



The right to die Legislating for euthanasia

By Bob Brown

In 1995, the Northern Territory (NT) Assembly led the world when it passed the *Rights of the Terminally Ill Act*, which gave its terminally ill citizens the option to end their suffering with dignity and medical support.

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In 1997, the federal parliament used its constitutional superiority to remove that right. Now it is time for the federal parliament to redress that action.

In September 2008, I introduced the Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2008 to the Senate. It is an updated version of an earlier Bill – the Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008, which was introduced to the Senate in February 2008 – and incorporates the recommendations of the Senate Legal and Constitutional Affairs Committee report. The inquiry received more than 1,800 submissions from individuals, academics and community organisations, and held public hearings in Darwin and Sydney. The Bill will be debated next year. The Restoring Territory Rights Bill would not restore the original euthanasia laws passed in the NT. It would, however, restore the rights of the democratically elected members of the NT and ACT Assemblies to legislate for voluntary euthanasia if they so chose.

I wrote to the prime minister seeking a conscience vote on the Bill before the end of 2008, but have received no response. The Bill should be debated and voted upon in government business time, as happened in 1997 when Kevin Andrews' private member's Bill overturned the legislation of the NT.

The NT's *Rights of the Terminally Ill Act* reflected not only the will of Territorians, but also the strongly held views of the majority of Australians.

Every opinion poll conducted over the past two decades has shown that around three-quarters of Australians support

the concept of voluntary euthanasia.

A poll conducted by Roy Morgan in June 2002 found that 70 per cent of respondents thought the law should be changed to allow a hopelessly ill patient to seek assistance from a doctor to commit suicide, and 78 per cent thought the law should be changed so that it is no longer an offence to be present at such a suicide.

A Newspoll conducted in February 2007 found that 80 per cent of Australians believed that terminally ill people should have the right to choose a medically assisted death. The poll also found that 22 per cent of respondents had personal experience of a close relative or friend being hopelessly ill and wanting voluntary euthanasia.

This issue recently received high-profile coverage when 31-year-old Melbourne writer, Angelique Flowers, recorded on video a plea to prime minister Kevin Rudd, released after her death, in which she begged for voluntary euthanasia to be made legal in Australia.

Diagnosed with the painful and debilitating Crohn's disease at the age of 15, Angelique had developed advanced and aggressive colon cancer and was told that she had just months to live.

"All I want after 16 years of painful Crohn's disease and now cancer is to die a pain-free, peaceful death. Because euthanasia was banned in Australia I am denied this right," she said in the YouTube film.

"The law wouldn't let a dog suffer the agony I'm going through before an inevitable death. It would be put down. Yet under the law, my life is worth less than a dog's."

The Age reported on 13 September 2008 that Angelique >>

had 'regretfully turned away from her loved ones and spent her final weeks searching for information about euthanasia and a dose of the lethal drug Nembutal'.

Angelique did obtain the drug but she never used it.

In the decade since the *Rights of the Terminally Ill Act* was introduced in the NT, the legal right to die with dignity has been available to the citizens of the Netherlands, Belgium, Oregon in the US, Israel and Albania. In Switzerland, assisted suicide has been legal since 1918. Introduction of such laws has not led to a significant increase in the number of people choosing this option. In the Netherlands, the percentage of deaths due to euthanasia decreased from 2.6 per cent in 2001 to 1.7 per cent in 2005. In Oregon, according to the health department annual report, an average of just 29 individuals have died each year as a result of choosing euthanasia – from a population of 3.5 million. On 4 November 2008 Washington became the second US state to pass a death with dignity law.

Last month, Victorian Greens MLC, Colleen Hartland, introduced the Physician-Assisted Death Bill, modelled in part on the Oregon laws. She noted, in her second reading speech, that: 'Despite opponents of the Oregon Act predicting a flood of people using the Act, fewer than 350 in total over 10 years have used the provisions of the Oregon Act to end their lives peacefully with medical assistance. One-third of those who passed the rigorous qualification process and obtained medication did not actually take the

drug. The mere availability of assistance gives people pause for reflection and means that they do not feel that they have to act precipitately.'

Despite enormous public support and strong safeguards, Colleen Hartland's Bill was defeated in the Victorian Upper House by 25 votes to 13.

In South Australia, Greens MLC Mark Parnell, has introduced a private member's Bill to allow physician-assisted death for people with terminal illness.

Legislation for death with dignity is civilising. Sometimes, even the best palliative care is unable to relieve the pain and suffering of people near the end of their lives.

Angelique Flowers was being cared for in a hospice with the best palliative care and pain management available. But it was not enough.

Angelique's brother, Damian, who held a bowl under his sister's chin as she vomited faecal matter in the last hour before her death, told *The Age* that she was still in pain, despite massive doses of morphine and other painkillers.

Voluntary euthanasia will not be an option many terminally ill people will choose. But those who would never choose a medically assisted death should not restrict the options of those who want assistance to avoid needless suffering or indignity. ■

Senator Bob Brown is Leader of the Australian Greens.

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