

Submission to:

WA Parliament's Joint Select Committee on End Of Life choices

Civil Liberties Australia's position is that end-of-life choice is an individual human right.

The state has no authority over the right of people to make their own individual choice regarding ending their life. Any such attempt at legislation is moot, because it is unenforceable after the event anyway.

Where people freely choose to end their own life, but are physically incapable of doing so, it is their right to receive assistance to implement their free choice. The state has a role in crafting simple laws to ensure such a person is making a completely free choice.

People who, through their religious or like belief, are opposed to individual choice over end-of-life are free to exercise their own convictions for themselves. They are not free to impose their beliefs on people with different (or no) religious or like beliefs. The state has no role in legislating for religious or like beliefs, which are individual (or group) choice matters.

Supporting the common sense of the above statements, public opinion polls over decades have shown overwhelming support – regardless of religious belief – for the right of terminally ill people to have medical assistance to die, provided there are legislated safeguards ensuring the choice of death is freely made. Parliamentary representatives should endorse the expressed wishes of the vast majority of the electorate, usually reported in reputable polls as greater than 70%. For elderly people (over 70), for whom the issue is perhaps of greater importance and relatively more timely, support for such legislated free choice is even greater.

Knowing that one has control over the end-of-life life decision gives peace of mind in what are usually distressing physical circumstances. That mental empowerment is a crucial factor for many older people in ill health. If a state negates that practical choice, it is effectively inflicting additional mental pain and uncertain suffering on someone in terminal ill health in what could amount to “unusual punishment”.

Civil Liberties Australia urges the WA Parliament to again stand up for human rights by legislating for assisted individual choice over end-of-life, with responsible safeguard mechanisms.

Yours truly

Dr Kristine Klugman OAM
President

2 October 2017

ADDENDUM:

In response to the Committee's particular questions, Civil Liberties Australia believes:

- a. current medical practices are putting caring doctors at risk of their careers. There is no clear-cut option for medical professionals (doctors, nurses, etc) to act as their personal conscience and compassion dictates to end suffering at the request of a patient, when ending suffering is the very reason for the professional's dedicated choice of occupation.
- b. legislation in other states of Australia is starting to catch up with the wishes of the overwhelming majority of Australia, that is that there be clear and practical, legislated end of life choices for seeking medical help to die. However, Australian efforts so far are prone to an over-timid approach (Victoria). We urge the WA Parliament to model legislation on similar provisions overseas, not on any Australian law. Internationally, many countries and provinces/states have laws with proven safeguards and long track records of not encouraging untoward practices.
- c. states are free, constitutionally, to make their own laws in this critical aspect of human life/death (we note that such freedom has been usurped from Territories by the federal government in a way that deprives Territory citizens of equal rights). Should the Australian government attempt to over-rule state rights, Civil Liberties Australia believes the states should take concerted action to protect their own constitutional position.
- d. Direction instruments – providing mandatory instructions to doctors, hospitals, etc – should carry very clear options for a patient to pre-determine his or her choice to have his life actively terminated in specific circumstances. Once formally lodged with the WA health system at any one health facility, the instructions should be electronically available on immediate recall at all other WA health facilities. Health system data holdings should be so organised that such stored instructions are brought into operation immediately on formal admission by a person – who has previously lodged an instruction document – to any hospital/medical facility in WA.

If the pre-determined circumstances arise, there should be no option for “second-guessing” by family, medical professionals or hospital/facility administrators.

Civil Liberties Australia does not believe any medical professional should be obliged to act contrary to his or her personal beliefs. Medical people who do not wish to take part in helping someone to fulfil his or her freely stated wish to die should be free to step aside without personal consequence or employment recrimination.

Co-authors: CEO Bill Rowlings; CLA Director for WA, Margaret Howkins

ENDS CLA submission