

## VICTORIAN GOVERNMENT INQUIRY INTO END OF LIFE CHOICES

### PUBLIC COMMENT - ISSUES IMPORTANT TO KEITH ANDERSON

#### GENERAL

Although I live in Tasmania, not Victoria, this issue is important to me. Let me thank the Victorian Government for inviting public comment on this important issue.

The following is a personal consideration of just a few of the issues important to me. It does not seek to be, and is not, a comprehensive review of all of the issues. I hope that I present nothing that persuades people already in favour of reform to change their minds. I am not so naive that I expect that I might persuade people strongly opposed to reform to change **their** minds. I hope that I can help people genuinely considering the issue with an open mind to make sensible decisions and to understand that if it is sensible, it can't be wrong, so must be right.

#### Why do we need reform?

This is mostly the easy part. By the time most people get to my age, it is inevitable that we have seen several friends and relatives die. Most of those friends and relatives will have died a relatively peaceful death; a death that we could endure ourselves, if necessary.

But *most* is not *all*. Unless all of our friends and relatives have been extraordinarily lucky, it is almost inevitable that we will have seen a few deaths that cause us to think: "Gosh. I hope my death is less gruesome than that". It is also inevitable that we ask, "What can I do to ensure that my death is less gruesome than that?"

With our current legislation, the answer is clear: "Bugger all".

If we are facing a gruesome death, the current legislation becomes quite savage, verging on ruthless. It is anachronistic *punish the victim* legislation, and it is not surprising that it reminds us of pre-Dickensian England. Unless we have made extraordinarily thorough preparations, we force our friends into a predicament: look after us, or look after themselves. About the only sensible decision they can make is to look after themselves, and we find that the very people we need to look after us when we most need care are forced to keep their distance; forced to refuse care we want; and forced to provide care we don't want. When we turn to the law for protection from this absurdity, we encounter a paradox: if we are well enough to battle the legislation, we probably don't need to battle it; if we are so crook that we need to battle the legislation, we are probably too crook to be able to battle it.

Some components of the problem would be amusing if they weren't so tormenting. If the pain in my tummy is something curable, the pecking order of who says "Jump" and who says "How high" is approximately: Me, my doctor, my lawyer, my doctor's lawyer, ... and total strangers who have no business in the matter are clearly so low in the pecking order that the question of their position isn't considered. If my doctor tries to give me treatment I don't want, or refuses to give treatment I do want, the law is clearly on my side. *Best practice* is dominated almost exclusively by medical issues, and legal issues intrude only to ensure that this precedence is maintained and applied.

Conversely and contrarily, if the pain in my tummy is something terminal or incurable, the law becomes part of the problem. People with no business in the matter rocket to the top of the pecking order, *best practice* becomes increasingly dominated by legal issues, and I find myself at the bottom of the pecking order, being told that I can't receive appropriate medical treatment, because my doctor is busy getting his medical advice from his lawyer.

Maybe I am the weirdo, but I prefer my doctor to consult medical colleagues, not lawyers, for medical advice. At the very least, we need to change the legislation to ensure that the pecking order we enjoy when our condition is curable is preserved when it is incurable; that we are as well protected from interfering busybodies when our condition is incurable as when it is curable.

## FALLACIES

The case for reform is so strong because so much of the factual evidence demonstrates that reform must be done and can be done. Opposition rests mostly on the *FUD factor*, Fear, Uncertainty and Doubt, on conjectures and hypotheses, on overt fallacies, and on deceitful *deliberate misunderstanding* of the facts.

Let me address some fallacies:

### The *what problem?* fallacy

Much of the opposition to reform assumes that we don't have a problem; that the current legislation is adequate as it is, and so needn't be changed.

Let's consider this proposition thoughtfully. It implies that almost no terminally ill, or incurably ill, person endures more discomfort than they want to endure; that almost everyone just dies peacefully in their sleep, possibly after a pleasant day pottering about in their garden, or playing with their grand children. Undoubtedly, some of us will be this lucky. Also undoubtedly, a few of us will be a lot less lucky. Some horror stories are truly horrific; some aren't. In most cases, the law is just overly intrusive and just causes unnecessary pain, suffering and distress, but in at least a few cases, it has been used as a weapon by disgruntled relatives to make mischief. In other cases, innocence has been punished savagely, and innocent people, thinking naively that they are just *cooperating*, have discovered too late that it is dangerous to be honest and innocent. To enjoy the protection of the current law, we need to be shrewd and devious. As we approach our end, it becomes more important to phone for a lawyer than to phone for a doctor.

Almost certainly, legislation allowing euthanasia with appropriate controls, is the simplest and safest way to solve the problem. However, I can understand that some people might be reluctant to proceed this way. I could accept alternative ways of solving the problem, such as better *Patients' Rights* legislation. I might be delighted if it could be presented as *Anti Interfering Busybody* legislation.

### The *can't trust statistics* fallacy

This fallacy is attractive to opponents of reform because the statistical information demonstrates emphatically that most of us want reform.

Statistical information is always rubbery. If the difference between 49% and 51% were relevant to the debate, the statistical information might indeed be too rubbery to be useful. But this is not the difference we have. Current surveys of public opinion report that support for better legislation is *about 80%*. Over the years, several surveys have been conducted. None gives exactly the same answer as any other; all give similar answers. About the only extent to which these surveys are inconsistent is that they show a slight trend: about 20 years ago, support for better legislation was nearer 70%; about 10 years ago support was in the *high 70s*, now it is in the *low 80s*. Clearly, most people want better legislation.

### **The *it's an atheist plot* fallacy**

The statistical information is clear. Averaged over all people, support for better legislation is *about 80%*. Averaged over people from most moderate religious groups, support for better legislation is *about 80%*. It is necessary to resort to detailed analysis to discover groups of people substantially different from average. This is easily explained: members of most moderate religious groups have the same opinions as average people because members of moderate religious groups **are** average people.

Exceptions are mildly interesting, but only mildly interesting. For atheists, support is *about 90%*; a little higher than the average for all people, but only a little higher. It might be interesting to know why it is only 90%, not the 100% that we might expect, but this is probably just an unimportant curiosity. For Catholics, support is *about 70%*. This might alarm some members of the Catholic hierarchy, but mostly just confirms that rank and file Catholics are average people, just like rank and file non Catholics.

So, where does the perception of strong opposition by Christians arise? I think that the answer is easy and obvious: Religions are not democracies. The leaders of a few religious groups are stating what they want the *official* position to be. For the euthanasia issue, and a couple of other famous issues, the congregation is leading, but the leaders aren't following.

The euthanasia issue is probably about the last of several issues where our supposedly secular laws are being compromised by their religious roots. I wonder if King Henry VIII would be amused or dismayed to discover that the separation of secular law from religious law is still incomplete.

### **The *without explicit request* fallacy**

This is now a very old fallacy, but it is still quoted and misquoted, even though this reveals more about the ignorance of the people quoting it than about euthanasia. Out of context, it certainly looks alarming. The phrase occurs in regular mandatory reports from Belgium. The relevant reports are only about four pages long, well written, not overly technical and relatively easy to read. The phrase occurs in a table. Below the table, text explains clearly and unambiguously that the word *explicit* is significant and the phrase is an example of meticulous honesty, not of mischief. In *you and me* language, the patient was too crook to complete the paperwork and the carers went to a lot of trouble to discover what the patient wanted and to provide that. Over the page, another table and more text explains that in more detail.

### **The *it's all too difficult* fallacy**

This is one of the more irritating fallacies. The job is a little difficult, but far from being *too difficult*. Many examples of suitable legislation exist and can be copied readily; they are not copyright; the countries that prepared them are willing and even eager to help; it isn't even a job that politicians need to do themselves; they have access to a team of professional lawyers to do most of the work. The difficulty is obviously a case of *won't*, not of *can't*.

### **The *better palliative care* fallacy**

Better palliative care is always welcome, but doctors will only ever have access to the latest medical technology. That technology will never deliver a good reliable magic wand. Some of us will inevitably be so unlucky that we exhaust the capabilities of the technology available. Even when amazing technology is available, it loses its value when it is offered as *take it or leave it*, and other options are denied.

### **The *suffering is good for us* fallacy**

This is one of the more disgusting fallacies. If it weren't so disgusting, it'd be amusingly kinky. It isn't an argument against voluntary euthanasia; it is an argument for compulsory pain and suffering. Certainly, people who enjoy kinky behaviour should be allowed to enjoy their pleasures, but it is evil to propose that we should force people to endure pain and suffering that they don't want to endure.

### **The *protect the weak and vulnerable from harm* fallacy**

This is one of the more deceitful fallacies. It uses the truth to tell a lie. Of course we need the law to protect us from harm when we become weak and vulnerable and unable to protect ourselves from harm. It is because the current legislation fails so abysmally to do this that we need reform.

It is this argument that makes the hypocrisy of opponents of euthanasia so conspicuous. By appointing themselves as our protectors, they become exploiters of our weakness and vulnerability, and become the harm from which we need to be protected.

Keith Anderson

  
