background note
information briefing service for members of Parliament
Parliamentary Library

2003/07 22 September 2003

# Voluntary Euthanasia and New Zealand

## Executive Summary

- Voluntary euthanasia is illegal in New Zealand.
- Different categories of euthanasia have been identified.
- The Death with Dignity Bill 2003 was introduced into Parliament on 6 March 2003. The Bill's purpose was to provide terminally and/or incurably ill people with the opportunity of requesting assistance from a medically qualified person to end their lives.
- The Death with Dignity Bill was defeated on 30 July 2003.
- New Zealanders are divided over voluntary euthanasia.
- There is a wide range of laws throughout the world on euthanasia.
- As of August 2003 voluntary euthanasia could be practised without prosecution in two countries – the Netherlands and Belgium.
- Voluntary euthanasia was legal in the Northern Territory of Australia from 1996 to 1997.
- Physician-assisted euthanasia is legal in the State of Oregon, the United States.
- Issues surrounding euthanasia have caused much debate. These issues include the views of professional organisations, religious belief, both domestic and international trends, and public opinion.
- Controversy surrounds euthanasia and this has been encouraged by domestic and international developments.

## Introduction

This paper defines voluntary euthanasia, describes relevant legislation and recent developments in New Zealand before outlining views on the issue. International laws on euthanasia and their consequences are then discussed.

## Definition

Euthanasia was defined by the Greeks as "good death". In the Greek context euthanasia was applied to the "exposure" of sick newborns or the withholding of available and limited medical interventions to the elderly ill.[1] Groups with different opinions on the issue have defined euthanasia as the act of putting to death a person experiencing pain and suffering.[2] Various categories of euthanasia have been identified (see Table 1).

**Table 1. Categories of Euthanasia**

| | **Passive**<br>omission of measure to prolong life | **Active**<br>direct inducement of death |
|---|---|---|
| **Voluntary**<br>With patient's express and informed consent. | *Passive Voluntary* –<br>Conscious and rational patient refuses life-prolonging treatment and request is granted. | *Active Voluntary* –<br>Conscious and rational patient requests and is given lethal injection. |
| **Speculative**<br>Without patient's express and informed consent (i.e. comatose patient, infant, mentally retarded person). | *Passive Speculative* –<br>Cessation of life-prolonging treatment for comatose patient or patient otherwise unable to give informed consent. | *Active Speculative* –<br>Lethal injection administered to comatose patient or patient otherwise unable to give informed consent. |
| **Involuntary**<br>Against patient's express consent. | *Passive Involuntary* –<br>Cessation of life-prolonging treatment to conscious and rational person against his or her will. | *Active Involuntary* –<br>Lethal injections administered to conscious and rational patient against his or her will. |

Source: Robert Blank, *Biomedical Policy*, Nelson-Hall Publishers, Chicago, 1995, Table 9.1 p.163.

Throughout the rest of this paper euthanasia is defined as voluntary and active. It is carried out with the patient's express and informed consent and involves an act of commission that leads directly to the death of the patient (usually, though not always, death in the medical setting is induced by a lethal injection).[3]

Euthanasia can be distinguished from assisted suicide. The distinction is made in the Death with Dignity Act in the State of Oregon, the United States. Here physician-assisted suicide and euthanasia are deemed "two legally distinct

[1] Robert Blank, *Biomedical Policy*, Nelson-Hall Publishers, Chicago, 1995, p.161.
[2] Family Life International, *And Now Euthanasia*, Auckland: 2003, p.5; and Death with Dignity National Centre. Available from www.deathwithdignity.org accessed 31 July 2003.
[3] Blank, pp.162, 165.
[4] See Oregon Department of Human Services, http://www.dhs.state.or.us/publichealth/chs/pas/faqs.cfm#euthanasia, accessed 30 July 2003.

procedures for hastening death. In euthanasia, a doctor injects a patient with a lethal dosage of medication. In physician-assisted suicide, a physician prescribes a lethal dose of medication to a patient, but the patient - not the doctor - administers the medication."[4] In Switzerland only a person who is "driven by a selfish motive" and provides assistance with suicide is punishable, whereas intentional homicide with the aim of curtailing the sufferings of a person is classified as murder.[5]

## New Zealand and Euthanasia

### Current Legislation

Euthanasia is illegal in New Zealand. The Crimes Act 1961 stipulates –

> Every one is liable to imprisonment for a term not exceeding 14 years who—
>
> (a) Incites, counsels, or procures any person to commit suicide, if that person commits or attempts to commit suicide in consequence thereof; or
> (b) Aids or abets any person in the commission of suicide (S. 179).
>
> Every one who has charge of any other person unable, by reason of detention, age, sickness, insanity, or any other cause, to withdraw himself from such charge, and unable to provide himself with the necessaries of life, is (whether such charge is undertaken by him under any contract or is imposed upon him by law or by reason of his unlawful act or otherwise howsoever) under a legal duty to supply that person with the necessaries of life, and is criminally responsible for omitting without lawful excuse to perform such duty if the death of that person is caused, or if his life is endangered or his health permanently injured, by such omission (S. 151).

Under the Bill of Rights Act 1990 "No one shall be deprived of life except on such grounds as are established by law and are consistent with the principles of fundamental justice" (S. 8).

In June 2003 Attorney-General Margaret Wilson stated that the Death with Dignity Bill (March 2003) appeared to be "inconsistent with the right not to be deprived of life" as affirmed by the Bill of Rights.[6] Although the Death with Dignity Bill contained comprehensive safeguards in the case of patients seeking assistance to end their lives, there was not the same degree of protection in the case of people making advance directives, and the Attorney-General said it could be argued that the right not to be deprived of life was a discretionary right.[7] However, this was disputed by some.[8]

The Sentencing Act 2002 allows non-custodial and reduced sentences for murder, and judges may impose lesser sentences where life imprisonment would be inappropriate. The Act stipulates that in sentencing or otherwise dealing with an offender the court:

> Must take into account any particular circumstances of the offender that mean that a sentence or other means of dealing with the offender that would otherwise be appropriate would, in the particular instance, be disproportionately severe (Part 1, S. 8 (h)).

According to Waikato University lecturer Brenda Midson the Sentencing Act

---

[5] Steering Committee on Bioethics, *Euthanasia*. Available from http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Bioethics/Activities/Euthanasia/, accessed 31 July 2003.
[6] 'Euthanasia 'a breach of rights', *The Dominion Post*, 27 June 2003, p.2.
[7] Ibid., p.2.
[8] 'Death with Dignity Consistent with Bill of Rights', *New Zealand First Press Release*, 28 July 2003.

offers judges the discretion in murder cases which was previously limited to manslaughter cases.[9] The President of the Criminal Bar Association, Geoff Wells, argues the Act gives judges greater sentencing flexibility – "The Act has now given the court power to give leniency where it is warranted. That never existed for murder before; everybody just got the same life sentence."[10] For instance, on 6 March 2002 Rex Law killed his sick wife and then attempted to commit suicide. Law said he and his wife had agreed to "do each other in" if either suffered from Alzheimer's disease. [11] In August 2002 Law was sentenced to 18 months in prison and given leave to apply for home detention. Previously, Law would have faced a minimum of 10 years in prison (also see below).[12]

**Timeline: Euthanasia and New Zealand 1995-2003**

| Year | Developments |
|---|---|
| **1995** | **August**: A majority of MPs (61 to 29) voted against the introduction into Parliament of Michael Laws's Death with Dignity Bill.*<br><br>A One Network News-Colmar Brunton poll issued found 62 percent of respondents were in favour of voluntary euthanasia, with 27 percent opposed and 10 percent undecided.* |
| **1996** | **January**: The organisation PAVE (Petition for the Adoption of Voluntary Euthanasia) was established to collect 250,000 signatures for a nationwide referendum. The move was unsuccessful. |
| **1997** | **May**: Former Northern Territory Chief Minister Marshall Perron who initiated the euthanasia law in the Northern Territory, Australia, visited New Zealand as a guest of the Voluntary Euthanasia Society.<br><br>**September**: A forum on euthanasia was held in New Plymouth by David King, sub-dean of St Mary's Pro Cathedral. |
| **1998** | **March**: In a New Zealand study it was reported that 17 Waikato Hospital doctors had admitted assisting a patient to die (see the section on issues).** |
| **1999** | **April**: John Karnon was sentenced in the High Court to two years supervision after pleading guilty to a charge of manslaughter over the death of his ill wife in January 1999. Euthanasia campaigners said that the case showed the need for legislation.*** |
| **2000** | **December**: A New Zealand Herald-DigiPoll survey of 756 people indicated 61 percent supported the legalisation of euthanasia and 27 percent opposed it (also see below).**** |
| **2001** | **October**: Dr Chris Simpson was convicted of manslaughter after his terminally ill mother was found dead in October 2000. He was sentenced to three years imprisonment. |
| **2002** | **August**: Rex Law was sentenced to an 18-month jail term with the option of home detention for the death of his ill wife in March 2002. He ultimately served 9 months in prison. |
| **2003** | **March**: Lesley Martin was arrested for the attempted murder of her dying mother after claiming in her book, *To Die Like a Dog*, that she twice tried to assist her mother to die in 1999. Controversy arose over Wanganui District Court judge Gregory Ross banning her from giving media interviews, and |

[9] 'Precedent set, say experts', *Waikato Post*, 30 August 2002, p.3.
[10] 'Honourable man faces 9 months' jail', *New Zealand Herald*, 30 August 2002.
[11] *Waikato Post*, 30 August 2002, p.3.
[12] Ibid., p.3.

| | |
|---|---|
| | promoting pro-euthanasia views and sales of any work already done containing those views.<br><br>The Death with Dignity Bill 2003 was introduced into Parliament.<br><br>In a survey of 2,600 General Practitioners (GPs), 39 GPs when asked to discuss the last patient death they were involved with in the preceding 12 months answered yes to the question "was death caused by a drug prescribed, supplied, or administered with the explicit purpose of hastening the end of life or enabling the patient to end their own life?".#<br><br>**May**: Police decided not to pursue criminal charges against Ralph Vincent following the death of his terminally ill wife in September 2002.<br><br>**June**: Attorney-General Margaret Wilson stated that the Death with Dignity Bill appeared to be "inconsistent with the right not to be deprived of life" as affirmed by the Bill of Rights.##<br><br>**July**: Survey findings indicated that 37 MPs supported the Death with Dignity Bill going to a Select Committee and 33 were opposed.###<br><br>MPs voted 60 to 58 against the Death with Dignity Bill going to a Select Committee.#### |

Sources:
* 'MPs throw out euthanasia bill', *The Dominion*, 17 August 1995, p.1.
** 'Landmark NZ study brings euthanasia back into spotlight', *Sunday News*, 29 March 1998, p.4.
*** 'More mercy killings tipped as NZ ages', *New Zealand Herald*, 30 April 1999; and 'Final act of love, says lawyer', *The Dominion*, 30 April 1999, p.1.
**** 'Voluntary euthanasia gaining support – poll', *Evening Post*, 28 December 2000.
# 'Dozens of GPs help patients die study finds', *New Zealand Herald*, 21 March 2003.
## 'Euthanasia a breach of rights', *The Dominion Post*, 27 June 2003, p.2.
###'Euthanasia bill splits MPs', *Sunday Star-Times*, 20 July 2003, p.A8.
#### Parliamentary Debates – *Hansard*, 29 July to 31 July 2003, p.7494.

## The Death with Dignity Bill 2003

The Death with Dignity Bill 2003 was introduced by New Zealand First MP Peter Brown into Parliament on 6 March 2003.[13] The Bill's purpose was to:

> Allow persons who are terminally and/or incurable ill the opportunity of requesting assistance from a medically qualified person to end their lives in a humane and dignified way and to provide for that to occur after medical confirmation, a psychiatric assessment, counselling, and personal reflection.[14]

Any request for assistance must have been in writing and in accordance with the Bill. The request must have been signed by the patient and witnessed by at least two individuals.

The attending medical practitioner who received a written request must have:

- made an initial determination of whether the patient had a terminal and/or incurable illness;
- determined if the request was made voluntarily and in accordance with the Bill;
- provided relevant information (such as on the probable result of the medication to be prescribed and feasible alternatives);

[13] For an overview of the Bill see John McSoriley, Death with Dignity Bill 2003, *Bills Digest No. 961*. Available from http://www.clerk.parliament.govt.nz/Content/BillsDigest/961Death.pdf, accessed 17 July 2003, p.3.
[14] *Bills Digest No. 961*, p.3.

- referred the patient to a consulting medical practitioner for medical confirmation of the diagnosis, prognosis, and alternative treatments;
- requested that the patient notify next-of-kin;
- referred the patient to a psychiatrist for an assessment;
- referred the patient to a counsellor;
- informed the patient that he or she could rescind the request for assistance at any time and in any manner during or at the end of a mandatory 48 hours reflection period;
- verified, immediately prior to writing the prescription or administering the medication allowed under the Bill, that the patient was making a voluntary and informed decision;
- ensured that all appropriate steps were carried out in accordance with the Bill prior to writing the prescription or administering the medication that would have assisted the patient to end his or her life in a humane and dignified manner.[15]

The Bill provided that a person who made an advance directive[16] might have had those conditions of the advance directive "rendered" as a formal request for assistance to terminate life.[17]

The death must have been reported to a Coroner who must also have received a certificate of death and the patient's relevant medical records. At the conclusion of each financial year, the Coroner must have advised the Attorney-General of the number of patients who had died through receiving such assistance. This must have been reported to the House of Representatives.[18]

## Views on Euthanasia

Different opinions have been expressed on euthanasia in Parliament. In July 2003 MPs voted 60 to 58 against the Death with Dignity Bill going to a Select Committee.[19]

A *New Zealand Herald*-DigiPoll survey of 756 people in December 2000 indicated 61 percent supported euthanasia and 27 percent opposed. In the survey men were more likely to support euthanasia than women, and the young were slightly more supportive than those over 40 years. Support for euthanasia among Māori (56 percent), was lower than among Pakeha (62 percent).[20] A Massey University survey of 1,000 New Zealanders conducted in August and September 2002 found 73 percent supported assisted suicide for someone with a painful, incurable disease, provided it was a doctor who assisted. Support dropped to 49 percent for suicide assisted by someone else, such as a close relative. Men supported doctor-assisted suicide more strongly than women, with 79 percent in favour, compared with 67 percent of women. Respondents under the age of 50 years were more in favour of assisted suicide (77 percent) than those 50 and over (67 percent).[21] According to Grey Power survey figures released in May 2003, 74.8 percent of 500 respondents supported voluntary euthanasia in some form, while 25.1 percent opposed it. The remainder were undecided.[22]

---

[15] Ibid., pp.4-5.
[16] This was a written and witnessed declaration outlining the medical or surgical procedures that a person wished to be followed should that person have become incompetent to make, or incapable of communicating, a treatment decision; and was witnessed by a medical practitioner and two other persons who had no pecuniary interest in the estate of the patient or person making the declaration. Ibid., p.3.
[17] Ibid., p.3.
[18] Ibid., p.6.
[19] Parliamentary Debates – *Hansard*, 29 July to 31 July 2003, p.7494.
[20] 'Voluntary euthanasia gaining support – poll', *Evening Post*, 28 December 2000.
[21] 'Assisted suicide doctors get support', *Dominion Post*, 3 February 2003.
[22] It should be noted that at the time replies were still arriving from the organisation's 78,000 members. 'Jail looms for dying 90-year-old', *Sunday Star Times*, 11 May 2003, p.1.

Various groups have also expressed opinions. These include:

**The Church of England and Catholic Church:**

A joint submission from the Church of England and the Roman Catholic Church to the House of Lords Select Committee on Medical Ethics:

> We believe that deliberately to kill a dying person would be to reject them. Our duty is to be with them, to offer appropriate physical, emotional and spiritual help in their anxiety and depression, and to communicate through our presence and care that they are supported by their fellow human beings and the divine presence.[23]

**Hospice New Zealand:**

> Hospice New Zealand does not support the practice of euthanasia.
>
> Health professionals involved in hospice palliative care have duties and obligations to encourage and support people who are dying as autonomous and dignified individuals. We assert that health professionals should use every reasonable means available to alleviate symptoms and other problems that contribute to suffering at the end of life. We do not see a role for euthanasia as an option in any hospice or palliative care programme.[24]

**The Medical Council of New Zealand:**

> It is not standard practice for the Council to give an opinion or support on moral issues, as it is a statutory organisation and Council therefore resolved to include in any comment or media statement that it will adhere to the law.

The Council further resolved that its submission to the Select Committee would endorse inclusion of the option for a medical practitioner to refuse to assist in the process of death on grounds of conscience, without the need for the doctor to explain his or her reasons for the decision.[25]

**The New Zealand Medical Association (NZMA):**

> The NZMA does not accept or support the concept of euthanasia.
>
> The NZMA encourages the concept of death with dignity and comfort and supports a greater understanding and awareness of terminal care management by the medical profession, and restates the obligations of the profession to support the health and well being of patients.[26]

---

[23] The Church of England, *The Church of England's View on Euthanasia*. Available from http://www.cofe.anglican.org/view/index.html, accessed 14 July 2003.
[24] Hospice New Zealand, 'What is the hospice position on euthanasia? Available from http://www.hospice.org.nz/faq.html, accessed 22 July 2003.
[25] 'Latest Council decisions', New Zealand Medical Council of New Zealand, April 2003. Available from http://www.mcnz.org.nz/newsandissues/decisions.asp#dignity, accessed 18 July 2003.
[26] 'NZMA Policies – Euthanasia', The New Zealand Medical Association. Available from http://www.nzma.org.nz/news/euthanasia.html, accessed 17 July 2003.

**The New Zealand Nurses Association:**

Members are polarised by the issue and as of 20 July 2003 the Association had yet to decide whether a public stance would be taken.[27]

**The Salvation Army:**

> We acknowledge the good motives of the sponsor, but believe the (Death with Dignity) Bill to be a mistaken measure that would lead to detrimental effects for the community as a whole.[28]

**Voluntary Euthanasia Society in New Zealand:**

> No-one should be compelled to suffer the misery that a prolonged struggle in terminal illness may bring.
>
> We aim to make such distress avoidable by giving incurable patients the right to die well and be given medical help, when needed to do so.[29]

## International Context

As of August 2003 there were two countries where euthanasia could be practised without prosecution: the Netherlands and Belgium. In the Netherlands the Termination of Life on Request and Assisted Suicide (Review Procedures) Act became effective 1 April 2002. Although euthanasia is a criminal offence under Article 293 of the Criminal Code the physician attending a patient is exempt from prosecution if the due care criteria of the Act are followed (see Table 2). The Bill was passed by a vote of 104-40 by the lower house of Parliament in November 2000, and the upper house, the Senate, voted 46-28, with one member absent, to endorse the Bill in April 2001.[30] Belgium followed the Netherlands in May 2002 (see Table 2). After two days of debate, the lower house of the Belgian Parliament endorsed a Bill on euthanasia by 86 votes in favour, 51 against and 10 abstentions.[31]

Elsewhere, euthanasia is illegal (see Table 3). However, physician-assisted death in the State of Oregon, the United States, was legalised in 1997 by the Death with Dignity Act. The Act permits physicians to write prescriptions for a lethal dosage of medication to people with a terminal illness (see Table 4). Assisted suicide in Switzerland is legal. However, Article 115 of the Swiss penal code considers assisting suicide a crime if the motive is selfish (see Table 3).

Euthanasia in the Northern Territory of Australia was legal from 1996 to 1997 (see page 15).

---

[27] 'You can't gatecrash heaven', *Sunday Star Times*, 20 July 2003, p.9.
[28] 'Re: *Death with Dignity Bill – Private member's Bill*', Commissioner Dr. Shaw Clifton, Territorial Commander, The Salvation Army – New Zealand, Fiji and Tonga, 17 March 2003. Available from http://www.salvationarmy.org.nz/SITE_Default/x-files/1286.pdf, accessed 17 July 2003.
[29] 'Primary Statement – Voluntary Euthanasia', *Voluntary Euthanasia Society in New Zealand.* Available from http://www.ves.org.nz/Ves3.htm, accessed 14 July 2003.
[30] 'Dutch senate debates euthanasia bill amid protest', 10 April 2001. Available from http://cgi.canoe.ca/Health0104/10_euth-ap.html, accessed 18 July 2003; and 'Dutch legalise euthanasia' CNN World News, 10 April 2001. Available from http://www.cnn.com/2001/WORLD/europe/04/10/netherlands.euthanasia.02/?s=7, accessed 18 July 2003.
[31] 'Belgium legalises euthanasia', BBC News, 16 May, 2002. Available from http://news.bbc.co.uk/2/hi/world/europe/1992018.stm, accessed 18 July 2003.

**Table 2. International Background: Countries where euthanasia can be practiced without prosecution – July 2003**

| Locality | Date of Legislation | Criteria | Involvement of health professionals: | Reportage |
|---|---|---|---|---|
| **Belgium** | 2002 | **Health:** Patients must be under "constant and unbearable physical or psychological pain" resulting from an accident or incurable illness.<br>The law gives patients the right to receive ongoing treatment with painkillers - the authorities have to pay to ensure that poor or isolated patients do not ask to die because they do not have money for such treatment. *<br>**Residency:** The patient must be a Belgian resident, though not necessarily a citizen.#<br>**Age:** Patients must have reached the age of 18 years.##<br>**Request:** Euthanasia is defined as an act practised by a third party intentionally ending the life of a person at their specific, voluntary and repeated request.<br>The request must be written, and if the patient is not capable of writing, it must be written by another adult of his/her choice.** | If the person is not in the terminal phase of his/her illness, the doctor must consult with a second doctor, either a psychiatrist or a specialist in the disease concerned.<br>At least one month must pass between the written request and carrying out the act.<br>If the patient is not terminally ill, the doctor must seek a second opinion from either a psychiatrist or a specialist in the disease involved.** | **Authorities:**<br>Every case must be filed at a special commission to decide if the doctors in charge are following the regulations.* |

**Table 2 (continued)**

| | | | | |
|---|---|---|---|---|
| **Netherlands** | The Termination of Life on Request and Assisted Suicide (Review Procedures) Act was passed in 2001 and became effective 1 April 2002.<br><br>Physicians who practise euthanasia are exempt from prosecution if they practise due care as set forth in the Act and the cause of death is reported to the municipal coroner.<br><br>Prior to this law the termination of life on request was a criminal offence, though prosecutions were not brought provided it was carried out by a physician and certain requirements of due care were met. Physicians were under a duty to report their actions. A regional review committee then examined the physician's actions and sent its opinion to the Public Prosecution Service, which then decided whether or not to institute criminal proceedings.*** | **Health:** A physician who terminates a life on request or assists with a suicide must be satisfied that the patient's suffering is unbearable, and that there is no prospect of improvement.<br>**Residency:** The Ministry of Justice believes that it is not possible for people to come from other countries to seek termination of life or assistance with suicide in the Netherlands because of the legislation's procedural requirements.<br>**Age:** A physician may comply with a request by minors between the ages of 12 and 16 where they are deemed to be capable of making a reasonable appraisal of their own interests and the parent/s or guardians is/are unable to agree to the termination of life or assisted suicide. With respect to minors aged between 16 and 18, a physician may comply with a request where they are deemed to be capable of making a reasonable appraisal of their own interests and the physician consults with the parent/s or guardian of the minor.<br>**Request:** The attending physician must be satisfied that the patient has made a voluntary and well considered request. | The attending physician must:<br>Inform the patient about his or her situation and prospects;<br>come to the conclusion, together with the patient, that there is no reasonable alternative in the light of the patient's situation;<br>consult at least one other physician, who must have seen the patient and given a written opinion on the due care criteria; and terminate the patient's life or provide assistance with suicide with due medical care and attention. | **Authorities:**<br>The cause of death must be reported to the municipal coroner. **** |

Sources:
# Derek Humphry, *Assisted suicide laws around the world*. Available from http://www.assistedsuicide.org/suicide_laws.html, accessed 18 July 2003. ## 'Belgium passes death law', Radio Netherlands, 16 May 2002. Available from http://www.rnw.nl/hotspots/html/bel020516.html, accessed 17 July 2003.
* 'Belgium legalises euthanasia', BBC News, 16 May, 2002. Available from http://news.bbc.co.uk/2/hi/europe/1992018.stm, accessed 18 July 2003.
**Reuters, 16 May 2002, quoted in 'Belgium approves euthanasia bill', The Compassionate Healthcare Network. Available from http://www.chninternational.com/belgium_approves_bill_on_euthana.htm, accessed 18 July 2003.
*** 'Review of cases of termination of life on request and assistance with suicide', Netherlands Department of Justice, December 2000. Available from http://www.minjust.nl:8080/a_beleid/fact/suicide.htm#rules, accessed 31 July 2003.
**** Ian Ireland, *The Netherlands Euthanasia Legislation*, Australian Parliamentary Library, Law and Bills Digest Group, 22 May 2001. Available from http://www.aph.gov.au/library/pubs/rn/2000-01/01RN31.htm, accessed 17 July 2003.

**Table 3: International Euthanasia Laws:**

| Country | Legality of Euthanasia | Recent Developments |
|---|---|---|
| **Australia** | **Illegal**<br>In May 1995, the Northern Territory of Australia became the first legislature in the world to pass a law for voluntary euthanasia. This came into effect on 1 July 1996 but was overturned by the Federal Parliament in March 1997. | The Rights of the Terminally Ill Bill introduced into the New South Wales Parliament by Greens member Ian Cohen was defeated on 21 March 2002.* |
| **Canada** | **Illegal**<br>Section 241 of the Criminal Code stipulates that:<br>Every one who<br>(a) counsels a person to commit suicide, or<br>(b) aids or abets a person to commit suicide whether suicide ensues or not, is guilty of an indictable offence and liable to imprisonment for a term not exceeding 14 years. | In March 2003 Evelyn Martens faced a preliminary hearing to decide if there was enough evidence to send her to trial. She was charged with helping two British Columbia women commit suicide.* |
| **China** | **Illegal**<br>Article 132 of the Criminal Law identifies "the crime of intentionally killing a human".<br><br>However, the government authorises hospitals to practise euthanasia in the terminal phase of an illness if patients formally request it.* | In March 2003, 32 members of the Chinese National People's Congress presented a motion calling for euthanasia to be legalised, with pilot laws to be introduced first in Beijing and Shanghai.* |
| **France** | **Illegal** | In March 2000 the National Ethics Committee said that euthanasia may be allowed in certain circumstances. The Committee though noted that this did not mean euthanasia should be decriminalised.<br><br>In 2001 the Minister of Health indicated that the issue needed to be debated further and admitted that he practised euthanasia as a doctor.*<br><br>In January 2003 a nurse was found guilty of assisting or causing the deaths of terminally ill patients and was sentenced to 10 years in prison.** |
| **Sweden** | **Illegal**<br>Euthanasia is considered manslaughter, while assisted suicide is not. A doctor can, in extreme cases, unplug life support machines. | A poll conducted for *Svenska Dagbladet*, a Swedish daily newspaper, and reported in February 2001 showed that 70 percent thought that euthanasia should be available to those who want it, just under 20 percent were opposed, and 13 percent were undecided.* |

| | | |
|---|---|---|
| **Switzerland** | **Illegal**<br>The law does not recognise the concept of euthanasia. "Murder upon request by the victim" (article 114 of the Swiss penal code) is considered less severely than murder without the victim's request, but remains illegal.<br><br>Assisted suicide is legal. However, Article 115 of the Swiss penal code considers assisting suicide a crime if the motive is selfish.* | Foreigners travelling to Switzerland to take advantage of the law have caused controversy. In January 2003 Reginald Crew, a British national suffering from Lou Gehrig's disease, travelled to the country to die. The death was controversial and caused debate over the 'tourism of death'.**<br>In the wake of the University of Zurich research (see the section on death) the Senate decided to put forward a new proposal for a law on euthanasia and assisted suicide. It commissioned the Ethics Commission to draw up a document.*** |
| **United Kingdom** | **Illegal**<br>Euthanasia is regarded as murder in all the legal jurisdictions of the United Kingdom. | In April 2003 a Tory MP called for an investigation into whether the deaths of a British couple who travelled to Switzerland to commit suicide were illegal.*<br>In June 2003 the House of Lords agreed to give a Bill, which would give terminally ill people the right to be helped to die, a second reading.** |
| **United States** | **Illegal**<br>Euthanasia is covered in homicide laws in every state. In 1997, Oregon enacted the first and, so far, only physician-assisted suicide law in the United States (see Table 3).<br>There is considerable variation across states and judicial jurisdictions in the United States but the trend has been towards support of passive voluntary and speculative euthanasia.* | In May 2003 oral arguments in *Oregon v. Ashcroft* began before the Ninth Circuit Court of Appeals. The Court's decision will determine the immediate future of Oregon's Death with Dignity law** |

Sources:
Australia: *Australia – From the Voluntary Euthanasia Society of England and Wales*. Voluntary Euthanasia Society of England and Wales. Available from http://www.worldrtd.org/Australia_VES.html, accessed 18 July 2003. * 'NSW Euthanasia bill overwhelmingly defeated', *News Weekly*, 20 April 2002. Available from http://www.newsweekly.com.au/articles/2002apr20_euth.html, accessed 18 July 2003.
Canada: *How Does the Law Stand in Canada?* Dying with Dignity - A Canadian Society Concerned With The Quality of Dying. Available from http://www.dyingwithdignity.ca/canlaw.html, accessed 18 July 2003. * 'Court case rekindles right-to-die debate: Elderly Victoria woman faces assisted suicide charges in controversial case', Canada.Com, 20 March 2003. Available from http://www.worldrtd.org/MartensRekindlesRTD.html, accessed 18 July 2003.
China: Lin Yu and Dapu Shi, *Euthanasia should be legalised in China*. Available from http://cae.hkbu.edu.hk/html/CIPM/199802/yuE.html, accessed 31 July 2003. *'Dutch pass euthanasia bill', *The Guardian*, 11 April 2001. Available from http://www.guardian.co.uk/international/story/0,3604,471548,00.html ** 'Chinese euthanasia law could be counterpart of coercive abortion policy', The Society for the Protection of Unborn Children. Available from http://www.spuc.org.uk/releases/20030318a.htm, accessed 18 July 2003.
France: 'France: Euthanasia may be 'tolerated', BBC News Online, 3 March 2000. Available from http://news.bbc.co.uk/2/low/europe/665372.stm, accessed 18 July 2003. * 'Health Minister to Push for Euthanasia Law', The World Federation of Right to Die Federations (WFRDF), 16 April 2001. Available from http:www.worldrtd.org/frenchnews.html, accessed 18 July 2003; and 'French Health Minister, Dr. Bernard Kouchner, Admits Mercy Killings', WFRDF, 24 July 2001. Available from http://www.worldrtd.org/FrenchHealth1.html, accessed 18 July 2003. ** 'French 'Madonna of euthanasia' jailed'
BBC News – World Edition, 31 January, 2003. Available from http://news.bbc.co.uk/2/hi/europe/2714831.stm, accessed 18 July 2003.
Sweden: 'Dutch pass euthanasia bill', *The Guardian*, 11 April 2001; and 'Human Rights Committee takes up Sweden's fifth report on compliance with international covenant on civil, political rights' United Nations Human Rights Committee, 20 March 2003. Available from http://www.un.org/News/Press/docs/2002/hrct616.doc.htm, accessed 21 July 2003. ** Valerie J. Vollmar, *Recent Developments in Physician-Assisted Suicide*, June 2001. Available from http://www.willamette.edu/wucl/pas/pasupdatejune2001.html, accessed 18 July 2003.

Switzerland: * Samia Hurst and Alex Mauron, *Assisted suicide and euthanasia in Switzerland: allowing a role for non-physicians*. Available from http://bmj.com/cgi/content/full/326/7383/271?ijkey=5b7d43b80543adac1ab1c0918d740b3650c45c0f&keytype2=tf_ipsecsha, accessed 18 July 2003.
** 'British Man Travels to Switzerland for Assisted Suicide', Cybercast News Service, 22 January 2003. Available from http://www.cnsnews.com/ForeignBureaus/Archive/200301/FOR20030121d.html, accessed 18 July 2003.
*** 'Swiss more tolerant of euthanasia', *Swissinfo – Switzerland's News and Information Platform*, 19 June 2003. Available from http://www.swissinfo.org/sen/swissinfo.html?siteSect=105&sid=3963860, accessed 17 July 2003.
United Kingdom: 'Replies to the questionnaire for member States relating to euthanasia' Steering Committee on Bioethics, Council of Europe. Available from http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Bioethics/Activities/Euthanasia/Answers%20Euthanasia%20Questionnaire%20E%2015Jan03.asp, accessed 18 July 2003. * 'Swiss assisted suicide 'may be illegal', BBC News – World Edition, 16 April 2003. Available from http://news.bbc.co.uk/2/hi/uk_news/2952123.stm, accessed 18 July 2003. ** 'Euthanasia Bill clears first hurdle', BBC News – World Edition, 6 June 2003. Available from http://news.bbc.co.uk/2/hi/health/2968078.stm, accessed 18 July 2003
United States: Physician-Assisted Suicide - FAQs about Physician-Assisted Suicide, Oregon Department of Human Services (ODHS). Available from http://www.dhs.state.or.us/publichealth/chs/pas/faqs.cfm, accessed 17 July 2003.
* Dr James Conner, correspondence with the author, 25 July 2003.
** 'Oregon v. Ashcroft: Round 2 Begins', Oregon Death with Dignity, 1 May 2003. Available from http://www.dwd.org/press/releases/05.01.03.asp, accessed 18 July 2003.

**Table 4: Physician-assisted death in the State of Oregon, the United States**

| Locality | Date of Legislation | Criteria | Involvement of health professionals | Reportage |
|---|---|---|---|---|
| **State of Oregon** | The Death with Dignity Act. The Act permits physicians to write prescriptions for a lethal dosage of medication for people with a terminal illness. The law distinguishes between physician-assisted suicide (where a physician prescribes a lethal dose of medication to a patient, but the patient - not the doctor - administers the medication) and euthanasia (where a doctor injects a patient with a lethal dosage of medication). Physician-assisted suicide has been legal in Oregon since November 1997.<br><br>Euthanasia is illegal. | **Health:** The law states that, in order to participate, a patient must be diagnosed with a terminal illness that will lead to death within six months. It is up to the attending physician to determine whether this criteria is met.<br>**Residency:** The patient must be a resident of Oregon.<br>**Age:** The patient must be 18 years of age or older.<br>**Request:** The person must be capable of making and communicating health care decisions for him/herself.<br>The patient must make two oral requests to the attending physician, separated by at least 15 days; and the patient must provide a written request to the attending physician, signed in the presence of two witnesses, at least one of whom is not related to the patient.<br><br>A patient can rescind a request at any time and in any manner. | The attending physician and a consulting physician must confirm the patient's diagnosis and prognosis; the attending physician and a consulting physician must determine whether the patient is capable of making and communicating health care decisions; if either physician believes the patient's judgment is impaired by a psychiatric or psychological disorder the patient must be referred for a psychological examination; the attending physician must inform the patient of feasible alternatives to assisted suicide including comfort care, hospice care, and pain control; the attending physician must also offer the patient an opportunity to rescind his/her request at the end of the 15-day waiting period following the initial request to participate. | **Authorities:**<br>Physicians must report all prescriptions for lethal medications to the Department of Human Services, Vital Records. As of 1999, pharmacists must be informed of the prescribed medication's ultimate use. |

Source:
Physician-Assisted Suicide - FAQs about Physician-Assisted Suicide, ODHS.

## Euthanasia in the Northern Territory, Australia

The Northern Territory is particularly relevant given its proximity, the often similar attitudes in Australia and New Zealand, and the promotion of euthanasia in New Zealand by Australians. For instance, Dr Philip Nitschke, who helped four patients die under the Territory's laws, has visited New Zealand to promote euthanasia.

The Rights of the Terminally Ill Bill was passed by the Northern Territory's Legislative Assembly on 25 May 1995 and came into operation on 1 July 1996. It was the world's first law allowing people to voluntarily request euthanasia. The Act was to:

- confirm the right of a terminally ill person to request assistance from a medically qualified person to voluntarily terminate his or her life in a humane manner;
- allow for such assistance to be given in certain circumstances without legal impediment to the person rendering the assistance;
- provide procedural protection against the possibility of abuse of the rights recognised by this Act; and for related purposes (Rights of the Terminally Ill Act 1995).[32]

The following criteria for assistance were established by the Act:

The medical practitioner had to be satisfied, on reasonable grounds, that –

> (i) the patient is suffering from an illness that will, in the normal course and without the application of extraordinary measures, result in the death of the patient;
> (ii) in reasonable medical judgment, there is no medical measure acceptable to the patient that can reasonably be undertaken in the hope of effecting a cure; and
> (iii) any medical treatment reasonably available to the patient is confined to the relief of pain, suffering and/or distress with the object of allowing the patient to die a comfortable death (Part 2, S. 7, 1(b));
>
> (c) a second medical practitioner, who is not a relative or employee of, or a member of the same medical practice as, the first medical practitioner and who holds a diploma of psychological medicine or its equivalent, has examined the patient and has confirmed -
> (i) the first medical practitioner's opinion as to the existence and seriousness of the illness;
> (ii) that the patient is likely to die as a result of the illness;
> (iii) the first medical practitioner's prognosis; and
> (iv) that the patient is not suffering from a treatable clinical depression in respect of the illness (Part 2, S. 7, 1(c));
>
> (d) the illness is causing the patient severe pain or suffering (Part 2, S. 7, 1(d));
>
> (e) the medical practitioner has informed the patient of the nature of the illness and its likely course, and the medical treatment, including palliative care, counselling and psychiatric support and extraordinary measures for keeping the patient alive, that might be available to the patient (Part 2, S. 7, 1(e)).

Under the Act the patient must have been at least 18 years old (Part 2, S. 7, 1(a)). The medical practitioner also had to be satisfied, on reasonable grounds, that the patient was of sound mind and that the patient's decision to end his or her life was made freely, voluntarily and after due consideration (Part 2, S. 7,

[32] The Act is available from the Northern Territory Legislative Assembly. Available from http://www.nt.gov.au/lant/parliament/committees/rotti/rotti95.pdf, accessed 21 July 2003.

1(h)). There were no residency requirements.

The medical practitioner had to report the death to a Coroner who then notified the Attorney-General (Act, Part 3, S. 14 (1) (2)).

Bob Dent, a terminally-ill cancer patient, was the first person to take advantage of the legislation. He received a lethal injection and died on 22 September 1996. Three more patients received lethal injections before the law was overturned.

The law was controversial and was overturned by the Federal Parliament voting 38-33 in a conscience vote in March 1997.[33] The Rights of the Terminally Ill Act was made ineffective by an amendment made to the Northern Territory (Self-Government) Act 1978 of the Commonwealth. According to this the power of the Legislative Assembly to make laws did not extend to the making of laws which permitted or had the effect of permitting euthanasia.

## Consequences

### Death

In the Netherlands, prior to the Termination of Life on Request and Assisted Suicide (Review Procedures) Act 2002 the termination of life on request was a criminal offence. However, prosecutions were not brought provided the request was carried out by a physician and certain requirements of due care were met. From 1990 to 1999 there were 15,289 reported instances of euthanasia and assistance in committing suicide (the number reported per year increasing from 484 in 1990 to 2,216 in 1999).[34]

According to a survey of six European countries conducted by the University of Zurich in 2001 and 2002 doctors reported giving drugs with the express intention of killing their patients in the Netherlands (2.59%), Belgium (0.30%) and Switzerland (0.27 percent) – with very few elsewhere. Only patients in Switzerland (0.36 percent) and the Netherlands (0.21 percent) were able to persuade their doctors to help them commit suicide.[35] The number of reported incidents of euthanasia in the Netherlands fell by 15 percent from 1999 to 2002 according to the 2003 annual report by the five regional commissions responsible for checking that doctors comply with the law. The commissions received about 1,882 reports in 2002, about 330 less than the reported cases in 1999.[36]

In the United States 129 people died under Oregon's Death with Dignity Act (see Table 4) between 1998 and 2002. The number of assisted-suicide deaths increased from 16 in 1998 to 38 in 2002 (see Graph 1). Complications were experienced in four cases (or 3 percent) from 1998 to 2002.[37]

---

[33] 'PM behind death of right-to-die bill', *Sunday Star Times*, 30 March 2003.
[34] Gareth Griffith, *Briefing Paper No 3/2001 – Euthanasia: An Update*, New South Wales Parliamentary Library Research Service, 2001, p.18.
[35] Reuters Health, *Switzerland first in Europe in euthanasia deaths*, 20 June 2003. Available from http://www.laurushealth.com/HealthNews/reuters/NewsStory0620200331.htm, accessed 25 July 2003. The countries were: Belgium, Denmark, Italy, the Netherlands, Sweden and Switzerland.
[36] *Netherlands: Euthanasia reports decline by 15 percent over 4 years*, WFRDF, 29 April 2003. Available from http://www.worldrtd.org/EuthDeclineReported.html, accessed 18 July 2003.
[37] *Fifth Annual Report on Oregon's Death with Dignity Act*, Table 3, Oregon Department of Human Services, 2002. Available from http://www.dhs.state.or.us/publichealth/chs/pas/ar-tbl-3.cfm, accessed 18 July 2003.

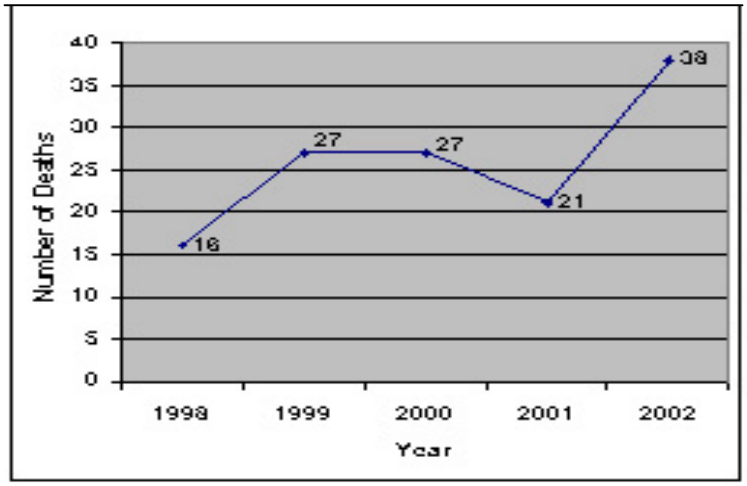
Characteristics of the 129 people who died during this period include (see Table 5):

- The median age of patients was 69 years.
- Most patients were white and non-Hispanic (97 percent).
- Most patients were male (71 percent).
- Less than half the patients were married (47 percent).
- Just over half the patients had some college education or a Bachelor's degree or higher (56 percent).
- The underlying illness of most patients was cancer (79 percent).

The three main end of life concerns of Oregon patients from 1998 to 2002 (see Table 6) were:

- Losing autonomy (85 percent).
- Decreasing ability to participate in activities that make life enjoyable (79 percent).
- Losing control of bodily functions (58 percent).

**Graph 1. Deaths under Oregon's Death with Dignity Act 1998-2002**




Source: 'Physician assisted suicide deaths in Oregon'. Available from: http://www.euthanasia.com/deaths2003.html, accessed 18 July 2003.

**Table 5: Characteristics of patients who died under Oregon's Death with Dignity Act, 1998-2002**

| Characteristics | Statistics |
|---|---|
| **Age** | |
| Median, years (range) | 69 (25-94) |
| **Race** | |
| White, non-Hispanic (%) | 125 (97) |
| Asian (%) | 4 (3) |
| **Sex** | |
| Male (%) | 71 (55) |
| Female (%) | 58 (45) |
| **Marital status** | |
| Married (%) | 60 (47) |
| Widowed (%) | 29 (22) |
| Divorced (%) | 32 (25) |
| Never married (%) | 8 (6) |
| **Education** | |
| Less than high school graduate (%) | 14 (11) |
| High school graduate (%) | 43 (33) |
| Some College (%) | 23 (18) |
| Bachelor's degree or higher (%) | 49 (38) |
| **Residence** | |
| Portland metropolitan area (%) | 48 (37) |
| Other Oregon (%) | 81 (63) |
| **Underlying Illness** | |
| Cancer (%) | 102 (79) |
| *Lung* | 24 |
| *Pancreas* | 12 |
| *Breast* | 10 |
| *Prostate* | 8 |
| *Ovary* | 8 |
| *Colon* | 7 |
| *Other* | 33 |
| Other diseases (%) | 27 (21) |
| Amyotrophic Lateral Sclerosis | 10 |
| Chronic Lower Respiratory Disease* | 8 |
| Other** | 9 |

* Formerly Chronic Obstructive Pulmonary Disease. ** Includes acquired immune deficiency syndrome, congestive heart failure, aortic stenosis, valvular heart disease, scleroderma, Shy-Drager syndrome, and interstitial pulmonary disease with fibrosis.
Sources:
*Fifth Annual Report on Oregon's Death with Dignity Act*, Table 1. Available from http://www.dhs.state.or.us/publichealth/chs/pas/ar-tbl-1.cfm, accessed 14 July 2003; and Fifth *Annual Report on Oregon's Death with Dignity Act*, Table 2. Available from http://www.dhs.state.or.us/publichealth/chs/pas/ar-tbl-2.cfm, accessed 14 July 2003.

**Table 6: Reasons for choosing death under Oregon's Death with Dignity Act, 1998-2002**

| Reason* | Statistics (number and percentage) |
|---|---|
| Losing autonomy | 106 (85) |
| Decreasing ability to participate in activities that make life enjoyable | 99 (79) |
| Losing control of bodily functions | 73 (58) |
| Burden on family, friends/caregivers | 44 (35) |
| Inadequate pain control # | 28 (22) |
| Financial implications of treatment | 3 (2) |

* Affirmative answers only ("Don't know" included in negative answers) # Patients discussing concern about inadequate pain control with their physicians were not necessarily experiencing pain.
Source: *Fifth Annual Report on Oregon's Death with Dignity Act*, Table 3. Available from http://www.dhs.state.or.us/publichealth/chs/pas/ar-tbl-3.cfm, accessed 14 July 2003.

In Australia four people, two males and two females, were reported to have died under the Northern Territory legislation.

Detailed information on the impact of euthanasia deaths on family and friends appears to be limited. However, Dutch research indicates that the outcome for relatives of patients was better where the case of euthanasia had been officially reported, rather than kept secret.[38]

## Debate

Issues surrounding euthanasia have caused much debate. Issues include:

**Euthanasia is already practised.**
It has been argued by some that as euthanasia is already practised it would be better to bring the whole question into the open and have honest records kept.[39] Waikato University research released in 1998 involved 125 Waikato Hospital doctors, and found 17 admitted helping a patient to die and 35 had been asked to assist someone to die. The majority - 102 - said they had never practised euthanasia, but 54 said they would if it were legalised, and 61 said they would not.[40]

Leniency has been shown to some people who have killed others in special circumstances. For instance, 77 year-old Rex Law was sentenced to an 18-month jail term with the option of home detention. During sentencing, Justice Randerson said he was satisfied Mrs Law had told her husband years before of her preference for "death over dementia" but he said at the time of her killing there had been no discussion about a suicide pact. Law was not at risk of re-offending, but Justice Randerson said a non-custodial sentence would not reflect the views of the community, or act as a deterrent to others.[41]

**Public support for change.**
Various polls, as already noted, indicate support for euthanasia is stronger than opposition.

[38] David Cook, *Voluntary Euthanasia: A report on a visit to the Netherlands, England and the Northern Territory of Australia by a New Zealand Practitioner*, Winston Churchill Memorial Trust, 1997, p.63.
[39] *Briefing Paper No 3/2001 – Euthanasia: An Update*, Gareth Griffith, New South Wales Parliamentary Library Research Service, 2001, pp.36-40.Ibid., p.36.
[40] 'Landmark NZ study brings euthanasia back into spotlight', *Sunday News*, 29 March 1998, p.4.
[41] 'Death-pact killer jailed', *The Press*, 30 August 2002, p.5.

**The 'slippery slope'**

According to this argument if voluntary euthanasia is accepted there will be a push to legalise non-voluntary euthanasia too.[42] NZMA Chairman John Adams argues:

> Euthanasia is against the basic ethos of medicine. To me the arguments against distil into the belief it is inherently ethically wrong to kill and if you make the change, it's a dangerous slippery slope in terms of attitudes and philosophy in society towards the value of life.
>
> A doctor's job is to preserve life. If you start on the slippery slope, where does it end up? Do we decide there are other categories of suffering?[43]

**Problems of procedure and complexity**

Potential difficulties in devising satisfactory procedural safeguards have been identified, as already noted in terms of the Death with Dignity Bill.[44] Closely associated with this, is the argument whether the potential for such problems warrants change. An NZMA report commissioned when Michael Laws introduced his Bill in 1995 concluded:

> In New Zealand we have a number of measures available to us in death and dying. These include the right of patients to decline life-saving treatment, the provision of good palliative care, the permission for doctors to achieve symptom relief even at the cost of risking life, and specific guidelines about futile treatment.
>
> These measures reduce to a very small number the cases in which active euthanasia would seem to be the only alternative to a cruel death. The issue before us is whether this very limited need justifies the massive change we would make to the ethos of care in dying in New Zealand.[45]

According to Adams this report remains valid.[46]

Apart from these issues, trends both in New Zealand and overseas will influence debate on euthanasia. According to Dr James Connor these include the rapid advancement of biomedical technology which has led to the clinical redefining of death; the aging population and significant increase in dementia/Alzheimer's disease, along with other neuro-degenerative diseases associated with old age; and the aging population that will place pressure on the health care system. The aging population combined with changing social, cultural and economic values will, in Dr Connor's view "put old people at more risk from elder abuse and may lend support to the slippery slope argument".[47]

---

[42] *Briefing Paper No 3/2001*, p.38.
[43] 'Hanging on to dear life', *The Dominion Post*, 22 March 2003, p.4.
[44] 'Euthanasia a breach of rights'.
[45] 'Hanging on to dear life'.
[46] Ibid. Some have also cast doubt over the safety of procedures given overseas developments and refer to a mid-1990s study that determined one-fifth of those euthanased in the Netherlands were not competent to consent and about one-tenth were not terminally ill.
[47] Dr James Connor, correspondence with the author, 25 July 2003.

## Controversy

Director of palliative care at Mary Potter Hospice Dr Rod MacLeod comments that people are "polarised over euthanasia, almost like a belief system and there's no discussion in the middle ground".[48] The issue has received much publicity with controversy arising from recent developments. The prospect of Rex Law being jailed received much publicity given his age and poor health.[49] Auckland Council of Civil Liberties past President Graeme Minchin, an Auckland lawyer, said prison was inappropriate. According to Minchin:

> I just think that if he (Law) is under the control and custody of the police force, they have some sort of responsibility to place him appropriately.
>
> He's been charged with murder because he intended to take a life--that's murder but that's not what he wanted. He wanted to put a loved one out of her suffering.[50]

Similarly, controversy arose when Lesley Martin was arrested. The bail conditions forbade her doing media interviews, promoting pro-euthanasia views publicly or privately, and further promoting sales of her book. She was also required to surrender her passport and report once a week to the Police. According to Auckland University Associate Professor of Law Paul Rishworth "there are serious doubts about whether they are a lawful set of conditions. On the face of it, it seems an unreasonable restriction on her freedom of expression."[51]

Finally, events abroad have been controversial. In the United States Dr Jack Kevorkian was present at many assisted deaths and he was convicted of second-degree murder in April 1999.[52] More recently, the unsuccessful legal bid for the right to die of a terminally ill British woman, Diane Pretty, was highly publicised. The European Court of Human Rights ruled in April 2002 that the refusal of the British courts to allow her husband to help her die did not contravene her human rights. Foreigners travelling to Switzerland to take advantage of the law have also caused debate over the 'tourism of death' (see Table 3).

## Conclusion

Euthanasia is illegal in New Zealand and is controversial. The issue has been highlighted in New Zealand by Peter Brown introducing the Death with Dignity Bill into Parliament on 6 March 2003. The Bill would have allowed people who are terminally and/or incurably ill to request assistance from a medically qualified person to end their lives. The Bill was defeated on 30 July 2003.

As of August 2003 euthanasia could be practised without prosecution in two countries – the Netherlands and Belgium. Euthanasia was also briefly legal from 1996 to 1997 in the Northern Territory, Australia.

Debate over euthanasia is strong and various arguments both supporting and opposing the practise have been advocated.

---

[48] 'Hanging on to dear life'.
[49] Jail looms for dying 90-year-old'.
[50] Ibid.
[51] 'Euthanasia case gagging order 'may breach Bill of Rights', *New Zealand Herald*, 15 March 2003.
[52] 'Kevorkian gets 10 to 25 years in prison', CNN News, 13 April 1999. Available from http://www.cnn.com/US/9904/13/kevorkian.03/, accessed 18 July 2003.

## Suggestions for further reading / links


Blank, Robert. *Biomedical Policy*, Nelson-Hall Publishers, Chicago, 1995.

Cook, David. *Voluntary Euthanasia: A report on a visit to the Netherlands, England and the Northern Territory of Australia by a New Zealand Practitioner*, Winston Churchill Memorial Trust, 1997.

Family Life International. *And Now Euthanasia*, Auckland, 2003.

Griffith, Gareth. *Briefing Paper No 3/2001 – Euthanasia: An Update*, New South Wales Parliamentary Library Research Service, 2001.

McSoriley, John. Death with Dignity Bill 2003, *Bills Digest No. 961*. Available from http://www.clerk.parliament.govt.nz/Content/BillsDigest/961Death.pdf

Oregon Department of Human Services. *Physician-Assisted Suicide*. Available from http://www.dhs.state.or.us/publichealth/chs/pas/pas.cfm, accessed 22 July 2003.



*Paul Bellamy*
*Social Policy Team*
*Parliamentary Library*
*(04) 471 9204 or Ext 9204*
*Paul.Bellamy@parliament.govt.nz*



**Copyright © NZ Parliamentary Library**
Except for educational purposes permitted under the Copyright Act 1994, no part of this document may be reproduced or transmitted in any form or by any means, including information storage and retrieval systems, other than by Members of Parliament in the course of their official duties, without the consent of the Parliamentary Librarian, Parliament Buildings, Wellington, New Zealand.