



29 SEP 2011

**THE HON BRENDAN O'CONNOR MP**

Minister for Home Affairs

Minister for Justice

MIN-MC11/09393, 11/18579

Reverend John D Harrower OAM  
Anglican Diocese of Tasmania  
GPO Box 748  
HOBART TAS 7001

Dear Reverend Harrower

I refer to your letter of 16 August 2011 to the Attorney-General, the Hon Robert McClelland MP, about euthanasia. Your email was referred to me as euthanasia-related matters fall within my portfolio responsibilities.

I appreciate that euthanasia is a sensitive and complex issue and that members of the community have strong views about this issue. As you are aware, euthanasia is unlawful in Australia in all States and Territories. The Commonwealth *Criminal Code Act 1995* also contains offences for using a carriage service to access or distribute suicide-related material with the intention of counselling or inciting suicide, or providing instruction on a particular method of committing suicide.

In relation to Tasmania, you may wish to relay your views to the Tasmanian Attorney-General and Minister for Justice, the Hon Brian Wightman MP, at the following address:

Level 10, 10 Murray Street  
HOBART TAS 7000

In relation to the Territories, the Commonwealth *Euthanasia Laws Act 1997*, which inserted limiting provisions into the Self-Government Acts of the Australian Capital Territory (ACT), Northern Territory (NT) and Norfolk Island (NI), prohibits the Legislative Assemblies of the ACT, NT and NI to make laws permitting euthanasia.

Senator Bob Brown has introduced two Private Senator's Bills into the Senate. The first Bill, the Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Bill 2011 (the Territories Disallowance Bill) would amend the *Australian Capital Territory (Self-Government) Act 1988* and the *Northern Territory (Self-Government) Act 1978* to remove the Governor-General's power to disallow, or recommend amendments to, legislation made by the Legislative Assembly for the Australian Capital Territory or Legislative Assembly of the Northern Territory. The Bill was passed by the Senate on 18 August 2011. It was subsequently introduced in the House of Representatives on 22 August 2011 where it awaits debate. On 25 August 2011, the Bill was referred to the House of Representatives Standing Committee on Social Policy and Legal Affairs.

The Territories Disallowance Bill, if passed, would have no consequential effect on the status of euthanasia in Australia. The Bill does not seek to affect the operation of the Commonwealth *Euthanasia Laws Act 1997*, which, as mentioned above, prevents the Legislatures Assemblies of the ACT, NT and NI from making laws permitting euthanasia.

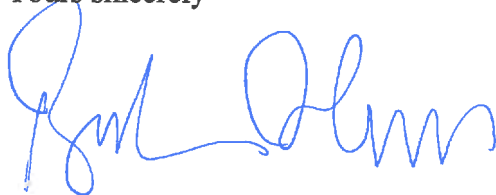
Senator Brown's second Bill, the Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2010 (the Euthanasia Bill), was introduced in the Senate on 29 September 2010 and currently remains before the Senate. The Euthanasia Bill seeks to repeal provisions in the ACT, NT and NI Self-Governing Acts, which prevent those Territories from making laws permitting euthanasia. The Bill, however, does not seek to legalise euthanasia in those Territories. The Legislative Assemblies of those Territories would still have to legislate to permit euthanasia and any such legislation would be subject to override by the Commonwealth Parliament in exercise of its constitutional power to legislate for territories pursuant to section 122 of the Constitution.

Given the complex and personal sensitivities surrounding euthanasia, it is appropriate that Members of Parliament be able to vote according to their conscience on this issue. The Labor Party has previously allowed Members of Parliament to express their views on this issue with a conscience vote on the substantive issue of euthanasia. If a conscience vote on Senator Brown's Bills is called for, there is no reason why Government members would not be afforded this opportunity again.

In your letter you also raise the issue of funding for palliative care. The Australian Government works collaboratively with State and Territory governments to develop a quality national palliative care system. Decisions about where to direct the additional funding provided by the Australian Government are matters for State and Territory governments.

Thank you for raising your concerns with the Government.

Yours sincerely



**Brendan O'Connor**