

## **THE FUTURE FOR DWDACT INC.**

### **Speaker at the 2021 AGM**

#### **Jeanne Arthur, President of DWDACT**

This speech weaves three strands of my experiences in the Dying with Dignity movement; the personal, political and intellectual.

Three **personal** reasons for getting involved with the ACT branch of VESNSW in the early 2000s.

1. A desire to have a peaceful death for myself
2. My friend Helen who died of Motor Neuron disease in her forties
3. My friend Robyn who hanged herself in her thirties

**Political** reasons that maintain my interest in euthanasia movement.

I believe that;

1. A peaceful, elected death based on human rights law will make for a more peaceful world.
2. As long as people are required by law to suffer at the end of life or bring about their deaths in cruel ways we will continue to live in a violent world in which death has an unnecessarily exaggerated impact.
3. No-one asks to be born. If we cannot leave life freely of our own accord, life is a prison.
4. Law that denies people assistance to die acts as a kind of in loco parentis denying our adulthood and that as adults we make our own decisions.

I have made a journey of nearly twenty years in which I have learned a great deal about:

- How difficult it is to change the law.
- How very uninformed politicians and lawyers often are.
- How frightened people are of death; even talking about death frightens them. Fear of death and the promotion of life at all costs is permeated throughout our society.
- How little people actually know or accept about the facts of death.
- How religious ideas still dominate our laws and thinking.
- How the drive to survive makes it difficult for most people to accept that people might come to prefer death to life.
- Assuming the availability of law that allows the provision of assistance to die and that we are not living in a war zone, how we die is a choice, whether we elect to die with assistance or of a disease. Only unexpected

events such as heart attack, murder or accidental death involve no choice on the part of the dead person. Statistically these rarely happen.

### **My Assumptions**

1. That most people want to live as long as possible and only accept death when they are dying of an incurable disease but this is not true for everyone.
2. That we want to have a death that is consistent with our beliefs.
3. That our bodies belong to us and we want to have the maximum personal choice in relation to our deaths.
4. That the society in which we live should provide us with a safe, respectful death. That society will only exist if it is created by us.

### **DWDACT Inc. tag**

*Everyone deserves a peaceful death*

Does anyone disagree with this statement?

1. Do you agree for;

My friend Helen who died of Motor Neuron disease in her forties?

2. Do you agree for;

My friend Robin, who hanged herself in her thirties?

## **THE RELIGIOUS OR TRADITIONAL MODEL**

Current laws across the world embed the religious or traditional model that has been the basis for our thinking about death and dying for thousands of years. It has some or all of the following features.

1. Only God can take a life either by accident or disease.
2. If we suffer when we die our suffering is shared by Jesus Christ. Christ leads us to God.
3. Dying in this way ensures that we will have eternal life.
4. Any other death, including giving assistance to die, is against the will of God and is murder. The murderer has exhibited pride, the worst of the seven deadly sins and should be punished.
5. Committing suicide is self-murder. The suicide has exhibited pride, the worst of the seven deadly sins which is against the will of God and should be punished.
6. Pride means to think of oneself as above the will of God.
7. The only exception to this model is a death in war protecting one's country and God, which is regarded as being a source of honour or a suicide to preserve one's honour.

Most of the law around the world conforms to the religious or traditional model. Most reform only addresses points 1, 2, 4. Swiss law addresses point 7.

See <http://www.catholicnewsagency.com/resources/life-and-family/euthanasia-and-assisted-suicide/vatican-document-on-euthanasia/>

## WHAT ACTUALLY HAPPENS WHEN WE DIE

Regardless of how we live or die this is what actually happens.

In his book *Deserts on the March* Paul B Sears wrote in 1935

*The face of the earth is a graveyard, and so it has always been. To earth each living thing restores when it dies that which has been borrowed to give form and substance to its brief day in the sun. From earth, in due course, each new living being receives back again a loan of that which sustains life. What is lent by earth has been used by countless generations of plants and animals now dead and will be required by countless others in the future.... No plant or animal... can establish permanent right of possession to the materials which compose its physical body.*

Paul Sears stresses that we are organisms like all other organisms and we have a time to die; we are designed to fail so that we are returned to earth to further the next generation of organisms that will come after us. Death is not a grand tragedy. On the contrary what is a grand tragedy is the way we are forcing ourselves to live until we die of disease.

Commonly we think in terms of death as being the end of life rather than the end of **this** life - that our atoms are using us as a vehicle to make their way through on their journey. Consequently, we think of death as being a 'Grand Tragedy' if it comes, as we judge it, too soon, as a result say of an accident or murder or at one's own hand or early onset cancer. In the end our death doesn't matter. We move on through our atoms into the next stage of their existence.

Bill Bryson, in his *A Short History of Nearly Everything*, written in 2003 which won the Aventis prize for Science books in 2004, states;

*All things are made of atoms They are everywhere and they constitute everything. They are fantastically durable. Every atom you possess has almost certainly passed through several stars and been part of millions of organisms on its way to becoming you. We are so atomically numerous and so vigorously recycled at death that a significant number of our atoms - up to a billion for each of us, it has been suggested-probably once belonged to Shakespeare .....and any other historical figure you care to name ..... So we are all reincarnations – though short lived ones. When we die, our atoms will disassemble and move off to find new uses*

*elsewhere – as part of a leaf or other human being or a drop of dew. Atoms themselves, however go on practically forever.*

In fact, every single person here is made up of particles that are billions of years old, looking with eyes and brains in a highly evolved state at each other and thinking and evolving as I speak.

In *In Search of Shrodinger's Cat*, John Gribbin states;

*Virtually everything we see and touch and feel is made up of collections of particles that have been involved in interactions with other particles right back through time, to the Big Bang in which the universe as we know it came into being. The atoms in my body are made of particles that once jostled in close proximity in the cosmic fireball with particles that are now part of a distant star, and particles that form the body of some living creature on some distant, undiscovered planet. Indeed, the particles that make up my body once jostled in close proximity and interacted with the particles that now make up your body.*

## **Conclusion**

Unlike our government and religious leaders, the universe does not care about how we lived or died. The universe does not punish us. We could have been good or evil, rich or poor, intelligent or stupid, powerful or powerless; be any sex, colour, shape or size in our lives. Our deaths could have followed our society's rules or not; they could have been peaceful, horrific, honourable or cowardly.

All that the universe does is follow its own laws to use the matter we are made of, i.e., atoms, to recycle us when we die into other things or beings. Atoms have a life of nearly 35 billion years. We do not have to live or die a particular way to achieve eternal life. Eternal life is a given of the universe. Therefore, the death we experience should be the best death we can create for the circumstances of our human existence.

## **A HOPE FOR A BETTER DEATH**

The first attempt in the world to create a better death than the religious/traditional one we have inherited and think is ‘natural’ was enacted in the Northern Territory in 1995. It was quickly shut down by the Australian Federal Parliament with the Euthanasia Laws Act in 1997.

In Australia Voluntary Euthanasia groups that had already set up across the country from the 1980s began to lobby their state and territory governments to reform the law so that dying people could have assistance to die in a medical setting.

The Australian groups became members of the World Federation Right to Die Societies. In 2010 one of their conferences was held in Melbourne.

## **LAW REFORM IN OTHER COUNTRIES**

### **World Federation of Right to Die Societies Conferences**

#### **2010 Conference in Melbourne**

In 2010 I attended my first *World Federation of Right to Die Societies* Conference in Melbourne for Beryl Rawson, the then president of VES ACT, who was dying. I was secretary at the time.

The conference was well attended by representatives from the Australian euthanasia organizations and speakers from Belgium, the Netherlands, Switzerland and Oregon.

It was at this point I persuaded YLR to allow DWDACT to join it independent of NSW of which we were a branch.

To ensure that we became a fully-fledged member I initiated the incorporation of DWDACT. A few years later I became secretary of YLR until the end of 2019 when it folded.

In 2014 at the Chicago Conference I became secretary of WFRtDS until I resigned at the beginning of 2021.

At the 2010 conference I discovered that;

#### **Swiss law**

Swiss law that allows people to assist others to die has been in place since the 1940s. Assistance is given by privately run organizations on a non-profit basis. The law specifies that assistance can be given as long as no money is gained by the assister. The reason for the law being enacted was to do with the belief in Switzerland that it was honourable to end one’s own life. Doctors provide a

prescription for Nembutal but the death occurs in the place specified by the organization such as Dignitas.

In 2012 I went to the conference in Zurich and went to the Dignitas' business office and their two story house where volunteers help people to die.

### **Netherlands law**

The law in the Netherlands arose from legal action taken against a doctor who helped her mother to die. The extent that doctors were doing this was investigated and found to be occurring quite widely. The law was changed so that the medical system could incorporate giving assistance to die. People in the Netherlands have a close relationship with their doctors and may have known them all their lives. Area committees are set up to supervise and regulate doctors who assist their patients to die.

People in the Netherlands are also lobbying their parliaments to enact law that would allow people who are tired of life to die. That lobbying is still continuing today.

### **Belgian law**

In 2010, the Belgians had just enacted law to give doctors permission to assist their patients to die. Their law was 8 pages long in contrast to the over 100 pages that was passed in 2019 in Victoria.

The Belgians tend mostly die in nursing homes rather than at home. Since this time the Belgians have enacted law to allow dying children who are informed about their circumstances to ask for death to be provided by their doctors.

Other European countries, Luxemburg and Spain have also either enacted law or are in the process of enacting law to allow assistance to die.

### **Oregon law**

Law in Oregon is similar to the law in the Netherlands. People wanting to die go to their doctor who has to agree that they have six months to live. However, once that is established they are prescribed a lethal medication which they can take home. They then choose their time of death. They may have people around them to assist them or not. The problems that may arise from this model are that people sometimes do not die within six months and the Nembutal is lying unprotected in a house.

Since 2010 many US states have enacted laws to allow assistance to die.

## **2014 Conference in Chicago**

In 2014 I went to the conference in Chicago where the most memorable sessions I witnessed were provided by a Swiss doctor who was interested in couple euthanasia. She discussed how she interviewed patients who came to her to ask for a lethal medication. She believed it was important for her to ensure that they both really did want to die together. She also showed film of the deaths of a couple.

A Columbian doctor also showed some film of himself helping a number of people including a dying child to die.

## **2016 Conference in Amsterdam and 2018 Conference in Cape Town**

These conferences focused on the enactment of Canadian law which occurred as a result of a long drawn out legal case brought by Death with Dignity, Canada on the basis of its Human Rights law which like South Africa integrates human rights law in its Constitution. The finding of the judge for Death with Dignity Canada was appealed by the Canadian Government. This appeal delayed the introduction of legal assistance to die for a couple of years but finally the Canadian government lost the appeal.

The Canadian Government was not required to but eventually decided to enact law to regulate assistance to die which they now call Medical Aid in Dying. The law is much more tightly controlled than it need be according to the judge who ruled at the first trial and Canadian Human Rights law. It is therefore being subjected to challenge as a result.

At the 2018 Cape Town conference speakers from Canada described how MAID was working. Being based on doctor implementation they spoke about some resistance by doctors but overall good acceptance by the public. Access to information and to doctors who would give assistance to die could provide people with problems and limitations around medical suitability for MAID are being challenged in the law courts.

One thing I was pleased about at the 2018 Cape Town conference was that the Chief Executive Officer of the South African Human Rights Commission, Tseliso Thipanyane argued that human rights law was equally a matter of concern for well people who ended their lives as it was for those who are terminally ill and want assistance to die.



## **RESERVATIONS ABOUT THOSE LAWS**

Swiss and Netherlands law calls their law 'assisted suicide'. This is inconsistent with the **Human Right: Everyone has the right not to have his reputation unlawfully attacked.**

All of these laws depend on the co-operation of doctors to provide prescriptions or agree with the patient and a second doctor that people are dying, contrary to the **Human Right: Every person has the right not to be arbitrarily deprived of their property.**

## **LAWS THAT DETERMINE THE WAY WE DIE IN THE ACT**

The way we die in the ACT is determined by Constitutional, Federal and Territory law.

### **THE CONSTITUTION OF AUSTRALIA**

Two sections of the Constitution are relevant to this matter. The Federal Parliament used Section 122 of the Constitution to enact The Euthanasia Laws Act 1997.

#### **Section 122 Government of Territories**

*The Parliament may make laws for the government of any territory .....and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.*

This law may be open to challenge by Section 116 of the Constitution. Current law that requires Australians to die of disease was enacted when the Australian parliament was even more populated by religious believers than it is today.

Parliamentarians believed that not only do citizens belong to the nation but also that they belong to God and God requires that we die of disease. Requiring death by disease is part of the religious observance related to the practice of death in most religions. Even though law made by human beings is what determines how we die, the belief behind the law is that only God can take a life.

#### **Section 116 Commonwealth not to legislate in respect of religion**

*The Commonwealth shall not make any law for..... imposing any religious observance....*

I made many attempts to find out if DWDACT could take the Federal Government to the High Court to challenge the Euthanasia Laws Act on the basis that it imposed a religious observance. I was able to get pro bono advice from three groups, two of which were negative and one was supportive but in the end unhelpful.

### **FEDERAL LAW**

The Federal Parliament incorporated the following section of the *Euthanasia Laws Act 1997* into the ACT Self Government Act 1988. This prevents the ACT Legislative Assembly from making law on euthanasia. In order for the Assembly to have the capacity to take action on euthanasia the Federal Parliament would have to repeal this law.

*Australian Capital Territory (Self Government) Act 1988*

*Part IV Powers of the Legislative Assembly*

*Section 23 Matters excluded from power to make laws*

*(1A) The Assembly has no power to make laws permitting or having the effect of permitting (whether subject to conditions or not) the form of intentional killing of another called euthanasia (which includes mercy killing) or the assisting of a person to terminate his or her life.*

## **ACT LAW**

*The Crimes Act 1900*

### **Suicide**

#### **Section 16 Suicide etc – not an offence**

*The rule of law that it is an offence to commit, or to attempt to commit, suicide is abolished.*

On behalf of DWDACT I have recommended that the ACT government add to Section 16 in the Crimes Act 1900 the following words; *from the enactment of this amendment to the law, the act of ending one's life will no longer be called suicide. It will be called an elective death.*

#### **Section 17 Suicide – aiding etc**

*1) A person who aids or abets the suicide or attempted suicide of another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.*

Section 17 of the Crimes Act privileges the opinion that people should endure a 'natural' death of the diseases of old age or submit to a degrading and usually painful manner of death or act unlawfully to obtain peaceful means of death and discriminates against those who hold the opinion that they should be able to undertake their deaths in a safe manner within a modern health system at a time of their choosing.

Section 17 (1) of the Crimes Act is intentionally designed to make the act of ending one's own life difficult or unlawful because the underlying ideological principle behind the law is that everyone should die of disease. Dying of disease is required for two reasons; 1) criminal; to establish the innocence of those around the dead body i.e., that the person was not murdered by another human being and 2) ideological; to establish that the death was a result of the action of God or nature. DWDACT suggests that the ACT government repeal or modify Section 17 with the concept of an elective death unit.

DWDACT believes that Section 23 1A of the ACT Self Government Act and Section 17 of the ACT Crimes Act should be repealed and amended. This would mean that an elective death would no longer equate to self-murder or murder for the person assisting.

## **Murder**

*(1) A person commits murder if he or she causes the death of another person—*

*(a) intending to cause the death of any person; or*

*(b) with reckless indifference to the probability of causing the death of any person*

## **ACT HUMAN RIGHTS LAW**

In 2011 when I became the President of VES ACT I spoke to a lawyer, Janine Lloyd, who had been a speaker at a forum Beryl Rawson had organized when she was President. I asked her why politicians would have passed a law that had the potential to cause people so much suffering either as they were dying or as they were forced into some form of self-assault or to break the law. She did not know why. It was years later when I read the Vatican's Statement on Euthanasia that I discovered the answer to my question. However, she did recommend that I write to the Human Rights Commission.

Human Rights law is modern law that was developed after the second World War. Our Assembly should be using the ACT Human Rights Act as the basis of all its law. We are entitled to this as citizens of the ACT.

On behalf of DWDACT I argued in letters to the ACT Human Rights Commissioner Helen Watchirs and the Chief Minister that the ACT government should declare that the Crimes Act law, which is based on old religious law, is inconsistent with its Human Rights Act. I argued that the human rights of ACT citizens are being breached by the Crimes Act legislation. The following ACT Human Rights laws make the Crimes Act laws a basis for a claim of discrimination.

### **Human Right: Recognition before the law**

**Everyone has the right to enjoy his or her human rights without distinction or discrimination of any kind.**

Article 26 of the International Covenant on Civil and Political Rights states that 'All persons are equal before the law and are entitled without discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

**DWDACT Commentary:** Requiring ACT citizens to die of disease or hang, gas or shoot themselves is consistent with and imposes religious observance on all ACT citizens whether they are believers in a religion or not.

Section 17 of the Crimes Act imposes this religious observance on us by criminalizing anyone who gives assistance to die thus denying us the right to die at a time and place of our choice and forcing death by disease on us because this is believed to be the will of God. Being a religious observance, it is therefore discriminatory.

**Human Right: Everyone has the right not to have his reputation unlawfully attacked.**

**DWDACT Commentary:** No one should be called a ‘suicide’ (a self-murderer) when suicide is not a crime. It is not only factually incorrect to say that a person who has elected to die is a ‘suicide’, but also discriminatory.

The use of the word ‘suicide’ implies that the person is a criminal because the word means self-murder or self-murderer. Our society is brainwashed into seeing ‘suicide’ as tragic, shameful or ‘a waste of a life.’ At the same time the law states contradictorily that the act of ending one’s life is not a crime.

Apart from the fact that denial of assistance to die forces people to break the law or to assault themselves in order to bring about death, the law imputes a denigration to people who end their own lives that someone who dies of a disease or an accident does not have to carry.

Anyone who elects to die at a time of their own choice is, according to Section 16 of the Crimes Act, a ‘suicide’ even if they are assisted to die by law.

**Human Right: Protection from torture and cruel, inhuman or degrading treatment**

**1 b) No-one may be treated or punished in a cruel, inhuman or degrading way.**

DWDACT believes that no one should be forced to hang themselves just because they do not want to live. Making a person who assists someone to die into a criminal inevitably results in people having to die in this and other unacceptable ways.

Section 17 (1) forces people who want to die, to die horribly. This is a form of indirect assault by the state. Many people die bad deaths in hospitals, hospices, nursing homes or at home through neglectful treatment or because their particular diseases ravage their bodies and there is little that can be done by medical staff to alleviate their suffering. This has been documented systematically over time by many people in Australia and elsewhere.

**Human Right: Right to Liberty and Security of person;**

**1) Everyone has the right to liberty and security of person.**

DWDACT believes that while Section 16 of the Crimes Act decriminalizes the right to die;

- it maintains the discriminatory aspects of the religious model by retaining the use of the word, ‘suicide’ thus creating an ambiguity that implies that ending one’s one life remains a crime, that it remains a shameful act and that we are only free to undertake the act of ending our own lives by

violence (over 50 percent of people who end their lives die by hanging themselves) or an illegal act (by importing Nembutal); and

- by following Section 16 with Section 17 (1) the law denies people who elect to die with the liberty to undertake their own deaths except by insecure means i.e., self-assault or breaking the law to obtain lethal medication. This retains the religious model of death that requires people who end their own lives to be punished. This provision is inconsistent with modern views on the status of the human person.

**Human Right: Every person has the right to life and has the right not to be arbitrarily deprived of life.**

DWDACT notes that in February 2015, the Supreme Court of Canada, in a [unanimous decision](#), confirmed that Canadians have the constitutional right to choose physician assistance in dying. This means that incurably ill Canadians and those who are suffering unbearably will have the choice to seek the assistance of a doctor to have a compassionate and peaceful death. Physician-assisted dying will now be recognized for what it is – a medical service.

The Court determined that the criminal laws violate the Canadian Charter of Rights and Freedoms. In particular, the Court found that the laws deprived the section 7 right to life, liberty, security of Gloria Taylor and others suffering from serious and incurable diseases. The criminal laws deny the section 7 rights of individuals to have control over choices that are fundamental to their lives and cause unnecessary suffering.

The Court wrote, “Section 7 is rooted in a deep respect for the value of human life. But s.7 also encompasses life, liberty and security of the person during the passage to death. It is for this reason that the sanctity of life “is no longer seen to require that all human life be preserved at all costs.” And it is for this reason that the law has come to recognize that, in certain circumstances, an individual’s choice about the end of her life is entitled to respect.”

The Court determined that the deprivation of seriously ill Canadians’ rights to life, liberty and the security of the person is not in accordance with the principles of fundamental justice because the prohibition on assisted dying is overbroad.

**Human Right: Human rights may be limited**

**1) Human rights may be subject only to reasonable limits set by territory laws that can be demonstratively justified in a free and democratic society.**

DWDACT believes that Section 17 is not a reasonable limit on the human right to die expressed by section 16. Swiss law has demonstrated that it is perfectly reasonable in law to assist ‘suicide’. One purpose of the limitation posed by the ACT law is to prevent people dying early but it is not effective as people in the ACT continue to end their lives (about 30 every year) despite the law. The Swiss have demonstrated that it is possible to provide a reasonable less restrictive



limitation. They have successfully argued with the European Human Rights Court that it is a human right to end one's life.

## **ACT Human Rights Act; Application of human rights to Territory laws**

### **Interpretation of laws and human rights**

So far as it is possible to do so consistently with its purpose, a Territory law must be interpreted in a way that is compatible with human rights.

DWDACT notes that the ACT government has made almost no attempt to do this so far.

### **Interpretation of human rights**

**International law and the judgement of foreign and international courts and tribunals, relevant to a human right may be considered in interpreting the human right.**

### **ACT Human Rights Act**

**This act is not exhaustive of the rights an individual may have under domestic or international law.**

### **Civil and political rights**

**The primary source of these rights is the International Covenant on Civil and Political Rights.**

DWDACT has shown that;

1. Canadian law has been modified to comply with Canada's Charter of Rights and Freedoms.
2. The Swiss have taken action in the European Court of Human Rights to argue that giving assistance to die and ending one's own life are actions that are consistent with human rights law.

**Human Right: Every person has the right not to be arbitrarily deprived of their property.**

This is possibly the most important right we have. No-one asks to be born. We are here courtesy of our parents. We find meaning in life because we are innately programmed to do so.

From the time of ancient civilizations governments have assumed that people born in the territory they control are their property; this is particularly true in relation to taxation, war and death.

Since the time of modern religions most people have assumed that we belong to and are the property of God. People who form governments and religious bodies work together to make us believe that we are the property of the government and God. In fact, our bodies are our own property.

DWDACT believes that Section 17 (1) of the Crimes Act arbitrarily deprives people of their right to their most precious property, their bodies. People cannot dispose of their property (their bodies) as they see fit due to the exclusion by law of methods of death other than disease. Due to being required to die by disease people lose the ability to manage and dispose of their bodies themselves. Their bodies then become the property of others due to illness deliberately induced by the law. It is estimated that 50 percent of people over the age of eighty will have one form or another of dementia. There are 200 forms of this disease.

The Euthanasia Laws Act, S 23 1A of the ACT Self Government Act and Sections 16 and 17 (1) of the Crimes Act are arbitrary because they have been imposed against the will of the citizens of the ACT. For many years Australian citizens have been asked in polls and surveys whether they want assistance to die. An over eighty percent majority have repeatedly agreed that they do. There is no reason to believe that the citizens of the ACT would respond any differently from citizens anywhere else in Australia.

Therefore, given the choice in a referendum such as the postal vote on same sex marriage, it is inevitable that ACT citizens would require the law to change to remove impediments to being given assistance to die. It is impossible not to conclude that the law has been arbitrarily imposed by Federal and ACT politicians on unwilling citizens and cannot be justified in a purportedly free and democratic society.

**DWDACT HAS PUT TO THE LEGISLATIVE ASSEMBLY  
THE FOLLOWING PROPOSAL FOR AN ELECTIVE DEATH**

Why this is the best model?

1. An elective death fulfills the values expressed in the ACT Human Rights Act that has been passed in the ACT but not implemented in relation to death.
2. In this model, life is no longer a prison. We can leave life freely without a penalty when we want to. We do not have to be dying or forced to hang ourselves.
3. Suffering and punishment are no longer integral to the ideas about death in his model.
4. The Elective Death unit is an integral part of the Health system.
5. Only people who are trained to do the task of assisting people to die, do so.
6. Death and choosing death are not stigmatized.

## **ELECTIVE DEATH**

Members of the Legislative Assembly, being elected by the people as their representatives have the responsibility as the representatives of the people to ensure that everyone dies consistent with ACT Human Rights law. DWDACT therefore requests the Assembly to adopt the Elective Death model which we have based on ACT human rights law as its preferred model for assisted dying and to commit to implementing the Elective Death model when the Euthanasia Laws Act 1997 is repealed.

### **AN ELECTIVE DEATH**

An alternative to the callous way we die today is an elective death. Contrary to what most people believe, the way we die is not natural. It is a direct result of the law. The law in the ACT forces us to die of disease and if we wish to die some other way we must hang, gas, shoot ourselves or find some other unpleasant means. Dying with Dignity ACT Inc. proposes that an alternative to this dictatorial and callous law can be found in the idea of an elective death.

DWDACT Inc. has submitted this model to the ACT Government as a new way of thinking about how to provide ACT citizens with a good death. We believe that it would provide ACT citizens with the right to decide when and where they want to die with the support of professionally trained staff. They would not have to go to Switzerland or anywhere else to take advantage of a high-quality mode of death.

### **THE PRINCIPLES OF AN ELECTIVE DEATH**

- It is the responsibility of government to ensure that everyone dies with dignity.
- A good health system should be able to guarantee a good death.
- An elective death is a peaceful, pain free and quick death.
- A civilized society respects the rights of its citizens to die at the time of their choice.
- To elect death is a legitimate goal that some people have for themselves. Like birth, death is a matter of individual choice and in the same way it should be supported by the state.
- Elective death is defined as a voluntary decision to end life at a time of one's own choice.

## **AN ELECTIVE DEATH UNIT**

An Elective Death unit would be well-publicized in or linked to a local hospital. The most effective medication would be purchased by the hospital and managed safely like all other medications in hospitals. It would be made available to the EDU staff as required.

The Elective Death Unit would have;

- a) a 24 hour a day service with the resources to make professional personal, financial, and relationship counselling available to clients as well as immediate access to police, the coroner, organ donation and funeral services;
- b) an education facility designed for all members of the community and targeted for specific age groups and their particular stage of life needs to educate and inform people about death; to assist people to let go of life, to understand what death is and to prepare themselves for death;
- c) rooms with the facilities to assist those wanting an elective death to die comfortably in the presence of people they select;
- d) facilities to enable a peaceful, pain free and quick death to be undertaken in most cases independently without the help of other people.

The Elective Death Unit would provide any adult ACT citizen with an elective death following;

- a) provision of a reason for the wish for death,
- b) offers of help through counselling or other assistance as needed,
- c) a cooling off period negotiated with the person wanting to die. The decision to die would be respected as would the decision to live.

On diagnosis of a terminal illness or a protracted chronic disease that brought unbearable suffering, those people diagnosed may request a referral from their doctors to the Elective Death unit for an elective death at the time of their choice. Accessing the counselling services of the Elective Death Unit would be a matter for them.

The Elective Death unit would be required to maintain records of the reasons for people requesting an elective death and report regularly to the Assembly on their findings.

The ACT Government would co-ordinate public and private health systems to link into the Elective Death unit so that they can refer clients to it.

## A BRIEF COMPARISON OF DEATH BY DISEASE AND AN ELECTIVE DEATH

<b>The religious/traditional model</b>	<b>The human rights model</b>
Suicide: this is an act of self-murder and should be punished	Elective Death: death is chosen freely at a time people select that suits them.
As a result of this thinking people die by hanging, gassing, drowning shooting, jumping etc	People receive counselling and if they still want death they are provided with a peaceful death.
<b>Death by Disease</b>	<b>Elective death unit</b>
Doctors who assist death are criminals.	Doctors refer patients to the elective death unit.
Medical staff are required by law to make people as comfortable as they can but have to watch while people die.	Staff are trained to assist people to die. They would not have to have a medical background. The skills needed for this role do not require high level medical training. Training in counselling and in administration of drugs are what is required.
People die without assistance in a variety of places as a result of their diseases.	People take a referral from their doctors to the elective death unit to die there. Alternatively, elective death unit staff would go where they were required to go to assist people to die.
<b>Death is taboo</b>	<b>Death Education</b>
Death is not discussed.	People are educated about death and encouraged to talk about it.

## OUR FUTURE DEPENDS ON:

1. Us being clear about what we want with the community and the Assembly.

I recommend that;

- We demand what we are entitled to by the modern human rights law that the Federal and ACT Assembly have agreed to.
  - We take advantage of the science we have on our side.
  - We take advantage of the fact that we have majority opinion on our side.
  - Although Geoffrey Robertson of *Doughty St Chambers* did not reply when I asked him if there were any lawyers in Australia who could help us with our High Court challenge to claim that the Euthanasia laws Act imposed a religious observance, I have noticed that one of his protégés, Jennifer Robinson, is planning to return from London to Australia to practise law for at least part of the year. The two jurisdictions in Australia that have human rights law are Victoria and the ACT. It is likely that she will locate herself in one of these places and we could at least get advice from her about legal strategies that could work for us.
  - We raise community awareness and education.
  - We use the rights outlined in the Human Rights Act as criteria to assess how good the model is that will eventually be proposed by the ACT Government when all legal impediments are removed.
  - The Federal parliament comprising members and senators who will repeal the Euthanasia Laws Act at the very least, if not amending the Constitution as proposed by our recent petition to the Federal Parliament. Clearly this is not something we have control over but I was pleased that our petition attracted 77 signatures. Parliamentary petitions are addressed to the parliament and require a reply by the Parliament to the petitioners. I believe that using this process judiciously may be an effective way of gathering support for repeal of the Euthanasia laws Act and other changes we wish to see made.
2. The ACT Legislative Assembly legislating to assist people to die.
- If the Federal parliament repeals The Euthanasia Laws Act the Assembly will be free to do this. It's up to us to ensure that they know that we expect them to implement the ACT Human Rights Act.