

14 August 2025

**Legal and Constitutional Affairs Committee
Legislative Assembly of the Northern Territory**

By e-mail: LA.VAD@nt.gov.au

**Submission to the Northern Territory Inquiry
into Voluntary Assisted Dying**

Who are we?

1. This submission is on behalf of, and co-signed by:
 - Anglican Diocese of the Northern Territory
 - Australian Christian Churches
 - Seventh Day Adventist Church of Australia
 - Presbyterian Church of Australia
2. The submission was coordinated by Freedom for Faith, a Christian legal think tank that exists to see religious freedom for all faiths protected and promoted in Australia and beyond. Freedom for Faith is led by people drawn from a range of denominational churches including the Anglican Church Diocese of Sydney, The Catholic Church, the Australian Christian Churches, Australian Baptist Churches, the Presbyterian Church of Australia, and the Seventh-day Adventist Church in Australia. It has strong links with, and works co-operatively with, a range of other faith groups in Australia.
3. We welcome the opportunity to make this submission and we give consent for this submission to be published. Our contact details are as follows.

Freedom for Faith

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Executive Summary

4. It is important to note at the outset that this submission does not address the rightness of VAD itself. Many major faith communities have strong objections to VAD based on the value of life and the need to protect the most vulnerable.
5. This submission addresses the need, should VAD be implemented in NT, to protect fundamental human rights of other people involved – especially medical practitioners and faith communities who are asked to participate in VAD against their strongly held beliefs.

Conscience as a Foundational Human Right

6. Australia and, by extension, the Northern Territory is a signatory to the International Covenant on Civil and Political Rights (ICCPR), which articulates the right to freedom of thought, conscience, and religion in Article 18:
 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
7. Notably, Article 18(2) prohibits the use of coercion of a person's religion or conscience.
8. In General Comment No. 22, the United Nations Human Rights Committee clarified that freedom of religion and conscience encompasses not only internal belief (*forum internum*) but also external manifestations (*forum externum*), including individual and institutional practice. Any restrictions on the manifestation of religion and conscience must be demonstrably necessary and proportionate under Article 18(3) of the ICCPR.
9. General Comment No. 22 also clarifies that this protection extends beyond 'traditional' religious beliefs to encompass *deeply held moral or ethical convictions*, including those not based on religion.
10. Most notably, the right to freedom of thought, conscience, and religion in Article 18 is non-derogable under the ICCPR (Art 4.2). This means that it cannot be suspended or restricted even in times of public emergency that threaten the life of the nation—a status shared with only a handful of rights such as the right to life, freedom from torture, and recognition as a person before the law.

11. The non-derogability of Article 18 reflects the United Nations Human Rights Committee's view that freedom of religion and conscience is so fundamental to human dignity that it must never be compromised.¹
12. As a signatory to the ICCPR, Australia is obligated to respect and ensure these rights. This obligation binds all levels of government, including the Northern Territory Parliament.
13. Any regulations that impose on conscience must satisfy the test under Article 18(3) that limitations are **necessary** to protect public safety, order, health, or morals or the fundamental rights and freedoms of others and that they are legislated.
14. *The Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR (1984)* explain that limitations on rights need to be necessary, proportionate to the aim, and the least intrusive means available (s10-11, 23-31). These criteria require clear evidence that the restriction to conscience addresses a specific, concrete risk to public health, safety, or the rights of others. They also require that any limitations on freedom of conscience are the least intrusive possible to address the specific, concrete risk.
15. In balancing competing rights, the *Siracusa Principles* give priority to the most fundamental rights – including freedom of religion and conscience – stating:

When a conflict exists between a right protected in the Covenant and one which is not, recognition and consideration should be given to the fact that the Covenant seeks to protect the most fundamental rights and freedoms. In this context especial weight should be afforded to rights not subject to limitations in the Covenant. (s37)

Privacy of Beliefs

16. ICCPR Article 17 also lays out the basis for a right to privacy:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. (Art 17.1)

17. General Comment 22 clarifies the interaction of Articles 17 and 18 saying:

In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief. (para 3)

18. In the protection of conscience, it is imperative that any legislation does not force people to violate their privacy by broadcasting their beliefs beyond what is strictly necessary for the exercising of their conscience and the protection of others' human rights.

Institutional Conscience

19. It is important to highlight that the protection of religious freedom includes the protection of religious organisations and institutions as expressions of faith. UN HRC General Comment No. 22 clarifies that the right "either individually or in community with others

¹ General Comment No. 22

and in public or private, to manifest his religion or belief in worship, observance, practice and teaching” includes the formation of institutions to express those beliefs.

20. The right to religion and conscience extends beyond simply “teaching” to “observance” and “practice”. Faiths that have acts of care and charity as core expressions have formed institutions to enable that expression, which is also a protected exercise under the ICCPR.

Religious Freedom in Australian Law

21. Whilst freedom of religion is not the only form of freedom of conscience and thought, it is one of the primary motives for conscientious objection in regards to VAD. While not directly applicable to the Northern Territory, the inclusion of a religious freedom provision in the *Australian Constitution* is significant. The Constitution gives the Commonwealth powers in “what may be broadly described as public economic or financial subjects”², section 116 specifically prevents the Commonwealth establishing a State religion, imposing any religious test for the holding of any Commonwealth office and prohibiting the free exercise of religion.³
22. Australian Courts have also made numerous statements recognising the importance of religious freedom. It has been described as “the paradigm freedom of conscience,”⁴ “the essence of a free society,”⁵ “a fundamental concern to the people of Australia,”⁶ “a fundamental freedom”⁷ and as “a fundamental right because our society tolerates pluralism and diversity and because of the value of religion to a person whose faith is a central tenet of their identity.”⁸ Australian Courts have recognised “the importance of the freedom of people to adhere to the religion of their choice and the beliefs of their choice and to manifest their religion or beliefs in worship, observance, practice and teaching.”⁹

² *Russell v Russell* [1976] 134 CLR 495, 546 (*Russell v Russell*).

³ Section 116 of the *Australian Constitution* provides that “The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.”

⁴ *Church of the New Faith v Commissioner of Pay-Roll Tax (Vict)* 154 CLR 120 [1982-1983] 130 per Mason ACJ and Brennan J and *Aboriginal Legal Rights Movement Inc v State of South Australia and Iris Eliza Stevens* (1995) 64 SASR 551, 557

⁵ *Church of the New Faith v Commissioner of Pay-Roll Tax (Vict)* 154 CLR 120 [1982-1983] 150 per Murphy J

⁶ *Canterbury Municipal Council v Moslem Alawy Society Ltd* (1985) 1 NSWLR 525, 543

⁷ *Aboriginal Legal Rights Movement Inc v State of South Australia and Iris Eliza Stevens* (1995) 64 SASR 551, 552 and 555

⁸ *Christian Youth Camps Ltd v Cobaw Community Health Services Limited* [2014] VSCA 75 [560] per Redlich JA.

⁹ *Evans v New South Wales* 168 FCR 576 [2008], 580

Answers to Questions

If a health practitioner declines to be involved in a person's request for VAD, should they be required to take any particular action/s? If so, what action/s? For example, passing on information to a centralised VAD service.

23. As discussed above, to comply with the Australia's international human rights obligations, any imposition on conscience (ICCPR 18) must be **necessary** to protect **specific and concrete** harms to other human rights, and the least intrusive means possible.
24. Many faith communities – as well as non-religious conscientious objectors – would consider any participation in the taking of a human life to be a gross violation of their beliefs. This would include providing information about VAD or referring an inquirer on to a service that will promote VAD and facilitate a person in the taking of their life.
25. The model proposed in the Consultation Paper includes a centralised VAD service that will be publicly available on government systems and most likely promoted. Given the level of publicity that surrounds VAD legislation and debate, it is safe to assume that information about this service will be readily available without the need for a specific medical practitioner to provide a referral against their strong conscientious objection.
26. We acknowledge that if a person wishing to find more information about VAD is not provided a URL link by their medical professional, but instead needs to search on the internet or find another person who can tell them of the service, then it is possible they will suffer some inconvenience or distress.
27. However, this potential harm to the inquirer is not comparable to a concrete violation of another human right, which is the standard set by international human rights law for imposing on a fundamental right such as the right to conscience.

What categories of persons or professions should be permitted to conscientiously object to being involved in VAD? Should this be limited to registered health practitioners?

28. Human rights are universal. There is no category of person who should be prevented from acting on their human right to conscience.
29. Additionally, the right to conscience is non-derogable, which means that it cannot be removed by a government, even in times of emergency. The Siracusa Principles state that any limitation of a human right must be non-discriminatory (p 9).
30. It would be highly discriminatory to allow some people to exercise their right to conscience and others not to, regardless of the grounds for the distinction. It would be particularly discriminatory to make that determination based on a person's job, level of training or accreditation.

Should health practitioners who conscientiously object or who choose to not participate in the VAD process be required to declare their objection or non-participation to a person who is, or may be, interested in accessing VAD? If so, when?

31. As noted above, the protection of privacy is also a critical human right. This includes the right that “no one can be compelled to reveal his thoughts or adherence to a religion or belief” (General Comment 22).
32. At the point that a person asks a health practitioner about VAD, it is logically necessary that the practitioner needs to express the fact that they conscientiously object to VAD in order to explain why they are not participating.
33. However, there is no logical requirement for the objecting practitioner to explain the details of their beliefs or religious commitments that lead to such objection. An atheist humanist objection is just as valid as a Christian, Muslim or Hindu one. To protect true conscience, a practitioner must simply have the freedom to state that they do not participate in VAD.
34. Greater problems arise if the need to communicate conscientious objection is extended to a person who “may be interested in” VAD. On what basis would this potential interest be determined, and by whom? On the face of it, this category would include anyone who is suffering from a terminal disease, regardless of its stage.
35. This proposal literally requires a medical practitioner to open any medical appointment with a person “may be interested in” VAD by revealing their deeply held religious beliefs.
36. This requirement would be a gross violation of privacy and freedom of conscience and belief.

Should a health service be permitted to not facilitate VAD at its facilities, for example at a residential aged care facility, a hospital, or accommodation for adults with a disability?

37. The right to the exercise of conscience does not only include the individual’s beliefs, but also institutions founded on these beliefs – including religious institutions.
38. ICCPR Article 18 states:
 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, **either individually or in community with others and in public or private**, to manifest his religion or belief in worship, observance, practice and teaching. (*emphasis added*)
39. The United Nations *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* declares:

the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms... To establish and maintain appropriate charitable or humanitarian institutions...

40. It is well accepted that freedom of conscience and religion is a group right as well as an individual right, which has wider associational, communal, organisational and institutional aspects.¹⁰ As Cole Durham observes:

Protection of the right of religious communities to autonomy in structuring their religious affairs lies at the very core of protecting religious freedom. We often think of religious freedom as an individual right rooted in individual conscience, but in fact, religion virtually always has a communal dimension, and religious freedom can be negated as effectively by coercing or interfering with a religious group as by coercing one of its individual members.¹¹

41. Professor Carolyn Evans elaborates:

While human rights belong to individuals, the right to manifest religious freedom collectively means that it has an organisational dimension. When individuals choose to exercise their religion within an organised religious group, the state must respect the autonomy of this group¹²

42. As with other aspects of freedom of religious and conscience in the ICCPR, this right can only be restricted as is “**necessary** to protect public safety, order, health, or morals or the fundamental rights and freedoms of others” (Art 18.3 emphasis added).
43. The proposal to force faith-based charities – including hospitals and aged care facilities – to allow and even facilitate VAD on their premises, against their deep conscientious objection, would be a great violation of that conscience.
44. It would also be a positive discouragement to hospitals, aged care facilities and hospices operated by religious organisations which consider assisted dying to be immoral, from beginning or continuing to provide those services. Given the number of organisations of this kind, the withdrawal of the operations of those providers would be deeply problematic for the State and for patients wishing to access other health services.
45. As with individual conscientious objection, a patient or resident of a facility that conscientiously objects to VAD can transfer to another facility for the administration of VAD. While this could cause discomfort, it is not comparable to a concrete violation of

¹⁰ Julian Rivers, *The Law of Organized Religions: Between Establishment and Secularism* (Oxford University Press, 2013) 317-318.

Nicholas Aroney, ‘Freedom of Religion as an Associational Right’ (2014) 33 *University of Queensland Law Journal* 153, 168, 181.

David Little, ‘Religious Liberty’ in John Witte and Frank S. Alexander (eds), *Christianity and Law: An Introduction* (Cambridge University Press, 2008) 249;

Rex Ahdar and Ian Leigh, *Religious Freedom in the Liberal State* (Oxford University Press, 2011 2nd ed) 375-377;

Robert George, *Conscience and Its Enemies: Confronting the Dogmas of Liberal Secularism* (Intercollegiate Studies Institute, 2013) 76;

Victor Manuel Muniz-Fraticelli, *The Structure of Pluralism: On the Authority of Associations* (Oxford University Press, 2014);

Micah Schwartzman, Chad Flanders and Zoe Robinson (eds.), *The Rise of Corporate Religious Liberty* (Oxford University Press, 2016);

Hans-Martien Ten Napel, *Constitutionalism, Democracy and Religious Freedom* (Routledge, 2017).

¹¹ W. Cole Durham, ‘The Right to Autonomy in Religious Affairs: A Comparative View’ in Gerhard Robbers (ed), *Church Autonomy: A Comparative Survey* (Peter Lang, 2001) 1.

¹² Carolyn Evans, *Legal Protection of Religious Freedom in Australia* (Federation Press, 2012) 35.

another human right, which is the standard set by international human rights law for imposing on a fundamental right such as the right to conscience – including institutional conscience.

46. We thank the Committee for the opportunity to submit



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