

The right to die, a human right

By Janet Albrechtsen, *The Australian*, 26 July 2017

In an era when human rights have grown so abundant that the meaning of the term has been diluted, if not neutered, it's beyond time to recognise a more elementary human right. The right to bring forward death, to lessen pain and suffering from incurable disease is a right that deserves our blessing. It may happen in Victoria in coming months and, if it does, it will mark the first time that politicians recognise what a growing number of Australians rank as a basic human right.

Last week, the Andrews government released the independent ministerial advisory panel's final report on a cross-party proposed voluntary assisted dying bill, which may well form Australia's only program to offer terminally ill people the right to bring forward their death. The bill sets out a system where doctors will assess patients and prescribe drugs that enable those suffering from an incurable disease to hasten their own death.

That the Victorian parliament is considering a human right of real substance makes a welcome change from the quasi-rights that have consumed politicians, state and federal, during the past few decades. Our MPs have elevated fashionable issues to the status of human right to cement them permanently into our polity. Laws that protect hurt feelings are a case in point. Amending section 18C of the Racial Discrimination Act has been near impossible because social engineers have created a "right" not to be offended.

Victimhood culture has helped boost these and other anti-discrimination rights into the top-of-the-human-rights-pops. Pages and pages of legislation detail these modern rights; more laws create bureaucracies to implement them; and politically active commissioners oversee the laws and the bureaucracies. It's the same with other faddish rights: the right not to be bullied, the right to be considered for part-time work, the right to strike, the right to claim whistleblower status.

Rights that determine how we live a full life are plentiful and prominent. They are perpetually debated, parsed into formal complaints, mediated and litigated, while the right of the dying to determine how and when they will die is disregarded. It seems that votes are harvested from the living, not the dying.

Yet in the past four decades a majority of Australians, up to 85 per cent in some polls, supports doctor-assisted dying for the terminally ill. That's no surprise given the increasingly secular world in which we live. At the census last year, the number of Australians who chose the "no religion" box grew

from 19 per cent in 2006 to 30 per cent. That doesn't mean we deride or ignore the views of churches and people of faith who are opposed to assisted dying laws. But in a secular society, separation of church and state means just that. And exercising a right granted under assisted dying laws is a matter of individual choice, not state prescription.

Sadly, moral confusion surrounds our debates about sanctity of life and the right to die. It is morally incongruous to allow a woman to abort an unborn child on the basis of her health and the feminist mantra of my body, my choice, yet hoist the sanctity of life flag to stop a 70-year-old terminally ill cancer patient from hastening their death to end pain and indignity. And where was sanctity of life when the High Court of Australia in 2003, in *Cattanach v Melchior*, granted parents of a child born after a failed sterilisation procedure compensation in a "wrongful birth" case?

Political apathy towards assisted dying is drenched in delusion. Every day doctors in this country bring forward the death of patients suffering in pain from incurable diseases who wish to die at a time of their choosing. Many of us have been privy to this secret world where unspoken acts of compassion are done behind closed doors at great risk to those involved. It points to our timidity and moral confusion that we have stopped backyard abortions but have not grappled with assisted dying in private bedrooms that happen every day beyond the law.

The Victorian model that will likely soon be voted on is based on a conservative one that has operated in Oregon for the past 18 years. The details will rightly be debated but it is not beyond the wit of legislators to settle on a system better than the current political and legal torpor. A study of the Oregon model points to laws that have operated as intended. Most patients cited loss of autonomy and dignity as reasons for accessing the law to end their life. Most suffered terminal cancer, were in their 70s, were highly educated and they died at home surrounded by those they loved. There is peace of mind in having the choice: only 64 per cent of those prescribed the lethal medication used it.

It's a medical failure that 25 per cent of patients who ended their lives said they were suffering too much pain but anyone who has cared for someone dying of cancer has seen that even the best, most modern drugs too often chase their pain without catching it. If that person wants to bring forward their death with the help of a doctor, what right do we have to prevent that?

That's the question being asked beyond our shores, too. In London, Noel Conway, a man suffering from motor neurone disease and not expected to live beyond 12 months, is asking Britain's High Court for a declaration that the

Suicide Act breaches the Human Rights Act. Article 8 provides that a person has the right to have their private and family life respected, without interference by an authority except in accordance with the law. The British High Court has been asked to settle this clash of laws because British MPs cowered from deciding on it in 2015.

Conway, a 67-year-old former academic, is entombed in a body that relies on a ventilator and whose muscles are being destroyed. Speaking about his medical and legal battle earlier this year, he said: “I am going to die, and I have come to terms with this fact. But what I do not accept is being denied the ability to decide the timing and manner of my death. I am not prepared to suffer right to the end, nor do I want to endure a long, drawn-out death in a haze of morphine.”

Conway doesn't want to travel to Switzerland, where assisted death is available. He wants the right to choose to die in his own country so that he may more fully enjoy his final months with his family until he decides the time is right for him to go. Surely, on the scale of human rights, this one deserves more respect and recognition than it has received to date.

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