

*SUBMISSION BY NSW Council for Civil Liberties prepared by FRANK MOORHOUSE prepared for the appeal to Australian Government Classification Review Board by the Federal Attorney-General, Philip Ruddock and the Right to Life Association (NSW) to ban the book The Peaceful Pill Handbook by Philip Nitschke, Fiona Stewart, and Exit International (2007).*

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Biographical note:

Frank Moorhouse is an author of fourteen books, in 1985 he was made a member of the Order of Australia for services to literature, he is a member of the Council of Patrons of the Arts Law Centre, a member of the PEN Advisory Panel of eminent authors, a Councillor of the Australian Society of Authors and a former President of that organisation. While he does not speak directly for these bodies his views are broadly in line with their stated positions on freedom of expression.

1. My response to the appeals by the Federal Attorney-General, Philip Ruddock and the Right to Life Association (NSW) to ban the book *The Peaceful Pill Handbook* by Philip Nitschke, Fiona Stewart, and Exit International (2007) is four pronged (philosophical, empirical/pragmatic, historical and, what I call, *ethos* considerations) and is argued in main part from my experience and thinking as an Australian writer, from the positions I hold within the writing community and the responsibilities which come from that. As with many people, I have also experienced suicide by relatives or friends but I do not put myself forward as an expert in, say, questions of youth suicide.
2. I have allowed myself to range more widely than is perhaps called for by the appeals procedure, but I did so in the interests of public discussion and as background for my submission.
3. The literary world has long involved itself with questions surrounding suicide and readers, in their own way, seek, if not guidance from literature, then the value of shared human experience.
4. L.R.Kirkland, has pointed out that in the fifteen plays by Shakespeare classified as tragedies, there are thirteen definite and eight possible suicides. Among the thirteen overt suicides, at least seven are depicted as being admirable under the circumstances of their times. Four of these thirteen were assisted. Overall, the action of taking one's life is presented in a neutral or even favorable light, and 'the audience is left with a mingling of pity and admiration for the victim, not reproach'.
5. One of the greatest love stories in Shakespeare is based on youth suicide – both Romeo and Juliet commit suicide – and is a play which evokes our sadness at that waste of young life.
6. *The philosophical* -- my thinking begins from what is known as the liberal or libertarian position which argues that communication among citizens should be as free as possible from government surveillance and policing.
7. *The decision to suicide was conceded as being a matter for the citizen with decriminalisation in the 1960s (but thinking had changed well before that) and it follows from decriminalising that the availability of information on suicide method is intrinsic to this freedom (I have no problem with classifying suicide method information as Category 1 Restricted – that is, available on sale only to persons over 18).*
8. Freedom of the individual as it was argued, fought for, and evolved in Western countries rose from the idea that individuals could have opinions or desires apart from those of their church and aristocratic leadership and that disagreement within society could better be resolved by procedures involving elected representatives or by formal meetings of citizens and, of course, free discussion and free movement of information.
9. With most limitations of freedom of expression the society is diminished in its effectiveness to manage itself freely as a society and the citizens are diminished in their capacity to manage themselves freely as individuals
10. Those still opposed to this liberal position are usually resting on “unarguable” grounds (in the sense that they are ordained and therefore unchallengeable) of supernatural theories of an after-life and ideological interpretations of the nature

of 'life' and, as in this case, they seek to change public policies to support their religious views.

11. While some secular views consider suicide to be life-negative or usually unwise as an option, people holding the secular position do not, however, usually attempt to stop the circulation of information about it.
12. It has also to be noted that it is not only those wishing to find a safe and civilised way to suicide who would wish to read this book but also those interested in the field, say social scientists, and citizens who wish to be informed on matters of social concern. As a writer, I found that *The Peaceful Pill Handbook*, for example, tells us much about the workings of the law and medicine in Australia and in the book's case studies, much about human nature.

*The empirical and pragmatic* – looking at the question of measurable harm and effectiveness of a policy of banning.

13. More harm than good would come from the decision to ban. The harm would flow from an extension of the suffering of some people including the terminally ill and from continued serious injury from mishandled suicides.
14. However, in the question of access to the book I see no problem with using the customary infrastructure of bookshops and public libraries (for policing of the under 18-year-old restriction) and pharmacies (where it should be available) as something of a screen to impulse purchase (I have in mind a customer who presents as agitated or in obvious need of urgent referral to a doctor or hospital emergency service). While something can be done to slow down the impulsive purchase of drugs nothing much can be done about impulsive seeking of information.
15. The information needed to create, say a barbiturate, is already available and if a person chose to go this route it is best that the information available be as safe and as reliable as possible, better still, and a more civilised alternative, is for it to be available from a pharmacy.
16. Most Australians who travel have used pharmacy services in other countries which do not require prescriptions for the drugs which do require a prescription in Australia, antibiotics, tranquilisers, powerful analgesics, and sleeping tablets and many drugs are now available without prescription through the internet (although I understand, that this is not easy nor safe).
17. If on the other hand the CRB members were to consider information on the making of barbiturates to fall under the category of information which encourages or enables a 'criminal act' they would be making much work for themselves in the censoring of mainstream film, tv, and printed word where in fiction and non-fiction detailed methods of performing of criminal acts are depicted daily.
18. *The Peaceful Pill Handbook* anyhow is not a criminal book as generally understood and is not intended to do criminal harm to others but, instead, to assist in the mitigation of suffering at a personal level.
19. That the internet with it's almost unrestricted access to information (together with information about suicide already in the public domain as 'common knowledge' in fiction, film, television) means that the decision to ban books relating to suicide method and the policing and legal actions involved in enforcing it would be a

- waste of social resources which could be better used in educational guidance and counselling.
20. Another value of this book is that it warns of the secondary dangers of some methods. New cars are fitted now with catalytic filters and devices which automatically stop a vehicle engine when certain levels of carbon monoxide are reached. One result of these devices is that there has been a rise in the number of people admitted to hospital with serious neurological or physical damage as a result of failing, through ignorance of these devices, to kill themselves by this method.
  21. Experience with censorship shows that if the book is banned otherwise law-abiding citizens will endeavour to ensure that it is available to those who want it. This in turn requires policing and legal resources to be used in a futile way to prosecute these people. Banning is bad government policy in that it creates other social headaches.
  22. In reality, it is impossible to remove from daily life the means available to impulsive suiciders -- cut wrists, hanging (which, according to the Medical Journal of Australia accounts for nearly half of suicides and is rising in frequency), jumping from heights, carbon monoxide, aspirin or paracetamol overdose and so on.
  23. Over the centuries people have used suicide (and continue to use suicide) in situations such as: terminal illness, incurable disease, conditions of debilitating psychological factors have become apparent and chronic, incurable isolation which comes from mental and emotional problems, recurring and incurable depression, overwhelming and persistent grief, justifiable remorse and guilt, social and economic dysfunction, and the pernicious effects of ageing. I cannot see that this will change and if the state has any role it should be to ensure that safe information is available so that other sorts of secondary harm is avoided.
  24. *The historical shift in Western thinking* – over the years there have been gradual and careful changes in thinking about suicide by Western societies and in Australia opinion polls show 75 to 80 percent support for voluntary euthanasia or physician-assisted suicide.
  25. As further evidence of the gradual shift of Western opinion the US Supreme Court last year ruled that physician-assisted suicide was permissible under the US constitution.

#### *Damage to the ethos*

26. Finally, I want to stress the social harm of censorship as an instrument of control beyond this one example before the Classification Review Board. The censorship of books and films and other communication as a *general policy* has been increasingly abandoned by advanced societies and is now recognised as doing damage to the ethos and aspiration of free societies.
27. The historical evidence is that once censorship is permitted --- books on Islam one week, books on suicide another, books on sexuality in one decade, books against religion in another – it leads inevitably to a widening, an encroachment, of censorship into the life of the society, and often empowers lobbies who wish to stop others from reading that which they oppose.

### *Children and teenagers*

28. Justifiable concern is expressed about the sadness of youthful suicide.
29. Every effort including, say, Category 1 Restriction should be made to help children and adolescents through suicidal moods.
30. In relation to suicide generally, resources should be made available to allow free psychological assistance, to allow for free and easily available pain relief for chronic illness, adequate support for the handicapped, and to provide adequate welfare assistance for the economically stressed. Other resources should be tailored to the young.
31. Part of this youth education would be to bring home to children the physical and neurological dangers of some methods of suicide.
32. They should have guidance from both within and outside their families (especially from outside their families who may themselves be part of the problem) and efforts should be made to see that there is free and independent therapy for the young.
33. The young should be made aware of the thinking over the centuries which has preceded their own dilemmas and which speaks to these dilemmas.
34. Interestingly, the unfettered and unprecedented increase in information and discussion of suicide on the internet has been accompanied by a decline in youth suicide in Australia over the last ten years (ABS statistics 2004 -- there is no analysis of these figures and I do not know whether there is a causal relationship -- it could be that the decline coincides also with increased use of anti-depressants among the young and heightened awareness of mental illness).
35. But it could be that information and discussion, especially anonymous discussion among themselves which the internet facilitates, is the best way to reduce youth suicide – the internet because of its popularity with the young might well be the medium on which to encourage this discussion.

### *My conclusions:*

36. Counsellors, medical practitioners, psychiatrists, psychologists, and *writers and publishers* should be free under law to give as much information about suicide as they personally are comfortable in giving and which they judge to be appropriate. Ideally such counselling would include the different philosophical approaches to suicide. But information should not be privileged to the medical profession. The citizen should be able to access whatever information he or she requires from whatever source they choose.
37. Respect for life is best fulfilled by following those ways we have to help those who are in despair, the way we respect them when they succumb and decide to give up on life, and the way we help them when they feel they need to leave life.
38. That is, by supporting those civic arrangements which do not contribute to suffering or harm or to increased policing of opinion or the suppression of the beliefs and freedoms of others.
39. A decision by the CRB should reflect an understanding of the diversity, and the shift, in philosophical positions about life and death in contemporary Australia.

40. Suicide is an ever-present behavioural pattern varying within cultures and with changes in economic and other stress conditions but inherent in the species. Although it has been decriminalised and is increasingly accepted as one of the options of adults citizens we know that it can also be reduced to a degree by readily available counselling and educational campaigns (although Finland which has one of the highest suicide rates found that most of those suiciding had been counselled).
41. The liberal position ultimately argues that protection of the young cannot be done at the expense of the wider political ethos or the wider adult freedoms, that is, that all reading matter, films, and so on, cannot be censored down to a level seen as acceptable to the young, and that the young if they are so motivated, will always find their way to adult material.
42. *In reference to the appeal by the Attorney-General where he suggests that inconsistency has arisen between the Customs (prohibited imports) Regulations and the Classification (publications, film, and computer games) Act, it would seem to be in the higher public interest for the CRB to adhere to an outcome which accords with the prevailing values of freedom of speech.*
43. *In this case before the Classifications Review Board, as always, the prudent and humane policy is to rest on the traditional understanding that information and discussion which flows freely will minimise harm.*

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