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PARLIAMENTARY DEBATES



**THE SENATE**

**BILLS**

**Restoring Territory Rights (Assisted  
Suicide Legislation) Bill 2015**

**Second Reading**

**SPEECH**

**Wednesday, 15 August 2018**

BY AUTHORITY OF THE SENATE

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## SPEECH

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<b>Speaker</b> O'Neill, Sen Deb	<b>Question No.</b>

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**Senator O'NEILL** (New South Wales) (12:35): I rise to speak today to make a contribution to the debate on the bill introduced by Senator Leyonhjelm to this Senate chamber as a private member's bill entitled Restoring Territory Rights (Assisted Suicide Legislation) Bill 2015. I acknowledge the grief, the loss and the personal truth of every recount by senators sharing their life experiences of losing someone that they love. I respect the diversity of views that have been put respectfully on the record in the course of this debate. I have my own history, as others do, of grief and loss, and it's a lens that colours what I feel about this issue. But we're called on in this place to combine that journey of the heart with the intellectual endeavour to interrogate the legislation that comes before us, and I will endeavour to do that in my contribution.

I know that there have been many earnest contributions to this debate that, no doubt with good intent, call on us to avert our eyes from the substantive issue at the heart of this bill. Many will say, and indeed have said, that this bill is just about legislative rights of the territories. But that is only one small element of this bill. The greater, substantive, part deserves consideration. Let me say clearly that history will show that this bill is about giving territories of this nation the green light to go ahead with enacting legislation that will make it legal for physicians to terminate the lives of their patients and to assist patients to take their own lives.

I think a review of the contributions of those who will support the bill will show that, as much as they declare it is not so, they do indeed know that enabling state-sanctioned suicide in the ACT and the NT is in fact exactly what they're seeking to achieve today. The legislation that passed this parliament in the form of the Euthanasia Laws Act 1997 was about euthanasia. This bill, no matter what political magic dust may be thrown over it, is about euthanasia. But it does use the new lexicon of 'assisted suicide'. Let us also be clear that, despite its complexity, this matter of life and death will be determined by unicameral parliaments, where there is no house of review.

Senator Dodson last night made a very important contribution about the nature of the territories and the rejection of statehood by the Northern Territory. He also made important remarks about the particular vulnerability of First Nations people, who make up so much of the population of that territory.

Last year in the context of the Victorian state debate, 105 of Australia's 148 palliative medicine specialists—that's 70 per cent of the profession—wrote an open letter in which they stated that euthanasia advocates actively and deliberately undermine confidence in palliative care. At the time the vote passed the Victorian parliament, Victoria had the lowest rate of palliative medicine specialists per capita in the country. That is, in my view, instructive. It reveals that the one state that has delivered legislation to allow assisted suicide is the least well served in terms of expert palliation advice and access.

Much has been made of the pain of death in the course of this debate. I do not doubt for a moment that senators have authentically revealed their own perceptions of witnessing that pain in their own personal encounters with the death of a loved one. Indeed, I recall one day in the course of my father's dying when palliation failed him as an aggressive brain tumour progressed. He was very much in pain, and we were very much distressed. Seeing that sort of thing makes you question everything. But his palliation was adjusted, and he continued his farewell to us with very little pain over the following weeks. He reached his 49th birthday not long before he passed. That was 30 years ago. There's no doubt amongst palliation specialists that there has been a marked improvement over that time in the field of palliation. I acknowledge the powerful contributions of many senators that call attention to the need for an increase in the level of resources and the enablement of ever-improving palliation practices, including quality mental health and psychological supports that ameliorate the challenges of the journey to death.

In response to many claims about pain management made in the course of this debate, I want to make a few remarks about claims that pain management is the most pressing reason for advancing to legal assisted suicide. Just how significant is pain as a factor in the decision-making of those who actively seek assisted suicide in jurisdictions where it is currently enabled? In the Oregon public health report of 2016, of the 1,127 patients in that state who had died from ingesting a lethal dose of medication, the data revealed, somewhat surprisingly,

that neither pain nor fear of pain was the main reason cited by those who sought assisted suicide. It was, in fact, some 296 of those 1,127 people—or 26.3 per cent—who indicated that pain control or concern about pain control was a factor for them.

To be fair, let me put on the record that the most often cited reason for assisted suicide in the Oregon study, at 91 per cent, was the steady loss of autonomy. Being less able to engage in activities making life enjoyable was a reason cited by 89.7 per cent. For 77 per cent, it was the loss of dignity that motivated their assisted suicide. Loss of control of bodily functions, such as incontinence and vomiting, was the reason cited by 46.8 per cent. It's important to note that the two reasons most cited by people who died by assisted suicide in Oregon reveal that it was their feelings about their lives, and their concerns about others' views of their lives, that prompted them to take action. That worries me.

Let me speak to the statistic that is of greatest concern to me—that is, the fact that, of the 1,127 people who chose assisted suicide as reported in the study in Oregon, 42.2 per cent indicated that their reason for seeking assisted suicide was concern about being a physical or emotional burden on family, friends or caregivers. It's here that I want to put on the record my recollection of attending a public meeting in the lead-up to the 2001 federal election. Labor's leader, Kim Beazley, and our candidate for the seat of Robertson, Trish Moran, arrived at Kincumber High School. It was a well-attended meeting. Many residents from the local retirement villages that surround it were in attendance. I do believe that most of the audience that evening were in favour of assisted suicide, and that was pretty clear to Mr Beazley as he was addressing them.

When he was asked the question, Mr Beazley spoke about his experience of taking evidence in hearings—and I point out that the Senate is not going to have the opportunity to do that. A young brother and sister came to the inquiry that he was part of and insisted that assisted suicide should be enabled because their mother was a perfect example of someone who was spending her children's inheritance on her health care, and they should have access to it. Mr Beazley rightly pointed out that people who want assisted suicide—people who have argued passionately for it here in this chamber—do not have a motivation of that kind at all. But those motivations do exist in our community, and we are wise to heed them as we make law for the country. We make it for all people, and we have to cover those who have malintent. Mr Beazley finished by saying, 'I don't know what kind of a mother you had but there's very little my mother wouldn't have done or given up in order to give me a better life.' I've never forgotten that.

That brings me to the very real threat of assisted suicide legislation advancing at a time in this nation when recent reports are urging us, as legislators, to give serious consideration to developing legislation, social leadership and agencies to curb increasing elder abuse—undue influence of one family member over another. Similarly, fears of the exploitation of the disabled were well articulated by Senator Steele-John last night in his contribution. I note Senator Steele-John indicated his support for the legislation, but he quite powerfully described the reality of living with disability, about which he perhaps has the greatest insight of all in this chamber. As he put it, four million Australians with disabilities are denied adequate access to the services they need and want, and violent abuse and neglect is still endemic. It is in this context, some fear, that euthanasia enters.

The ACTING DEPUTY PRESIDENT ( Senator McCarthy ): The debate is interrupted. Senator O'Neill, you will be in continuation.