House of Assembly

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Death with Dignity Bill 2016

The Hon. A. PICCOLO (Light)

(20:16): In the 10 minutes I have to make a contribution to this very important piece of legislation, it is almost impossible to do justice to the issues and, more importantly, to the people who have made representations. However, I would like to thank all of those people who have taken the opportunity to express their views to me, whether they support the proposed legislation or not. At the outset, I acknowledge that whichever way I vote on this bill, I will disappoint some. Equally, I respect the different and at times opposing views expressed in this chamber irrespective of their moral or ethical basis. All have a valid place in our democracy. Our democracy is diminished when we try to lock out people from engaging in the public sphere.

In an endeavour to do this proposal some justice, and if for no other reason than as a sign of respect for those who have devoted many hours in bringing this matter before this chamber for our individual consideration, I have spoken with a range of people with quite diverse views. Additionally, I have tried to read widely on the topic to explore what has been the experience in other jurisdictions where some version of voluntary euthanasia exists. As I understand the issues, those supporting the bill believe consenting individuals of sound mind and who are in unbearable pain as a result of a terminal or physical illness should have the choice of ending their pain by ending their own life.

In short, autonomous people should have the right to control their own lives. This is classic social liberal or libertarian philosophy supported by Australian philosophers and ethicists like Peter Singer. It also takes a very utilitarian approach, in that voluntary euthanasia does more good than harm and harms no other person than the one giving consent. In a liberal democratic society now largely dominated by social liberal ideology, that is a reasonable position to adopt. In my personal view, there is nothing particularly left wing about this bill; not all progressive politics has a foundation in left wing or social democratic values.

Supporters of this bill argue that it fulfils these principles and that for a small number of people traditional medicine cannot relieve their pain and suffering. They also genuinely believe that the safeguards can be put in place to ensure that vulnerable people are not subject to abuse or the proposed laws are not misused. They further argue that the existing legal framework does not provide health practitioners with sufficient scope or protection to provide patients with a terminal illness the appropriate care. Additionally, they assert that the current laws are discriminatory and lead to unintended effects where

people take their own lives rather than prolong their suffering.

Proponents, with some justification, also rely on the results of opinion polls that indicate majority support for some form of voluntary euthanasia laws. But, like any change in society, it is up to the proponents to make the case. Those who do not support voluntary euthanasia do so for a range of reasons and from various moral and ethical positions or bases. I will briefly summarise them based on my understanding.

For some, their religious beliefs lead them to hold the view that, since it is their god who gives them life, only god can end it. Those who work in health care are concerned that voluntary euthanasia could undermine the doctor-patient relationship, and, at some point in time, may require them to actually administer an act of euthanasia against their wishes on the grounds that it may offend some anti-discrimination law.

Of the greatest concern I have heard, both in the community and in this place, is that once we have crossed the Rubicon there will be pressure to expand the availability of euthanasia to a greater range of people in the community. This concern is usually referred to as the 'slippery slope' argument. Many in the community believe that no safeguards can be devised to protect vulnerable people from abuse or misuse of the proposed law. Palliative care workers believe that by improving the quality of, and access to, palliative care, there will be no need for voluntary euthanasia.

What is the evidence for the views expressed by those either for or against euthanasia? Katrina George, writing in the University of Western Sydney Law Review states:

Research confirms the significance of autonomy for patients at the end of their lives. The strongest determinants of the desire among patients for assisted death stem not from unrelieved pain, but from anxieties about autonomy: losing control, being a burden, being dependent and losing dignity.

She goes on to assert:

…for an action to qualify as autonomous it must … be sufficiently free from internal and external constraints.

Whether they are external, like strong family and cultural influences, or internal, with mental health issues, drug and alcohol abuse etc. She concludes:

…there is reason to be concerned that some populations are vulnerable to controlling influences that undermine the autonomy of their choices for assisted death. A patient's physical and psychological vulnerability at the end of life might be compounded by features of his or her context that belie the rhetoric of choice: economic disadvantage, social marginalisation or oppressive cultural stereotypes.

This concern is supported by a report prepared the Oregon Health Division, which states:

…the most frequent end of life concern cited by people requesting assisted suicide is not pain but 'loss of autonomy' (91.5%), followed by decreased ability 'to engage in activities making life enjoyable' (88.7%), 'loss of dignity' (79.3%), 'losing control of bodily functions' (50.1%) and 'burden on family,

friends/caregivers' (40%), and only then 'inadequate pain control [is elicited by only 24% of respondents] …

A study in Switzerland in 2014 found that assisted suicide was more likely in women than men, those living alone compared with those living with others and those with no religious affiliation compared with Protestants or Catholics. In older people, assisted suicide is more likely to be in the divorced compared with the married; in younger people, having children is associated with a lower rate.

Victoria Hiley, in her very readable doctoral thesis, quoting Dr Diego De Leo, the Head of the Australian Institute for Suicide Research and Prevention at Griffith University in Brisbane suggests that:

[The desire to die sooner] … may well reflect contemporary society's failure to retain a sociable place for its elders ... Even healthy older people may feel so emotionally excluded … that their lives are meaningless.

Dr Brian Pollard, a retired anaesthetist and palliative care physician, when asked about euthanasia on Radio National had the following to say:

At the outset, I wish to point out that believing that euthanasia would be a socially desirable practice and making safe law about it are totally different things. As a pioneer of palliative care medicine in Australia, I have had the intimate experience of treating many dying patients and their families … Many of those, however, don't relate specifically to the patient's illness, but to their isolation and neglect, or lack of love and support, factors for which families and the community are primarily responsible.

When referring to a number of inquiries held both in England and Scotland, where to date both have rejected attempts to legalise voluntary euthanasia, Dr Pollard goes on to warn:

Each of them found that it would not be possible to make a safe euthanasia law, because the so-called safeguards can't be guaranteed to work in practice … Most dangerously, many of the resultant abuses would be difficult, if not impossible, to detect.

While public opinion is a very important consideration in formulating public policy, some care must be used when trying to extrapolate results from a general question to a specific public policy. A number of researchers have raised doubts about the veracity of some opinion polls, as they are influenced heavily by the way the questions are framed and the respondent's understanding of the issue being addressed. Writing in the *Journal of Medical Ethics*, J. Hagelin et al conclude:

Our hypothesis was the outcome of questionnaires might be affected by the survey instrument used. The present study confirms this hypothesis. These results further show the difficulties of making direct comparisons of answers to questions with different wording and response alternatives in a population with similar characteristics. Answers to questions on whether to legalise euthanasia may thus be modified by the way in which the questions and possible responses are phrased.

Researcher Lynn Parkinson, from the University of Central Queensland concludes, in her study:

Though the majority of participants supported the idea of euthanasia, patient views varied significantly according to the question wording and their own understanding of the definition of euthanasia.

If public policy is going to be driven by opinion polls, then we must, as legislators, be prepared for the many unintended consequences. Professor David Jones, in an article in the *Southern Medical Journal*, warns of the possible impact on society generally of legalising euthanasia. He concludes:

Legalising PAS [physician-assisted suicide] has been associated with an increased rate of total suicides relative to other states—

this is in America—

and no decrease in non-assisted suicides. This suggests that PAS does not inhibit … non-assisted suicide, or that it act s in this way in some individuals but is associated with an increased inclination to suicide in other individuals.

Opponents of voluntary euthanasia rely heavily on the slippery slope argument. I actually do not share that view because, in my opinion, once you have legalised voluntary euthanasia, it is a natural progression to broaden its application. There is nothing slippery about it; it is a natural progression to broaden its application. That is the experience in other jurisdictions, and there is no sound reason to limit its scope to a broader range of people who are suffering.

In short, if you support this bill, you should be prepared to extend its application or else you would be repudiating the basic principles upon which this bill is based. Should this bill be defeated today, we cannot stand still and need to find another way to address the concerns raised by the proponents of the bill. Both sides of the argument need to find ways to advance the debate and explore other models to address the issue.