

***Lindsay Tanner, then ALP Member for Melbourne, spoke in the House of Representatives on the Euthanasia Laws Bill 1996***

Like other members of this House, I sadly have seen my share of death and of people dying of terminal illnesses—AIDS, leukaemia, cancer in various forms—and it is something that has affected me, as I am sure it has affected those in the House who have also had the same experience. I have seen the extreme pain, the loss of dignity, the loss of quality of life that often goes with such circumstances, but also I have seen the enormous courage, the enormous hope, the refusal to give up hope, the refusal to accept defeat that is so much part of the human condition and so much part of the strength of the will to live in these circumstances.

I accept that on occasion there are situations where it is clear that death is inevitable; that the person has a terminal condition against which nothing can be done to prevent death; and, that the person concerned is suffering so badly and is in such extreme circumstances that they desire death, they hope for death and that somebody does assist them—a doctor or another medical professional—in attaining release. It is very difficult for any of us to regard that as in some way morally wrong.

But there is a very different question at stake here; that is, not whether in some individual circumstances there is something morally wrong, but whether the state should legalise and indeed can safely legalise such practices. This debate should not be about one or two individual experiences, not about our own experiences, but about the broader social question. Just as the question of capital punishment cannot be determined by one or two murders, by one or two gross and appalling examples of killing, neither should our view on euthanasia be determined by our own experiences of one or two personal tragedies. We must look beyond those experiences to the broader view of the interests of society at large and the interests of the individuals who make up society.

I first approached this issue a couple of years ago when writing a newspaper column. I worked my way through the issue and came to the conclusion that I was opposed to euthanasia and, if anything, the debate that has ensued subsequently has strengthened my view. I think our views on this issue very much come from our own individual natures, our own characteristics, our own perspectives; and our response very much depends on how we look at things, the angle from which we come at any particular issue. I do not have a particularly absolutist view on this issue; I am open to further debate. But faced with the option of the status quo or legalised euthanasia in the form that is proposed in the Northern Territory, then I prefer the status quo.

It has been argued that this bill put forward by the member for Menzies (Mr Andrews) is about the separation between church and state. I would disagree with that analysis. I think it is also worth noting that just because the churches take a particular view does not therefore make it wrong. Most of us would probably agree with the churches on a few fundamental issues like murder, rape, assault and so forth. So whether the churches take a position is really neither here nor there.

To me this is an issue about the relationship between state and citizen—not between church and state. It is interesting that the context of the debate has in some ways presented this bill as unusual. What is unusual is the Northern Territory legislation. The Andrews bill is unusual procedurally, but the substance of the issue—which is what we should be really about—is that it is the Northern Territory legislation that is unusual.

I am troubled by euthanasia because I think it is virtually impossible to draw safe boundaries, because I think it is virtually impossible to prevent abuses and mistakes and because I think it is virtually impossible to justify offering the option of assisted suicide to one category of people when you deny it to others. That is a necessary implication of the Northern Territory legislation.

I regard individual freedom in our society as essentially very fragile, as very vulnerable to misuse of state and bureaucratic power. Intrinsicly, the state assuming the right to sanction killing of a citizen, for whatever reason, troubles me a great deal. Even with apparent consent, it worries me. I refer those in my part of the political spectrum, most of whom have a different point of view from me, to debates that have occurred on issues like the Australia Card, where the same sorts of concerns about fears of misuse—obviously not on the same life or death scale, but fundamentally the same framework—occurred. Others laughed and said, 'You are paranoid, it is excessive,' and the like, but many on the Left had the same sorts of concerns there.

I am very conscious of human fallibility, very conscious of the fact that euthanasia inevitably focuses on the most vulnerable members of our community. For those who think that 'voluntary' amounts to an unimpeachable protection, I ask them to look at one or two examples where capital punishment has been meted out to people who have actually confessed to crimes they did not commit. The case of Timothy Evans in Britain in the early 1950s is a very good example of how, in certain circumstances, the protection of a person having to ask to be killed may not quite be as strong as you think. It is very notable that the parliamentary inquiries that have examined these issues have very much focused on these concerns as a basis for rejecting euthanasia.

I am also concerned at the nature of the boundary. Why is it that it is only the terminally ill? Why shouldn't it also be the severely disabled? For example, why shouldn't somebody who has been rendered quadriplegic have the opportunity to opt for assisted suicide? Why not somebody with an incurable mental illness that perhaps makes their life as unbearable or as difficult as a terminal physical illness makes life for the sort of people who are supposedly the subject of this legislation? Why not children who are terminally ill? Why shouldn't they have their guardian make the decision on their behalf, as we do, in so many circumstances in our society, allow an adult to make a decision on behalf of a child?

Once this principle is established, it becomes very hard to draw lines. If you look at the detail of the legislation, for example, you will see that it is possible for somebody with a condition as relatively uncomplicated in modern terms as diabetes, if they refuse treatment, to then have that as a basis for achieving assisted suicide. I am not suggesting that that will necessarily happen, but I am using it as an illustration of how difficult it is to draw boundaries around these things which are safe.

Why is it that, on one hand, we put so much effort and concern into telling some people, 'Don't kill yourself,' and we have so much concern now about youth suicide, yet on the other hand we are now shifting into a pattern where we are going to help certain other people, in effect, to commit suicide? There is an inherent subjectivity in all of this, and that is about the quality of life for people. It involves a subjective judgment which says that certain people in certain circumstances of a particular nature inherently have a lesser quality of life and therefore we are going to permit assisted suicide for those people, but not for other people.

If you look through the list of criteria in Marshall Perron's little flow chart which he sent around, you will see things which, when you read them carefully, are inherently subjective. 'Have the implications been considered by the patient? Has the proper information been provided by the medical practitioner?' Any decision to opt for assisted suicide cannot be taken in isolation from the current mental state of the person, the quality of the care they are receiving, the attitudes of the carers, the attitudes of the family and friends whom they are with every day and, ultimately, the financial imperatives in the health system.

It is impossible, in my view, to guarantee a genuinely pure decision to die based purely on the factors that are beyond human control, namely, the terminal illness. It will be inevitable that other factors which are within human control may impinge on such a decision. The emphasis on palliative care in our health system may be subtly altered as a result of the distorting signal that support for

euthanasia sends through. Individuals may succumb to subtle pressure, or even imagined pressure, to do the right thing by relatives or even the system.

It is interesting that throughout this whole debate nobody has actually asked the question: what about the terminally ill who don't want to die? What impact does this have on those people who say, 'No, I want to live, I want to hang in there and I want every bit of assistance I can have'? The message that this sends to those people is: you are downgraded in some way; you are devalued.

We could even see situations where changes in health funding, changes to Medicare, could insert a substantial financial part into this equation which currently is not there. That is a big worry, in my view. If people ultimately are faced with choices such as, 'Do I have to spend my children's inheritance to maintain my care?' then all of a sudden you have got a real problem with an equation that has got a capacity for assisted suicide there.

Anyone who scoffs at these concerns—the concerns about distorting signals being inserted into a bureaucratic organisational structure—and thinks they will have no impact should read some of the aviation safety reports that have been going around recently as a good illustration of what can happen when you have got some sort of subtle cultural change being inserted into a system that is designed to protect, to care, to preserve life, and see what can happen.

These may be exaggerated fears. They may come from my own personal views, personal perspectives, but everybody's view in this debate will ultimately come from that gut level set of values, which will be the base from which we approach these things. My concern is that you will get these distortions—not overnight, maybe not next year or in two years time, but eventually you will get them.

The argument in favour of euthanasia in this debate essentially rests on three key themes: individual rights, states rights and the fact that it happens anyway. In this great age of individualism, it is perhaps not surprising that the line of individual choice scores very well in opinion polls and that euthanasia is getting 75 to 80 per cent in the opinion polls. I think it is worth pointing out to some of those behind me, including some in my own faction, that the same theme also ensures that there are lots of people out there from whom, when you put the proposition to them, 'Should individual workers have the right to negotiate their contract with their boss,' you get the same sort of result. It depends very much on what question you ask.

If we went to a referendum, I suspect, as was the case with the Communist Party Dissolution Bill in the early 1950s, that majority in the polls would shrink very quickly and you would get a very hard fought and difficult contest. There are many areas in our society where we inhibit individual freedom. I refer, for example, to the ability to contract out of workers' compensation obligations. We do not let people do that. The honourable member for Menzies mentioned the ability to allow someone to commit grievous bodily harm to oneself. We do not permit people the individual right to do that. There are a whole range of things there.

What this is ultimately about is the balance between the individual and the community in our society. I do not believe, in this debate or in any other, that we should start with the premise that the individual is supreme. That is the underlying logical effect of the starting point for the pro-euthanasia position.

The weakest line in the argument in favour of euthanasia in this debate is the states rights line. It is an absolute absurdity that we are now in a position where the same set of conduct in Darwin is legal but in Mount Isa it is illegal. The same set of conduct in Broken Hill is illegal but it is legal in Alice Springs. It is absurd that a parliament that represents roughly one per cent of Australians should, in effect, make a decision that affects all Australians on an issue of such fundamental importance. For those who push this line, I would like to ask them: where were you a couple of years

ago when this parliament legislated to overrule the Tasmanian parliament on the question of personal privacy? Exactly the same issues were there. This parliament had the constitutional power, and it used it.

Where would you be if this were not about euthanasia but about capital punishment? I suspect that there would be some who would be only too happy, too ready, to join in overruling the Northern Territory parliament should it decide to reintroduce capital punishment. I support a uniform national position, whether it be by referendum, by legislation in this parliament in concert with the states or whatever. We should have a single uniform national position.

On the question of 'It happens anyway' this is the strongest argument, I must concede, on the part of the supporters of euthanasia. It is a difficult one for me because on other issues, for example the drug question, I think it is a very powerful point. But I think you have to look at these things on an issue by issue basis. The status quo may be unsatisfactory, but I believe that full legalisation in the case of euthanasia would lead to a worse situation. In some respects I would say the same of heroin. The status quo is unsatisfactory. The criminal law being involved is the core part of the problem with heroin use. But if we went to complete legalisation I think in many respects we would have a worse situation.

It is difficult to know what the intermediate point in how you deal with these things is but, faced with a choice of the status quo or legalisation, I will stick with the status quo. I have had some dark warnings of: 'This is all a Lyons Forum conspiracy' and the Catholic Right and so forth and what am I doing on board with all these people. The spectrum in this community that is opposed to euthanasia is much wider than just the so-called Catholic Right. Other churches—for example, the Anglican Church—have taken the same position. It is also notable if you look internationally that euthanasia, unlike abortion, is illegal virtually throughout the world. What that ought to tell us is that, regardless of religion, regardless of orientation, there is a very wide spectrum of opinion opposed to euthanasia across the world.

My final concern is that the Northern Territory law is a clear indication that there are two types of people, that there is not equality before the law with respect to these issues, that society values some citizens differently. If you are terminally ill then you are permitted access to assisted suicide but not if you are in another category. I think this fits in with a pattern that is extending right across our whole polity, right across many decisions to reduce people to atoms, to individuals, to take decisions that are not based on the society as a whole. I believe we should support the bill of the member for Menzies.