriminate should be ineligible to receive government funding.

121. Religion is a divisive issue and that alone should prevent faith-based agencies providing government services. Religions can gain greater exposure by providing government services, but people should not be subjected to the customs of other religions, whether it be chats about God or Allah or religious symbols on hospital walls. The imposition of religions on others should not be permitted.

122. Specialists can refer Australians requiring medical services for treatment in hospitals, many of which are run by religious organisations. Non-Catholics should not need to attend a hospital that aims to ‘strengthen and develop Catholic health at regional and national levels’. Whatever this means (and interestingly, what about the health of non-Catholics), it is discriminatory for something as fundamental as health care for Australians.

123. Religious agencies do not pay tax and have an unfair advantage in a business environment. Non-religious organisations that are intrinsically more efficient are unable to compete. If religions were to pay tax, not discriminate and not force their views on others (this is unlikely, as many religions see the imposition of their beliefs on others as their reason for being), then Australia would go some way to ensuring all Australians are treated equally.

### **Gender and sexual equality**

124. Women are third-order citizens in Islam and second-order citizens in Christianity. Both situations are unacceptable. It will take some time for women to reach equality in living standards and equality of pay and rights, but only if explicit and implicit religious discrimination ceases. How can women have parity in everyday life when mainstream religions consider women unworthy of religious leadership? Most church and religious services reinforce the fact that women are unworthy of religious leadership. This discriminatory baggage is then carried into general society. With this attitude, shared by many politicians, it is not surprising that women do not reach positions of status at the same rate as men.

125. Diverse sexuality is discriminated against by many religions. Most religions seem to endorse married heterosexuality, but little else. Homosexuality is, according to the Bible, worthy of the punishment of death. It is disgusting that these views are propagated in the Christian religion and that children can read of these views in the Bible. Some would consider that Islam’s views on diverse sexuality are more severe.

126. Politicians must have the moral fortitude to ensure that Australian females are not subjugated by discriminatory religions such as Christianity and Islam. Why do Australian politicians, and the Australian public, tolerate a situation that discriminates against so many Australians? An irate politician should act on the exclamation of ‘how dare these religions treat Australian women, homosexuals and non-believers with such contempt’. That is over half of the Australian population. Discrimination is wrong.



## **Gender equality and religious freedom**

127. Gender equality must take precedence over religious freedom. The former is ethical and does not cause discrimination; the latter is unethical if it results in discrimination. Australia cannot afford to have people using intolerance and irrationality to justify discrimination against women, or any other groups of people. If religious freedom took precedence, then any religion that discriminates against people based on race, colour, sexuality, genome, creed, religion, disability, political, sporting or other affiliation would be acceptable. Discrimination could be rife. A new religion that discriminated against Aboriginal, black or disabled people in the same way Christianity and Islam discriminate against women would be abhorrent and unacceptable. People should have the freedom to choose their own religion, but they do not have the right to discriminate, impose it on others or act on it so that it adversely affects others.

## **Religious discrimination**

128. If religious freedom were paramount then extreme religious groups could establish themselves in Australia, as their discrimination would be no less severe in principle than Christian and Muslim discrimination against women and homosexuals (though the extent of the discriminations has varied through the ages and with different belief systems). Discrimination is discrimination, and unacceptable to those who contend that all humans should have equal rights.

129. Religious organisations' discrimination and history of killing through crusades, inquisitions and religious wars has not deterred as many people as it should from the clutches of the mainstream religions. The power of childhood indoctrination is strong—this is why religions do it—and unless freedom of choice is provided in childhood, the wrongs, discrimination and divisiveness of religion will continue in society. Discrimination and fear of other religions leads to anger, anger leads to hate, hate leads to violent conflict, and unfortunately, this sequence has repeated itself for thousands of years.

130. Article 1 of the UDHR states that 'all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.' Religions must cease discrimination and treat all people equally to be consistent with this Article.

131. The Bible revels in telling of God's wrath in killing. Most Australians have heard the stories. The Christian religion has killed in crusades, inquisitions and religious wars. Despite all their killing, some Christian religions then attempt to oppose abortion and voluntary euthanasia because cells or people die. Hypocrisy does not sit well with rational beings.

132. Nobody wants to be or deserves to be discriminated against because they will be denied equality. People should have the right to freedom of belief, non-belief and religion. However if their beliefs or religions discriminate against others or are imposed on others, then their belief systems are unacceptable. They cannot deny equality by doing unto others what people don't want done unto themselves. People should have the right to freedom of choice in belief, because to impose, especially upon children, a belief system, without providing choice, is not freedom of belief at all. If we have no right to choose, we have no freedom, and we have no rights.

**PART 2. ARE THESE HUMAN RIGHTS CURRENTLY SUFFICIENTLY PROTECTED AND PROMOTED?**

133. The rights in Part 1, usually opposed by mainstream religious organisations, are not sufficiently protected and promoted in Australia. I have outlined a strong case for each of them.

### **PART 3. HOW COULD AUSTRALIA BETTER PROTECT AND PROMOTE HUMAN RIGHTS?**

134. The right to freedom of belief and non-belief, the right to freedom of choice in belief, the right to die with dignity and live with dignity, the right to freedom of speech, and the right to equality (including the right not to be discriminated against by others) must be protected. Mainstream religions oppose these beliefs. Not all people follow the belief systems of mainstream religions. For these important rights to be upheld, religions must be banned from discriminating, and the clergy, the political leaders who follow their religions, and the laypeople, must not be permitted to discriminate or impose their religions on others.

135. As the clergy and political leadership have effectively worked to deny people rights, efforts should be made to effect a more tolerable and egalitarian outcome from these people. Only then can all Australians be treated equally and with the dignity that all Australians deserve. One group of Australians should never be able to impose their views, relating to how individuals should live their lives, on others.

136. There are however many issues of concern and many policies that can be instituted to ensure individuals have equality and dignity, including the rights discussed in this submission.

#### **ISSUES OF CONCERN TO AUSTRALIANS**

137. With respect to an individual's rights, there are many issues of concern, including

- that all religions believe that their religion and its ethical values alone, are 'right', and that they must be imposed on all other people
- that religions discriminate, are intolerant of others, and do not treat all people equally
- the distrust that religions have for each other that often results in violent conflict
- that religions are effectively imposed on children in schools, denying them the right to form their own opinions and choose their own religious belief
- the religious contentions that the world was created, imaginary gods exist, souls exist, miracles occur, and prayers work, contrary to scientific evidence
- the religious bias towards Christianity in the preamble of the Australian Constitution and that s.116 does not provide for a separation of church and state or protect non-believers
- the use of parliamentary prayers
- the tax-exempt status given to religions
- the use of discriminatory and tax-exempt religious organisations to provide government and business services for Australians
- the religious opposition to matters that would advance the human condition, voluntary euthanasia (the right to die with dignity), abortion, embryonic stem cell research, and the use of contraceptives
- that religions and politicians have worked to ban the dissemination of information relating to euthanasia over the internet (when it is acceptable to discuss such matters in person) which unfairly censors and denies people information, affecting their ability to make their own decisions about end of life matters
- the gender, sexual and racial discrimination that is rife in religion

- the discriminatory religious attitude towards non-believers
- the use of divisive and offensive religious symbols and dress
- the use of violence, terrorism and war to defend religious beliefs
- politicians and the media consulting with religious organisation on issues unrelated to religious teaching and despite these organisations having a history of discrimination and violence.

## **HOW THE AUSTRALIAN GOVERNMENT CAN PROTECT THE FUNDAMENTAL HUMAN RIGHTS DISCUSSED IN THIS PAPER**

138. Governments can address the denial of many rights discussed above through constitutional change, political reform and strong, rational, non-partisan political leadership. A regulatory regime is required to eliminate the tax-exempt status for the non-charitable elements of religious organisations and prohibit discrimination at all levels of all organisations. Education is required, and governments can initiate this. However, religious organisations must realise that they cannot accept their religious texts as infallible truths. They must understand that equality is right and discrimination is wrong.

139. There are many options for the Australian Government and the State and Territory Governments.

- A stronger Constitution must allow freedom from religion and the right to not have religious beliefs.
- Australia should be a secular state, with full and complete separation of church and state, and a non-divisive state, where no religions are favoured.
- There should be no religious references in the Constitution, the Parliament, or material relating to any public institution.
- It should be unacceptable for individuals and private and public organisations to discriminate and impose religious views on others.
- Religions should not be exempt from discrimination laws.
- The right to not have religious beliefs must be reflected in all jurisdictional frameworks.
- Religions should not be favoured any more than other organisations of people with similar interests.
- Children must be given choice of religion at school.
- The non-charitable elements of religions must pay tax and must be accountable in a democratic way, as, for example, companies are to their shareholders.
- Any religions that discriminate and that are imposed on others must not receive any government funding; indeed, they should not be permitted to do so. Other religions that do not discriminate, that are not imposed on others, and that might receive government funding, must still be accountable.
- The government should realise that it is dangerous to vest power in religious leaders who are not elected and not accountable.
- Australia needs politicians with greater moral fortitude to stand up to organised religion.
- Abortion and homosexual marriage should be permitted.

- Laws should be enacted to permit voluntary euthanasia.
- Laws that deny Australians the right to discuss euthanasia issues over the internet should be repealed.
- Equality means that discrimination against people must not be permitted.

140. In addition, the government needs to consider the related matter of censorship for children. Does society think it appropriate that children can read about the second-rate treatment of women, as well as the murder of homosexuals, massacres, the collection of foreskins from murdered people, atrocious murders of children, rape, incest, torture, slavery, general pillaging, sacrifice, everlasting punishment in hellfire, to name but a few horrors? If this violent fiction is unsatisfactory for children's literature, then the Bible should be inaccessible by children. Censorship must protect *children* from inappropriate literature.

141. Actions on many fronts are required to ensure that Australians have equality and the rights discussed in this submission.

### **A Charter of Rights**

142. If a Charter of Rights is developed, then the rights discussed in this submission must be protected. If they are not, then Australians will be deprived of equality, dignity and human rights.

143. There must be equivalence in rights between belief and non-belief in religion, and people, including children, must have the right to choose their religion. The right to not believe in religion must be protected. People must be permitted to have the right to freedom of belief, but not if this is imposed on or discriminates against other people. The right for individuals, of sound mind and body, to determine and choose how they should live, and in cases of terminal illness, how and when they should die with dignity, must be protected. Individual liberty must not be constrained. There must also be a right of free speech to debate rights, religion, euthanasia, and all other issues amongst intelligent adults, without banning the dissemination of information relevant to individuals from dissemination by electronic means. People should have the right not to be discriminated against, which means that the right to equality in all aspects of Australian society should be enforced.

## **EDUCATION, RELIGIONS, AND THE MEDIA**

### **Educating religious leaders**

144. Religious leaders and people must be educated to learn about religious freedom and the ethical merit of freedom of choice in developing belief systems. However, if education teaches that women are the equal of men and consequently should be able to hold leadership positions in their church, this is contrary to religious leaders' firmly entrenched belief systems, so it is unlikely that they will not accept it. Perhaps the Australian Human Rights Commission could take a lead in making people more aware of relevant rights, including those that have been raised in this submission.

## **Religions discriminate**

145. The Qur'an teaches that members of other religions should be fought 'until there is no more tumult or oppression, and there prevail justice and faith in Allah altogether and everywhere'. The Bible similarly teaches that those not of the Christian religion should be put to death, or at least destroyed. Most churches preach to their members that people not of their religion are sinners, who will have everlasting punishment in hell—not really a basis on which churches can have sensible interfaith dialogue. Many religious people deny the literal interpretations of their religious texts, but fundamentalists do not. Perplexingly, it seems impossible to obtain perfectly clear interpretations of the alleged perfect religious texts.

146. It would seem that Christians and Muslims, but also Jews, have the same level of respect and interfaith understanding for each other that they have had throughout history. While religions are ostensibly making efforts to be conciliatory, it is probable that under the surface, their antagonism towards one another continues. By discriminating against each other they deny rights to other people. Most religions do not treat others as equals; most religions do not treat others with dignity.

147. It would be wonderfully uplifting if the leaders of the different mainstream religions could join hand in hand and call for a better world. They could announce that there would be freedom and equal rights for all, the cessation of all discrimination and religious hostilities, that religions would now pay tax like other organisations, that divisive religious practices would be eliminated, that no religion's gods or beliefs are better than any other gods or beliefs, that allow other people to discuss matters contrary to their religious teachings, and renounce all references in their religious texts that undermine equality and advocate punishment for people who are not of their religions. That would be a start. Otherwise, religions indulge in a childish, fruitless and divisive game of 'join up, our religion is better than your religion'. Australian politicians can unite on certain issues, and a proclamation to this effect by religious leaders would surely be beneficial if Australians are to be treated equally—surely the most fundamental of human rights.

148. Politicians could work towards the constitutional and legislative changes that are required. They must speak out for individual human rights and show the leadership that Australians desire and expect of them.

## **The role of the media**

149. The media has a large impact on issues in contemporary society. On rights issues, reporters must ask the hard questions. The clergy should not be revered, rather they should be challenged. Why do they discriminate? Why do they force their views on others? It would be uplifting if a respected TV reporter were to question the Pope, or even a Cardinal, on how he (it must be 'he') can:

- justify a ban on the use of condoms in third world countries
- oppose a reasonable abortion at the expense of the right of the woman to determine what is right for her own life
- ask terminally ill people to repeatedly vomit their own faeces when in the final stages of colon cancer rather than permitting the individual right to die with dignity (voluntary euthanasia)
- deny the use of embryonic stem cells for research, resulting in hardship or disability for many

- justify the existence of a god or soul when there is no scientific evidence, denying people rational explanations
- advocate that others, not of his religion, should have everlasting punishment in hell (when there is none), which is true cruelty
- discriminate against women, homosexuals, non-believers and others, denying people the right of equality
- justify imposing his religious views on others through political force
- deny freedom of choice in religion
- worship God, who according to the Bible, kills children
- justify why his and other religions should receive favourable tax status over other Australian organisations.

150. Some reporters might consider such questions as impolitic, but the questions need answers. The media should actively challenge religious leaders about their lack of action on the uplifting statements in the previous section, for example, why don't religious leaders announce the cessation of all discrimination in their organisations? It is simply unacceptable that these discriminatory organisations should be permitted to exist in society.

151. Many Australians donate a great deal of money to religions, and religions must be accountable for this money. It is unacceptable that organisations in receipt of so much Australian money should have such atrocious and discriminatory ethical standards. People and the media must consider issues in greater depth, and ask the hard questions, if our society is to become more tolerant, less divisive, fair and equitable for all Australians.

## APPENDIX 1. THE RIGHT TO DIE WITH DIGNITY

### BACKGROUND

152. Voluntary euthanasia is the practice of ending life in a painless manner. Voluntary euthanasia means that a person

- who is terminally ill;
- who feels that their life is not worth living because of intractable pain, and/or loss of dignity and/or loss of capability;
- who repeatedly and actively asks for help in dying;
- who makes their decision freely, voluntarily and after due consideration (and is not suffering from treatable depression);

should have the option of requesting assistance in dying. Voluntary euthanasia is the humane, moral and civilised outcome for Australia and consistent with providing dignity for terminally ill patients who want it.

153. The *Euthanasia Laws Act 1997* repealed the Northern Territory's *Rights of the Terminally Ill Act 1995* and prohibited the introduction of similar Acts in the Australian Capital Territory (ACT) and Norfolk Island.

154. Australians, through the Euthanasia Laws Act, has denied people living in Territories the right, through their legislatures, to enact legislation permitting voluntary euthanasia, a right that is not denied people living in Australian States. It has denied terminally ill people the right to die with dignity. The inability of State parliaments to stand up to organised religion also denies terminally ill people the right to die with dignity.

155. I am the ACT Chapter Coordinator for Exit International, the voluntary euthanasia organisation headed by Dr Philip Nitschke, and approach this issue as a middle-aged Australian male, in good health, who is saddened by the attitude, even arrogance, of those who deny the rights of terminally ill patients to access information about end of life options, and about accessing voluntary euthanasia. Other people do not know what is better for terminally ill patients than the patients themselves. Whether or not I ever have the desire to request voluntary euthanasia, I, and many others, want the option of voluntary euthanasia.

### A1 ARGUMENTS IN SUPPORT OF VOLUNTARY EUTHANASIA

#### A1.1 Rights of individuals in a democracy

156. John Stuart Mill, one of the architects of democratic doctrine, advanced the principle that 'the only purpose for which power can be rightly exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant'. Accordingly, democratic societies can make laws to prohibit murder and robbery, but should not make laws to prohibit sex before marriage, religion, or voluntary euthanasia. This is because terminally ill patients who desire euthanasia for themselves are not physically harming other people.



157. Mill's philosophy can be reduced to the statement that, 'in any legal issue between an individual and the state, the burden of proof for showing that an individual's behaviour is undesirable, always rests upon the state, not upon the individual'. The onus is thus on those opposed to euthanasia to 'prove' that voluntary euthanasia is fundamentally flawed.

### **A1.2 The rights of an individual**

158. Sue Rodriguez was a Canadian who died in 1994 from Lou Gehrig's disease, but not before taking her case to the Canadian Supreme Court in an attempt to gain permission for her own legal euthanasia. In explaining her situation, she questioned that if she cannot give consent to her own death, then whose body is it? 'Whose life is it anyway?' After passage of the *Euthanasia Laws Act 1997* in Australia, the majority of Australians would have asked the same question.

159. Bob Dent, the first of four people to die under the Northern Territory's Rights of the Terminally Ill Act, was adamant that the beliefs of others should not be forced on individuals. He said 'What right has anyone, because of their own religious faith to which I do not subscribe, to demand that I must behave according to their rules?'

160. It is anomalous that currently an act such as suicide can be legal, but to seek and gain assistance with that act is not. In effect, the Euthanasia Laws Act inflicts a form of discrimination on those terminally ill patients who would like to commit suicide but do not have the means to do so. These are exactly the people for whom the option of voluntary euthanasia is particularly appealing. Voluntary euthanasia would reduce suffering and loss of dignity for terminally ill patients.

161. The concept of individualism is fundamental to democratic political theory. In a democratic society, individualism posits that latitude be given to individuals to behave as they wish, and to develop and satisfy their interests. Mill stated that 'Over himself, over his own body and mind, the individual is sovereign'. To deny a person the right to live his or her life as he or she wishes implies that each individual does not know what is right for himself or herself.

162. Individuals can make important decisions about their bodies when they are young, for example, they can decide to participate in dangerous sporting activities or women can choose to have an abortion. However, since the Euthanasia Laws Act came into force, it seems that somewhere between the ages of twenty (when some women might have an abortion) and seventy (the age of some terminally ill patients) women lose legal control of their bodies. The Euthanasia Laws Act and its impact on terminally ill people is a denial of rights. It represents moral oppression at a level rarely experienced in Australia.

163. Members of the clergy, who seem to be the most vocal opponents of voluntary euthanasia, have imposed their values on euthanasia on other individuals through their opposition to the right to die, but I suspect that they would not entertain a reciprocal arrangement that impinged on their individual freedoms. In the spirit of Voltaire, the clergy and other euthanasia opponents most certainly can remonstrate with people requesting euthanasia to change their minds, but they ought not to be able to compel them by insisting on a legislative fiat in a democracy. Voluntary euthanasia is morally just precisely because it is voluntary.

164. Voluntary euthanasia supporters on the other hand do not insist that all people must have voluntary euthanasia, but rather that everybody be given the choice. For an issue as personal as one's own life and death, the choice of how you might die is one of the most personal decisions an individual should make. To be denied the right to make this decision is a blight on democracy.

165. In Australia, we now have the situation that elderly Australians are travelling overseas in search of voluntary euthanasia, attempting to manufacture drugs in Australia, travelling overseas to buy and import drugs, and taking other initiatives, to give themselves a dignified end of life option if they were to become terminally ill. Australian doctors are assisting patients with voluntary euthanasia (a survey indicated more than a third of doctors have done so), albeit in an illegal environment. All of this activity is happening and is unrefuted, and no serious efforts are being made to stop any of this activity. Perhaps there is a latent and acceptable view that these elderly people are not dangerous to society, and should not be the subject of criminal prosecution.

166. Voluntary euthanasia should be the right of every Australian. In the words of Marshall Perron, the former Northern Territory Chief Minister, 'It is surely preferable to have voluntary euthanasia tolerated in particular circumstances with stringent safeguards and a degree of transparency, than to continue to prohibit it officially while allowing it to be carried out in secret without any controls'.

### **A1.3 Rights of people living in a territory**

167. It is within the Commonwealth Government's legal power to make laws for the government of any territory, according to s.122 of the Constitution. However, the Euthanasia Laws Act effectively discriminates against people living in territories because the Commonwealth does not have the right to legislate on this matter for the States. I doubt if it was the intention of those who drafted the Constitution that such discrimination should occur.

168. The Euthanasia Laws Act, in prohibiting the territory governments from enacting voluntary euthanasia legislation, limits the ability of territories to govern themselves. Territory citizens are considered sufficiently responsible to make their own wills, to marry, to ask for removal of life support, and arrange financial transactions, without interference from an authoritarian state. Yet the Euthanasia Laws Act effectively dictates that terminally ill individuals in the Northern Territory, the ACT and Norfolk Island, are not sufficiently responsible to make decisions about their own bodies, about their quality of life, and how they should live.

169. As an example, the *Australian Capital Territory (Self-Government) Act 1988* states that the ACT Legislative Assembly has 'power to make laws for the peace, order and good government of the Territory'. From the perspective of territory governments, and territory citizens, not being able to make voluntary euthanasia laws is inconsistent with this objective, and an insult to the ability of territory citizens to govern themselves. Australian Territories should have the same rights to make laws for their peace, order and good governance as any state.

170. One reason for the introduction of the Euthanasia Laws Act was 'if the parliament of the Commonwealth of Australia cannot resolve a matter that goes to the life and death of its citizens, then what is the purpose of this parliament?'. Perhaps more pertinently, one should ask what purpose the territory parliaments serve if the Commonwealth is to override their laws.

171. The Euthanasia Laws Act was not legislation born of a need to legislate for the territories to ensure the national good, as those who drafted the Constitution might have envisaged, but rather an attempt to impose the predominantly religious view of the leaders of the previous socially-conservative government on as many Australians as possible.

172. The territories should not have to live with the uncertainty of not knowing which laws will be overturned, or which powers will be revoked, whenever some Commonwealth leaders feel inclined to force their religious values on people. Nobody, including politicians, would appreciate having the values of a religion, not of their own choosing, forced on them.

#### **A1.4 Freedom of religious expression**

173. This underlying rationale for the Euthanasia Laws Act—the religious opposition to voluntary euthanasia by certain politicians—has again come to the fore through the Commonwealth Parliament’s recently legislated ban on the electronic transmission of information about voluntary euthanasia, and the ban that has also been placed on the sale of *The Peaceful Pill Handbook* by Dr Philip Nitschke and Dr Fiona Stewart. Nonetheless, in the absence of supportive legislation, Australians are downloading the information obtained in this book, and attending meetings, to obtain all the information they need to make informed end-of-life decisions. Good policy should not be about banning information that predominately elderly Australians would use to make informed decisions about how they should live, and end, their own lives, because this is effectively forcing other people’s religious values on them.

174. Another argument relates to s.116 of the Australian Constitution. Section 116 states that the Commonwealth shall not make laws ‘for prohibiting the free exercise of any religion’. The clergy and most other euthanasia opponents rely on Christian ethical values. Clearly, those who support euthanasia rely upon different ethical values, such as might be compatible with a ‘religion’ based on the primacy of the quality of life, rather than, for example, a Christian ‘existence for its own sake’. It could be argued that legislation that prohibits people from practising euthanasia could be in contravention of s.116.

175. Jainism can be considered as a religion that supports euthanasia, and if so, practice of this religion is prohibited by an unconstitutional law. Active voluntary euthanasia (so long as there are precautions to prevent abuse) is supported some other churches. According to a 2007 Newspoll in Australia, 74% of religious people support the right of doctors to provide a lethal dose to end the life of a terminally ill patient at the patient’s request. This was also the view of 91% of those surveyed who claim to have no religion.

176. Despite the more liberal views of Christians, the clergy have been particularly outspoken against voluntary euthanasia. It is regrettable that their views do not reflect church membership and have been manifested in legislation that impacts on people who do not share their religion. The right for individuals to live their lives as they wish, without being constrained by the religious values of others, must be upheld.

#### **A1.5 Tolerance in Australia’s multicultural society**

177. In recent times there has been an ongoing debate about the diverse and multicultural society in which we as Australians all live. Tolerance of the values of others is an important

element of multiculturalism, however it is defined. To avoid a ‘tyranny of the majority’ situation, the values of different cultural, indigenous, ethnic and other minority groups must be respected.

178. It is hypocritical however to claim that one is tolerant of others but simultaneously decree that their values, such as a desire for the option of voluntary euthanasia, are wrong and cannot be practised. If religious people object to voluntary euthanasia, they need not ever request euthanasia.

### **A1.6 Popular opinion in Australia**

179. The fact that many are in favour of a particular policy does not automatically make it right. However, when it comes to public policy, and a choice of what people want for themselves (rather than others in the population), popular support for a policy should be a strong argument in its favour. After all, democracy seems to be about trying to appease the majority, without adversely affecting minorities.

180. Numerous public polls have shown that the majority of Australians, 75% before the Euthanasia Laws Act was enacted, but now 80% (according to a 2007 Newspann) support the option of active voluntary euthanasia. It is reasonable to deduce that the clergy and other euthanasia opponents are at odds with the four-fifths of adult Australians who support euthanasia.

### **A1.7 Economic arguments**

181. There are limited resources available for health care in the Australian economy. The current government is engaging in cost-cutting exercises, which is its prerogative, and this places further pressure on the health budget.

182. The second reading speech for the Euthanasia Laws Act by Kevin Andrews MP referred to economic pressures on terminally ill patients, but not in a way that reflects a tight monetary situation. He seemed to think that it is preferable to pay ‘\$5 000 to \$6 000 on average for a person in the terminal stages of their life’ even if they want to die, rather than spending this on, say, a younger person who is badly injured and wants to live. Australian taxpayers’ money is now being spent where it is not wanted or appreciated. It could otherwise be available for additional infant care, cancer therapy or emergency services, where it could save lives and improve the quality of life for others who want it.

183. One must question, as a serious matter of public policy, why public money should be spent on keeping terminally ill patients alive who do not want to live, in preference to patients who do.

### **A1.8 The human factor**

184. I have referred to the ‘terminally ill patient’. This is a rather impersonal term, disguising the fact that patients are people; they are people with feelings, and they are loved by friends and relatives. These people must be treated in a humane and compassionate way. Australians are now living longer, and our ailments are often well treated with drugs. But for some people these drugs do not provide a good quality of life, and they may suffer from continuous pain, discomfort or loss of dignity. Some people would like to choose the option of euthanasia.

185. To deny terminally ill patients the right to euthanasia is to condemn them to a miserable existence, contrary to their wishes. It is hard to establish any difference in moral character between someone who denies a legitimate request for voluntary euthanasia, and who subsequently watches that person die a slow and painful death, and someone who watches a cancer-ridden pet writhe in agony without putting it down. Most people—80% of Australians—would argue that if you are terminally ill, are of sound mind and not clinically depressed, and choose euthanasia, then it is morally right.

186. For acts such as voluntary euthanasia that impact directly on an individual, the moral and humane thing to do is what is right for the individual, and only each individual knows what this is. Voluntary euthanasia is moral and humane because it is what the individual wants. And that accords with common sense.

187. The gist of the above analogies is that not providing the option of voluntary euthanasia in the above situations is inhumane and callous. In a humane society the prevention of suffering and the dignity of the individual should be uppermost in the minds of those caring for the terminally ill. When the quality of life is more important than the quantity of life, voluntary euthanasia is a good option.

## **A2 A REFUTATION OF SOME ARGUMENTS AGAINST VOLUNTARY EUTHANASIA**

### **A2.1 Possible abuse of euthanasia legislation**

188. Four people made use of the Northern Territory's Rights of the Terminally Ill Act before it was overturned. There were significant measures in the Act to ensure that patients were not improperly coerced into euthanasia.

189. Marshall Perron neatly encapsulated some of the more important measures in the Northern Territory's Act to ensure it was not abused. He said 'Voluntary euthanasia is patient driven. The Northern Territory law dictates that the patient must personally initiate the process, consider the options for treatment and palliative care, be psychologically assessed, sign a request, obtain second opinions, consider the effect on the family, use qualified interpreters if necessary and endure a cooling off period. The patient can of course change their mind at any time and stop the process instantly. Additionally, detailed records must be kept. Government regulations must be followed. The Coroner must be informed and has a statutory responsibility to report to the Attorney General and parliament any concern regarding the operation of the legislation. To kill another without these conditions being fulfilled is to commit murder under the Northern Territory Criminal Code—penalty mandatory life in prison.'

190. Mr Perron also said that although more elaborate safeguards could have been put in place, the safeguards in the Northern Territory Act 'prevent people who might opt for voluntary euthanasia simply because they are temporarily depressed, or who are being coerced by others, from being legally able to be assisted'. Any patients who request euthanasia under duress will not convince a jury of doctors that their decision has been made 'freely, voluntarily, and after due consideration', as the Northern Territory Act requires. Consequently, such patients will be considered ineligible for euthanasia.

191. No worst-case scenario is impossible, but it is extremely unlikely that euthanasia legislation, based perhaps on the Northern Territory Act, could be abused. Most Australian doctors would consider it an insult to suggest that, for example, a group of three doctors would maliciously collude to arrange the death of a terminally ill patient without the patient's consent.

192. Nonetheless, a legislated regime must be preferable to the unregulated voluntary euthanasia activity that occurs now without any controls.

## **A2.2 International experience**

193. Some forms of euthanasia are legal in Belgium, Luxembourg, The Netherlands, Switzerland, and the US States of Oregon and Washington. It seems legislators are starting to respond to the needs of terminally ill patients. Importantly, the legalised use of voluntary euthanasia in these jurisdictions is not out of control as has been claimed by those opposing voluntary euthanasia. Interestingly, but not surprisingly, the rate of euthanasia in the Netherlands has decreased rather than increased. This is probably because, amongst other things, people are aware that a voluntary euthanasia option is available if they need it, so non-voluntary euthanasia, and suicide by premature access of more drastic and less dignified options, is not required.

## **A2.3 The 'right to life' and 'sanctity of life' arguments**

194. The right to life argument in the context of voluntary euthanasia has no ethical merit. The 'right to life' is no more than a 'right'. The right to life is not a duty to live. The right to life does not demand that it must be exercised.

195. People have the right to walk in their back yard if they want to, but there is no compulsion to do so. Terminally ill patients who want euthanasia for themselves choose not to exercise their right to life. This choice might not be understood by the clergy and other opponents of euthanasia, but it is the choice of those who want voluntary euthanasia.

196. An often touted argument deals with the sanctity of life. A problem is that the word sanctity only has meaning for those with particular religious beliefs. And it seems to be applied selectively. The Christian Bible is littered with instances of murder, sacrifice and torture, including of women and children, so the sanctity of life argument is not even respected by the Christian clergy.

197. People with other beliefs, such as those who might, for example, have an objective of 'to live my life as long as I am happy and healthy, and, if that is not possible, then to die with dignity' are discriminated against by the sanctity of life argument.

198. If life were sacred, there would also be strong arguments against the withdrawal of life support (passive euthanasia), self-defence and suicide. It would follow that society should do its utmost to ensure that everyone stays alive no matter what the circumstances, and this would be unacceptable.

#### **A2.4 An incorrect patient diagnosis**

199. Euthanasia opponents claim that a terminally ill patient could be incorrectly diagnosed, and could possibly recover, so euthanasia should be forbidden.

200. It is foolish to claim that incorrect diagnoses and prognoses could never occur. But for all practical purposes, they can be ruled out. Dr Alistair Browne has remarked that ‘it is frequently beyond all reasonable doubt that the diagnosis is correct or some cure will not be discovered in time to help, and it is not clear why this should not be sufficient. The law has never taken a “pigs might fly” attitude towards the risks attendant on any activity. We only need to establish “guilt beyond reasonable doubt” to send a person to prison or even to his execution, and it is not possible to require more without making the enforcement of the law impossible. Why a more stringent standard should be demanded in the cases of assisted suicide and active voluntary euthanasia yet needs to be explained.’

#### **A2.5 The slippery slope argument**

201. The slippery slope argument is a common sensationalist argument of the clergy and other euthanasia opponents. It claims that if right to assisted suicide and active voluntary euthanasia were instituted, it would lead to an increased rate of non-voluntary euthanasia, then euthanasia of those who are not attractive to society, those with fanatical political beliefs, extreme religious or cultural values and so on. Thus if we do not draw the line where it is, we will not be able to prevent substantial harm to others.

202. This argument has no merit. For there to be evidence of a slippery slope there would need to be evidence of more non-voluntary deaths within a tolerant, legalised voluntary euthanasia framework.

203. Studies have found that a ‘group of people being helped to die without consent existed in all surveyed countries, irrespective of whether there was an environment of decriminalisation or harsh legal sanction’. Moreover, it seems that a tolerant environment for voluntary euthanasia, decreases, rather than increases, the number of non-voluntary deaths. This has certainly been the case in the Netherlands. If there were a slippery slope, it is going the wrong way for those opposing euthanasia.

204. The line on what will be permitted will be drawn by the elected representatives of the Australian people in each jurisdiction. Despite scaremongering, there will be no slippery slope. Good governance demands legislative oversight of voluntary euthanasia.

#### **A2.6 The palliative care option**

205. The clergy and other euthanasia opponents argue that assisted suicide and active voluntary euthanasia are unnecessary because of the extraordinary developments in palliative care and pain control. I suspect Angelique Flowers would have disagreed, but she suffered.

206. Advances in palliative care are always welcome. In some, perhaps many cases, the need for assisted suicide and active voluntary euthanasia will be reduced through developments in palliative care. But these developments do not obviate the need for voluntary euthanasia nor can they control all aspects of a patient’s illness to the level desired by all patients. There are still

numerous illnesses or conditions for which pain, extreme suffering, and loss of dignity are difficult or impossible to eliminate. Some patients will suffer the terror of breathlessness or vomit uncontrollably, others will be choking continuously or unable to swallow, others will be paralysed, and still others will be helpless, weak, incontinent and totally dependent on others. Even if pain and distress are not the major problems, there is often a strong fear of the dependency that would result if all bodily functions, mental and physical, were sufficiently impaired.

207. Palliative care is not an option for all people, since no amount of palliative care can relieve all distress. Voluntary euthanasia is a reasonable alternative for those who want it. Clearly, 80% of Australians, including the many thousands of members in Exit International and the state-based voluntary euthanasia societies, want voluntary euthanasia as an option.

### **A2.7 The concept of harm**

208. Some who argue against voluntary euthanasia claim that doctors must ‘first, do no harm’. Leaving a person, such as Angelique Flowers, to suffer when palliative care has not provided adequate respite from pain and suffering, is simply unacceptable. For many terminally ill people, staying alive is doing harm. The option of a peaceful death, before one vomits faecal matter, is preferable for many people, such as terminally ill people with colon cancer. They should not be denied the right to have a peaceful death, a right that does not directly affect others.

209. It is arrogant to impose one’s belief systems on another individual, effectively denying the other the right of equality. Only terminally ill individuals themselves know what harm is. Those who opt for quantity of life regardless of the pain or suffering might not want voluntary euthanasia, and they need never request it. However, as many terminally ill patients consider that the quality of their life is more important than staying alive, the option of a peaceful death to alleviate their pain and suffering is a more humane and valid alternative.

210. Denying an individual’s right to die is an arrogance that mostly derives from primitive religious teachings. Other Australians should have the right not to have these primitive religious perspectives forced on them.

### **THE RIGHT TO DIE WITH DIGNITY IS JUSTIFIABLE**

211. I have provided substantial arguments in favour of voluntary euthanasia and the rights of an individual to choose how they should die and rebutted the major objections to voluntary euthanasia. Australia’s current legislative regime for euthanasia is undemocratic, violates an individual’s basic rights, discriminates unfairly against people living in territories, is inappropriate in a multicultural society, runs contrary to popular opinion, is economically unsound, causes unnecessary pain and suffering, and is inhumane. It denies individuals the rights to their own lives.

212. If the status quo were to remain in Australia, it would have a deleterious effect upon those terminally ill patients who would like to have the option of voluntary euthanasia. The right to die might be a right that is only ever exercised by a small minority of the population: terminally ill patients for whom palliative care is inappropriate. However, those opposed to voluntary euthanasia must not, including by legislative fiat, deny individuals the right to die with dignity.



213. The arguments I have presented stand on their own if they are considered with an open mind, devoid as far as possible of any cultural, religious or other bias. Australia must observe the right to die with dignity if all individuals are to be respected. Despite their claims, those opposing this right do not know, more than patients themselves, what is better for terminally ill patients. The rights of an individual must prevail.