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FEDERAL AND VICTORIAN EUTHANASIA BILLS

This article argues against the Victorian Medical Treatment (Physician Assisted Dying) Bill and the Federal Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill. True compassion leads to sharing another's pain; it does not kill them.

Euthanasia and Assisted suicide are back on the agenda in both Victorian State and Federal Parliaments. Senator Bob Brown (Greens, TAS) and Colleen Hartland (Greens, Western Metropolitan) have introduced bills which would legalise euthanasia and assisted suicide, and are currently seeking the support of their colleagues.

Advocates of euthanasia and assisted suicide continue to campaign for a change in euthanasia laws both in Australia and overseas. Since the Northern Territory's short lived experiment with euthanasia in 1996, the Greens and the Democrats have introduced a series of bills into parliaments in SA, TAS, WA, and NSW, all of which have been unsuccessful. The NSW parliament overwhelmingly rejected Ian Cohen's *The Rights of the Terminally Ill Bill* by 28 votes to 4. The SA parliament has similarly rejected various proposals put forward by Sandra Kanck and others. Similar bills in other state parliaments have also failed; sometimes they were defeated before being put to a vote.

But perhaps with a change in the political landscape at the Federal level, euthanasia advocates see new opportunities once again to test the resolve of Australian parliaments to resist euthanasia.

Physician-assisted suicide bill introduced into Victorian Parliament

The Victorian Parliament is currently being asked to support a bill which would allow doctors to prescribe lethal pills for patients who have a terminal illness or an advanced incurable illness. *The Medical Treatment (Physician Assisted Dying) Bill 2008*¹ has been introduced by Colleen Hartland of the Greens, and has apparently been proposed and drafted by Mr Neil Francis, President of Dying with Dignity (formerly the Euthanasia Society of Victoria). It has not come at the request of those organisations or institutions that directly care for patients and their families.

Doctors would be allowed to prescribe drugs with the

direct intention of acting to end the patient's life. This is a very different step from withdrawing treatment that is no longer providing any benefit to the patient. Patients with chronic illnesses often fear being a burden to those who care for them. If euthanasia were legalised, it would put more pressure on them and make preservation of their lives dependant on the strength of their will to continue.

The Hartland Bill makes a number of claims about existential pain. Yet existential pain usually arises from loneliness and lack of a sense of self worth. Those facing serious illness need others to be close to them, to support them and empathise with them. Pain and suffering can be more than just physical pain, and can include psychological, emotional and spiritual elements. Rather than ending the life of the person who suffers, palliative care aims to see the person as a whole and cater for each dimension when and as the need arises.

Instead of increasing the options for those suffering from chronic illnesses, legalising euthanasia and assisted suicide is more likely to give an 'out' to carers, healthcare providers, institutions and governments charged with the serious responsibility of providing care for the elderly, sick and the dying. As the Australian population ages, governments will increasingly be tempted to look for new ways to save money, rather than investing in the care of the chronically sick. Such a law would further undermine

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the obligation of both ordinary Australians as well as our governments to provide care for those in need.

Physician Assisted Dying would cast a shadow over the relationship between doctors and patients. Asking doctors to prescribe drugs not for the care or treatment of those with a terminal or chronic illness but to intentionally end the patient's life would undermine the relationship between doctors and their patients. Such moves continue to be opposed by the Australian Medical Association (AMA) whose policy is to "strongly oppose any bill to legalise physician assisted suicide or euthanasia, as these practices are fundamentally inconsistent with the physician's role as healer." In addition, the British Medical Association, the New Zealand Medical Association, the Canadian Medical Association and the World Medical Association all oppose moves to legalise euthanasia and assisted suicide.

Euthanasia Bill introduced into Federal Parliament

Bob Brown has introduced *The Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008*² into Federal Parliament to allow Territory parliaments once again to legalise euthanasia and assisted suicide. Under the leadership of the then Chief Minister, Marshall Perron, the Northern Territory was the first place in the world to legalise voluntary euthanasia under the Northern Territory's *Rights of the Terminally Ill Act of 1995*, which passed by just one vote. At the time, there was very little palliative care in the Northern Territory.

Four of Dr Philip Nitschke's patients had their lives ended under the NT legislation before the Federal Parliament passed the Andrews Bill (*Federal Euthanasia Laws*) in 1997 which prevented the Australian Territories from making laws on euthanasia. It effectively ended the Northern Territory's experiment with voluntary euthanasia, and blocked similar legislation in the ACT parliament.

If Bob Brown's Bill were to be successful, it would overturn the Andrews Bill and re-instate the Northern Territory's *Rights of the Terminally Ill Act of 1995*, so that once again voluntary euthanasia would be legal in the NT. It would also give the ACT parliament the ability to pass laws on euthanasia. The Bill has been referred to the Senate Legal and Constitutional Committee, and the Committee is due to report by mid-June.

While the Northern Territory legislation is held up by many advocates of euthanasia and assisted suicide as a model, it has become increasingly clear that there were a number of significant problems with the legislation. For instance, in a report published in the *Lancet*,³ it is evident that the NT guidelines were unable to protect some of the most vulnerable patients. Despite not meeting the criteria,

one patient had his/her life ended. In addition, other patients with treatable depression were also not protected by the guidelines, despite the fact that the guidelines were specifically designed to protect such patients. Instead, they too had their lives ended under the legislation.

Do opinion polls show support for assisted suicide?

Although Bob Brown claims that "every opinion poll since the 1980's has shown that the vast majority of Australians back voluntary euthanasia legislation along the lines of that in the Netherlands and Oregon,"⁴ such claims deserve further attention.

Although some polls claim Australians support euthanasia, it is not clear what is meant by this, and depending on how the question is worded, opinion polls can easily be manipulated. Commonly, the polls ask something like "If a patient is experiencing unrelievable pain and suffering, should the doctor be able to end that pain?" Most people may want the patient's suffering to end, but it is not always clear that ending their life is the only way of ending their pain. It is also not clear that most Australians understand what is meant by euthanasia and assisted suicide, as they often confuse such terms with removing life support which is no longer benefiting the patient or the refusal of overly burdensome or futile treatment.

The Netherlands

When mercy killing and assisted suicide was semi-legalised by court order in the Netherlands in 1973, it was supposed to be only limited to a very few exceptional cases and even then meant to be only for those whose pain could not be eliminated by any other means.⁵ But experience in the Netherlands has shown that it has not remained limited to the very few, but has expanded to include many other vulnerable people. Physician-assisted suicide is granted not only to those experiencing 'unrelievable pain' who ask for it, but now also the terminally ill who ask for it, the chronically ill who ask for it, people with disabilities who ask for it, and, more recently, the depressed who ask for it.⁶ There is also evidence that doctors provide euthanasia for those who have not asked for it.⁷

A study carried out with the support of the Dutch Medical Association in 1991⁸ found that physician-induced deaths accounted for more than 9.1 per cent of annual deaths. Of those deaths:

- 2,300 were from requested euthanasia
- 400 were assisted suicide
- 1,040 were carried out without the patient's knowledge or consent
- 50% of Dutch physicians suggested euthanasia to their patients

Studies in 1991 and 1995 found that although Dutch physicians were required by law to report physician assisted deaths, the majority of deaths went unreported.⁹

The Netherlands legalised euthanasia and physician assisted suicide in 2001,¹⁰ and gave minors aged between 16 and 18 access to assisted suicide. Children aged between 12 to 16 years of age can also request euthanasia and assisted suicide with the support of their parents or guardians.

We should not be surprised to learn that the Netherlands has a high suicide rate and an 'increasing trend toward youth suicide.'¹¹ Many elderly and sick people are afraid to seek medical help, afraid that they might be euthanised without their consent.¹² A 2005 study found that as many as 50 percent of patients killed under the Dutch euthanasia programs were suffering from depression.¹³

Oregon

Physician-assisted suicide was legalised in Oregon in 1997 under the *Death with Dignity Act*. Since then, at least 341 people have had their lives terminated.

Experience in Oregon has shown that as many as 21 per cent of those seeking lethal prescriptions had symptoms of depression.¹⁴ Other studies have confirmed that depressed patients are significantly more likely to seek physician-assisted suicide. Despite this, only a small percentage of those seeking assisted suicide in Oregon, are being referred for psychiatric evaluation, even though this is required under the law. Patients cannot give genuine informed consent if they are suffering from depression or other untreated mental illness.¹⁵

Can a 'right to die' become a 'duty to die'?

We should be concerned that what may begin as 'death with dignity' or a 'right to die' can soon become a 'duty to die' as insurance companies and governments struggle to manage limited healthcare resources. Assisted suicide is without doubt cheaper than caring! US cancer patient Barbara Wagner was devastated to learn that Oregon Health Plan would cover her doctor-assisted suicide should she choose it, but not the cancer drug her oncologist had prescribed. "To say to someone, we'll pay for you to die, but not for you to live, it's cruel," Barbara said. "I get angry. Who do they think they are?"¹⁶

The Catholic response to end of life care

Death by euthanasia or assisted suicide is never 'death with dignity.' Instead, it is a tragic act of despair, a tragic rejection of the truth about human life and human dignity, and a tragic rejection of the care of other people.

We do not lose our dignity by allowing others to care for us when we are no longer able to look after ourselves. Indeed, at the very beginning of our lives, we could not survive without the care of others. There is nothing undignified in accepting acts of love and kindness from others. In spite of what we might feel or think about the 'quality' of our lives, we can never lose our dignity.

Every human life is created out of love and destined for eternity. It has great value simply because it is human. As Pope John Paul II reminded us, life is ultimately about giving and receiving love. Even if we can do little else, we can still love until the end. Once we understand this, we can see that 'dying with dignity' means living through the dying process. True 'compassion' leads to sharing another's pain. It helps people to 'die with dignity' by helping them to live intensely the final chapter of their lives. "True compassion does not kill the person whose suffering we cannot bear."¹⁷

Growing opposition to euthanasia and assisted suicide

As more people have time to reflect on the true meaning of 'dying with dignity,' increasingly they tend to reject the idea of euthanasia and assisted suicide, and resistance to the practice grows. A number of parliamentary inquiries – the New York State Taskforce on Life and the Law, the British House of Lords, the Senate of Canada, the Parliament of Tasmania, and the Parliament of South Australia¹⁸ – although tending to be pro-euthanasia, after investigating the experience in places like the Netherlands and Oregon, have come away a little shaken. They have realised that euthanasia and assisted suicide cannot be made safe in practice. It is why the House of Lords again rejected euthanasia in 2006 by a vote 148 to 100. It is without doubt the reason why 89 proposals to enact euthanasia in 22 US states in the years 1994 to 2007 failed.¹⁹

There are many good reasons why parliaments all around the world continue to reject euthanasia and assisted suicide. Indeed, the NT parliament has had a change of heart with the current Chief Minister, Paul Henderson, saying that he is not happy, and that Bob Brown should have consulted the people of the NT and the NT parliament before going ahead with his bill! Both Colleen Hartland's Bill and Bob Brown's Bill should be rejected in order to protect sick and vulnerable Australians.

ENDNOTES

¹ [http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/97A3D62C55E9C6ACCA2574560026DC28/\\$FILE/561PM12bi1.doc](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/PubPDDocs.nsf/ee665e366dcb6cb0ca256da400837f6b/97A3D62C55E9C6ACCA2574560026DC28/$FILE/561PM12bi1.doc)

² <http://parlinfoweb.aph.gov.au/piweb/Repository/Legis/Bills/Linked/15020801.pdf>

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⁵ "Assisted Suicide & Death with Dignity: Past, Present and Future, Part III, International Perspective," International Taskforce on Euthanasia, www.internationaltaskforce.org/rpt2005_3.html

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⁷ "Assisted Suicide & Death with Dignity;" see also Commissie Onderzoek Medische Praktijk inzake Euthanasie, *Medische Beslissingen Rond Het Levenseinde*, Sdu *Unitgeverij Plantijnstraat* 1 (1991):13. The study is popularly known as the "Rommelink Report."

⁸ Ibid.

⁹ Ibid; see also Paul J. van der Maas et al, "Euthanasia, physician-assisted suicide, and other medical practices involving the end of life in the Netherlands, 1990-1995," *New England Journal of Medicine*, 336, no 19 (May 8, 1997): 1385, citing van der Maas et al, "Euthanasia and other medical decisions concerning the end of life," (Elsevier, 1992) and Diane M. Gianelli, "Dutch data indicate physician-assisted death on rise," *American Medical News*, January 13, 1997, p.6.

¹⁰ Ibid.

¹¹ Smith, op cit.

¹² Personal contact with the Zwann family, Holland and Australia.

¹³ Hilary White, "Dutch Study show patients requesting euthanasia likely depressed," 16/1/2006, LifeNews, www.LifeNews.com; also see *Journal of Clinical Oncology* 20/9/2005.

¹⁴ Kevin O'Reilly, "Oregon still stands alone: Ten years of physician-assisted suicide," 12 May 2008, American Medical Association, www.ama-assn.org/amednews/2008/05/12/prsa0512.html, *New England Journal of Medicine*, 24/2/2008; Jerome R Wernow, "A Grand Illusion: Oregon's Attempt to control death through Physician-assisted suicide," July 26.2002, The Centre for Bioethics and Human Dignity, www.cbhd.org/resources/endoflife/wernow_2002-07-26_print.html

¹⁵ Ibid.

¹⁶ Tim Christie, "Oregon Health Plan's cancer coverage scrutinized," 3/6/2008, *The Register-Guard*, Eugene, OR www.registerguard.com/csp/cms/sites/dt.cms.support.viewStory.cls?cid=106873&sid=1&fid=1

¹⁷ John Paul II, *The Gospel of Life (Evangelium Vitae)*, #66.

¹⁸ *Where Death Is Sought: Assisted Suicide and Euthanasia in the Medical Context*, May 1994; Select Committee on Medical Ethics, House of Lords, Jan 1994; Of Life and Death, Senate of Canada, June 1995; Community Development Committee, Parliament of Tasmania, *The Need for Legislation of Voluntary Euthanasia*, 1998; Social Development Committee, Parliament of South Australia, *Report of the Inquiry into the Voluntary Euthanasia Bill* 1996, October 1999.

¹⁹ Kathi Hamlon, "Failed Attempts to legalised Euthanasia / Assisted-Suicide in the United States," International Task Force on Euthanasia, www.internationaltaskforce.org/usa.html

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