

29th June 2015

Submission to The Victorian Parliament “Inquiry Into End Of Life Choices”

The following short article is relevant to Terms Of Reference #3 “*Consider what type of legislative change may be required, including an examination of any federal laws that may impact such legislation.*” I believe the points raised in my article concerning what I perceive to be a subtle, though important Constitutional anomaly, demand a change in Federal legislation so as all Australians will be treated equally, regarding their religious and non-religious beliefs concerning End Of Life Choices. This anomaly needs to be thoroughly investigated by a Constitutional lawyer, which I am not.

The Constitution, Religious Intolerance and Voluntary Euthanasia.

Rob Harle (2015)

The committing of suicide is no longer a criminal offence in any Australian state or territory other than the Northern Territory. However, assisting a person to commit suicide is still a criminal offence in all Australian states and territories. In this short article I will present two arguments which show that the present situation against Voluntary Euthanasia is not only immoral, a blatant hypocrisy but in some respects illegal. Firstly, the Northern Territory’s law in this respect is unconstitutional. Secondly, appeals to religious doctrine as a guideline against Voluntary Euthanasia are invalid.

Before looking at these in detail it must be brought to your attention that Australia and its various territories (not only ACT and NT) is a true multicultural society. Everyday the media tells us we are a multicultural country, everyday government policy regarding the expansion and development of multiculturalism is reinforced in many ways. Government help-information-brochures are written in numerous languages, major supermarkets at least in capital cities display goods in other languages as well as English. At the risk of stating what should be obvious, multicultural means that the very fabric of our society is made up of people with various religious beliefs (including atheists), different art and cultural expression, different language backgrounds and different dress and eating ways. Clearly, and rightly so, we are a multicultural society.

The Australian Constitution unambiguously states that the government may not interfere with an individual’s right to practice their religion.. “*The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth*”.

The Northern Territory law making it a criminal offence to commit suicide clearly and unambiguously contravenes the constitution because, as an example, it prevents a Japanese Australian from practicing their religious beliefs without interference. To be sure, Japanese Australians are a minority group but minorities are part and parcel of multiculturalism and coincidentally, probably more Japanese Australians live in the Northern Territory than elsewhere in Australia. So, if they wish to practice their traditional religiously based act of honourable “harakiri”,

regardless if they are terminally ill or not, they are committing a criminal offence. Further, it would seem to me if someone passes a Japanese Australian a knife, with which they perform “harakiri”, that person would be committing a criminal offence, not only in the Northern Territory but anywhere in Australia. In short, if a Japanese Australian citizen attempts to commit “harakiri” in the Northern Territory they will be charged with a criminal offence, this is against the constitution (which they are required to accept at the time of their naturalisation). If in NSW I hand my bed-ridden, terminally ill Japanese friend a large kitchen knife with which to cut their food and they commit “harakiri”, would I be committing a criminal offence?

I do not wish to imply that Japanese people in Japan or Australia commit suicide “willy-nilly” or even that “harakiri” is a widespread commonplace practice, only that within their religious-state-cultural system it is an option which is not only legal but honourable. The Japanese fighter pilots in World War II are a well known example of this life-option. I use the Japanese example only because it is quite clear cut, the same problem would arise for Buddhists, however, the philosophical religious reasons for a Buddhist committing suicide are far more complex and unnecessary to elaborate here. The one case is enough to expose the constitutional anomaly.

The second part of this article is a little more complex than the constitutional anomaly but even more disquieting. Again, the constitution protects religious freedom and the various mainstream religions, Christianity being the main one, demand this freedom for themselves. For example, if a law was made that the display of a crucifix was illegal, the Christian leaders would argue that such a law was unconstitutional and would have it repealed immediately. Yet the very same church leaders ‘**selectively**’ deny the Japanese Australian citizen the right to their religious practices. They do so not only hypocritically regarding constitutional freedom, but from imposing their own religious beliefs upon another group.

If we are a multicultural society protected by law in practice, then the Christian argument against Voluntary Euthanasia is unconstitutional, dismissive of multiculturalism and **invalid for any group other than practising Christians**. Even if practising Christians are the majority group in Australia, and this is highly debatable if atheists are considered, it is immoral for Christians to deny minority groups the right to practice their own belief systems. A large number of Australians are atheists and their life choices **must not** be controlled by any one religious group’s idiosyncratic doctrine.

I am obviously aware that the basis of our laws and culture is Christian, however, the situation has changed dramatically since Federation and we are now inarguably a multicultural society, where a dominant Christian paradigm is no longer adequate nor acceptable. This is not to say there is anything wrong with Christianity, only that it is simply not applicable to many minority religious groups nor the hundreds of thousands of Buddhists and Moslems that live in and form part of Australia. This is really a very simple matter; if one subscribes to a religion that prohibits suicide then one should follow the dictates of that religion, if one does not belong to that religion then why should the state (as a once removed mouth piece for the religion) prevent the person (specifically, a terminally ill person of sound mind in this case) from committing suicide or an associate or doctor assisting them?

Regardless of the number of people present, a person is born alone and dies alone. A person is fundamentally responsible for their own existential life choices and face whatever eschatology may exist. If this is not true then the only option is absolute predeterminism. It is perhaps(?) a religious duty to inform others of what

one's religion espouses as "**the way**", however, it is not a duty to coerce or force a person to accept one's faith nor expect them to adhere to the often bizarre requirements and beliefs of that faith.

Surely it is time to change these anachronistic laws so they are constitutionally coherent and relevant to **all** members of the democratic society we are led to believe we live in.

Rob Harle

