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Secretary Legal & Social Issues Committee
Parliament House, Spring St,
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INQUIRY INTO END OF LIFE CHOICES

1. CURRENT PRACTICES

I believe the current practices being utilised are inadequate and people should have more say in their end of life choices.

Currently the suffering can be prolonged and pain relief inadequate.

It is well known that currently doctors unofficially assist people to die by maximising their medications.

In the news this week it was highlighted that tragically, Carers are getting to the point of desperation and considering assisting the patient to die and then committing suicide themselves. This leaves the Carer in a position to be up for criminal charges.

2. CURRENT & PROPOSED LEGISLATION

It is clear that the current legislation is inadequate and outdated and needs to be changed as soon as possible.

I have organised Advanced Care Plan Forms to be completed, signed by my doctor and placed in all my medical files so that if I become seriously ill with no prospect of recovery, my family and medical staff will be fully aware of my end of life wishes including any refusal of treatments. Provided people are of sound mind and are able to make informed decisions when completing these Advanced Care Statements, I believe these decisions should be respected and with the backing of medical doctors, should be enough for people to be assisted to die with dignity.

Some examples of countries that have successfully legislated assisted dying are The Netherlands and Switzerland (eg: DIGNITAS organisation). This year a legal decision was made in Canada to allow physician assisted dying (refer to attached document).

3. LEGISLATION REQUIRED.

The Medical Treatment Act 1988 (Victoria) is outdated and needs urgent review.

This matter should be legislated at Federal level and the same in all states of Australia.

Unfortunately legislation was overturned in the Northern Territory after 6 months without gauging public opinion.

Many polls have shown that approximately 85% of people are in favour of legislation for Medically Assisted Dying to allow people to die with dignity.

I believe that with careful legislation Australia can update the Medical Treatment Act to appropriately reflect peoples wishes and improve their end of life experience.

Politicians and religious leaders should not be deciding how people choose to spend their last days.

This matter needs to be decided by a national referendum.

Yours sincerely,

A MOMENTOUS LEGAL DECISION IN CANADA

The Supreme Court of Canada has just handed down a decision which overturns the long-held interpretation of the Criminal Code regarding aiding and abetting suicide, and thereby allowing physician assistance in dying.

The Canadian Criminal Code states that aiding and abetting suicide (without qualification) is a serious criminal offence, and the Supreme Court upheld that interpretation in the 1992 Rodriguez case by a split decision (5:4).

But Canada also has a Charter of Rights and Freedoms – section 7 provides for right to life, liberty and security. It was on this basis that the Supreme Court of Canada, 22 years after Rodriguez, determined by a 9:0 decision that the Criminal Code violated the rights of individuals suffering from serious and incurable diseases.

This decision was reached on an appeal from the decision of Justice Smith in the British Columbia Supreme Court to allow physician assistance in dying in controlled circumstances. Justice Smith's decision was based on consideration of an extremely thorough brief of evidence which addressed and refuted all the opposition arguments regarding the safety of legislative amendment. The Supreme Court of Canada confirmed the decision of Justice Smith, and acknowledged that vulnerable people could be protected while still allowing competent, seriously ill and suffering adults to a physician-assisted death.

The rigorous criteria affirmed by the Court were that an individual would need to :

- be a competent adult
- clearly consent to the hastening of death
- have a grievous and irremediable medical condition (including an illness, disease or disability)
- be suffering intolerably.

What this decision does is to provide some specificity to the Criminal Code regarding aiding and abetting suicide. Instead of a blanket prohibition, it recognises the need for a specific exception in relation to doctors treating persons with specific medical circumstances (intolerable and incurable suffering). The exception is based on the human right violation of the current application of the Code.

The change in the reasoning of the Supreme Court of Canada in the last 22 years reflects the change in ethical thinking in the world in that time, the change in legal and medical practice in certain countries, and the demonstration by empirical studies that those changes can be safely accomplished.

Truly a momentous decision, which is likely to reverberate around the world.

Rodney Syme, 10 February 2015