



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON END OF LIFE CHOICES IN THE ACT

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Submission Cover Sheet

End of Life Choices in the ACT

Submission Number: 181

Date Authorised for Publication: 29/3/18

End of Life Choices, ACT

I offer the following views to the Committee: (Paragraph numbers correspond to those in the Terms of Reference.)

2. As a general proposition in a liberal society, persons should have freedom to conduct their affairs according to their own lights. Other persons or institutions, including governments, that propose to interfere or impede the choice of individuals should carry the onus of justifying such interference or impedance.

In the issue presently under consideration, the onus of justification lies with those who would deny the right of individuals to seek and receive assistance in dying. What circumstances might provide such justification? The case of suicide casts somelight.

Many people, coming upon a person apparently attempting suicide, would intervene to dissuade the person, even forcibly. Yet suicide, once a crime, has been decriminalised for a long time and there is no movement to recriminalise it. We might restrain persons whom we reasonably think to be acting impulsively or under psychological strain that can be expected to abate in time. But if they remain consistent and determined in their intention for a reasonable time, we should let them do what they want. We would let them go, for example, in cases where the person is suffering a condition in which their quality of life has reduced to hopelessness.

Given that we recognise circumstances in which a person's choice of suicide is to be permitted, and that we are not justified in intervening to prevent it, indeed that it may be a kindness to stand back and allow it, it is paradoxical to forbid any assistance from another party.

(3) Assistance from another party may not always be disinterested. It is essential that the suicide is truly the wish of the person whose death is sought. One way by which this may be ascertained is through strict procedures for examining the circumstances of the would-be suicide by qualified persons who are entirely independent of both the suicide and the person who intends to assist.

(4) Assisted dying is practiced in other jurisdictions, for example The Netherlands and Switzerland. The practice is never without its critics, but in the view of persons who accept the concept, these places have honourable reputations. Their procedures and protocols should be studied in the design of a practice in ACT. The arrangements in Victoria are recent and do not have the benefit of long practice. Nevertheless the Victorian case should be studied as, if various jurisdictions in Australia are to introduce assisted dying, as may well happen, it would be unfortunate if many different arrangements came into being, leading to unseemly competition and jurisdiction-shopping.

(5) Constitutionally the ACT Government is a creature of the Commonwealth Government. The Commonwealth can disallow laws passed by the ACT Government, and has done so, in cases where it cannot disallow similar laws passed by the States. ACT citizens do not enjoy all the democratic rights of the States.

Thus, unfortunately, the ACT will have to gain the agreement of the Federal government to rescind the legislation that presently stands in the way of any voluntary end of life practice in the ACT. The ACT Government is urged to pursue this.

If the ACT Government is unable to achieve the rescission of the Commonwealth legislation mentioned above, it might consider making arrangements with the Victorian Government such that ACT citizens can take advantage of the more permissive legislation in that state.

(6) It is clear that voluntary ending life is an issue that elicits moral and ethical emotions. One cannot not notice that many of the arguments proposed about it are of a religious character and that many of the exponents are conspicuous religious observers.

Religions have made many contributions to ethical questions over many years, and a secular society does well to take notice.

However, the decisions put into law by a secular society must not be informed by religious faith, but by testable evidence.

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