

“The Effect of the Proposed Euthanasia Legislation on Two of Australia’s Most Vulnerable Groups – Aboriginal Communities and the Elderly.”

This is a version of a presentation given at the 2018 Ethics Colloquium on Vulnerability and Health Care.

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Introduction

Like most Western countries in the world, Australia is also facing challenges around the question of the right to die through euthanasia.¹ Euthanasia calls us to reflect on the meaning of life and care for the sickest and most vulnerable within our society. It further challenges us to see how society will protect them. For our predominately still Christian country, when reflecting upon the meaning of life, we are reminded in Scripture, “*I came that they may have life, and have it abundantly.*” (John 10:10b) What is life? What is death? What is its meaning and value? What environment allows for full human flourishing in the context of family and community?

Australia Today

In the last census of 2016, Australia was estimated to have a population of 23.4 million people, with 52 percent identifying as Christian and 22.6 percent identifying as

Roman Catholic. Due to extreme temperatures, 70 percent of the population chose to live along the eastern seaboard.² Today, the lifestyle in Australia reflects both its Western origins and multiculturalism, having been enriched by settlers from over 200 nations. Over the years, Australia’s lifestyle and attitudes to faith, life, dying and death have undergone cultural transformation. These form part of the shift in attitude towards euthanasia.

In November 2017, Victoria, the second largest populous state of Australia, was successful in passing a Conscience Bill through Parliament entitled, “The Voluntary Assisted Dying Bill 2017”.³ A similar Bill had not been successful since the Northern Territory Parliament passed legislation back in 1995. However, due to a legal technicality this Bill was overturned in 1997.⁴ At the time of writing, other states are currently attempting to emulate Victoria. So far, none has been successful but it is only a matter of time before other states follow suit.

Development of the “Euthanasia Mentality”

A number of other influences have developed and nurtured what I would call a “Euthanasia mentality,” a societal change of view on killing someone which runs parallel to a wider acceptance of suicide. These include:

Lack of Palliative Care: Palliative care focuses on improving the quality of life and alleviating pain for those who are dying. Good palliative care is holistic care of the psychological, social, spiritual and physical needs of the individual and their family, which should mean that euthanasia is unnecessary. Due to the size of the country and limited resources, palliative care in Australia lags most other countries. Access to good palliative care services remains largely dependent on patient location and socioeconomic status. Many rural areas rely on general practitioners and community nurses for care, where a large proportion are not appropriately trained in the provision of palliative care. Some services have been described as *being akin to those in the 1960s*.⁵ A recent positive step has been testing the use of medical cannabis in palliative care.

Human Autonomy / Subjectivism:

Autonomy is defined as the capacity to be valued in *so far as its exercise makes for the well-being and flourishing of the human beings who possess it*.⁶ Australians pride themselves in their autonomy in life and in their health care decisions. It is common to hear the statement that “no one has the right to tell me what I should do with my life or my body and it’s my right to die with dignity.”⁷ The recent Australian Human Rights Commission report on euthanasia states that society’s “obligation to protect life must be balanced against the right to personal autonomy which is contained within the right to privacy... and any refusal to allow passive Euthanasia or assisted suicide despite the express wishes of the

patient therefore represent interferences with the right to privacy.”

The Power of Language: In a postmodern world, language is often reality. Use of such words as poison, suicide, and homicide carry enormous emotional and social stigma. Support seems to vary for Euthanasia on what language is used, and has consequentially driven a move to the more politically correct term Voluntary Assisted Dying.⁹ In the U.S. the former Hemlock Society is now known as “Compassion and Choices.”

Trust in Health Services and Physicians:

Trust is a powerful healing tool when you are sick. To ask medical teams to go against their role as healers would undermine trust within the community. As the Australian Medical Association (AMA) in its submission to the inquiry on euthanasia stated, “This conflicted with the basic ethical principles of medical practice...such a [changing of the] law would undermine the healing reputation of the medical profession and trust in them not to hurt or damage their patients, as espoused by the ancient Hippocratic Oath.” The AMA recommendation is for increased funding for palliative care as this would reduce the perceived demand for assisted suicide and euthanasia. Some doctors see euthanasia as a great temptation to a cash strapped health department.¹⁰

Malthusian Theory: This theory outlines that if the natural tendency was for populations to grow without end, food supply would run out against the limit of finite land.¹¹ Recent government policy in Australia has alluded to this principle with thoughts that large arrivals of refugees by boat escaping war-torn areas of Syria and Afghanistan would mean less food supplies for the Australian population. This principle is also reflected in the recent movie *Downsizing* by Paramount Pictures. Pope Francis’ ongoing conversations allude

to neo-Malthusianism, which he sees as a selfish and irresponsible response of the world's rich toward their poor brothers and sisters. In Pope Francis' view, population-control programs are nothing more than an attempt to eliminate poverty by eliminating people.¹²

Church Is Losing Moral Authority: The Australian Census of 2016 saw a significant decline from formal religious traditions with a third of the population claiming to be either spiritual or having no religion (a rise of 8%). Catholics are still at 22 percent of the population.¹³ Between 2016 and 2017, a Royal Commission was held in Australia into Institutional Sexual Abuse. The results of this Royal Commission damaged the credibility of the Catholic Church by suggesting as many as seven percent of priests or religious leaders either committed some form of abuse, covered it up, or failed to protect children in years past. The Church's credibility and the effectiveness of its arguments are so poor that in the same-sex marriage debate, it no longer had a voice.¹⁴

Australian Aboriginals

For over 60,000 years, Australia has been occupied by what is regarded as the oldest living people and culture in the world, known as the Australian Aboriginal. They are a very spiritual people believing in the Dreaming which created all things around us, and because of these beliefs, Aboriginals have a special spiritual connection to land, community and time. Connection of land (often referred to as country) where it feeds, nourishes, provides and is the life-giving spirit; connection to a community where you can't speak about the well-being of individuals without their connection to the community and to the land; and finally, the connection to time, for Aboriginal people time is all one - past, present and future.¹⁵

On arrival in 1788, the British classified Australia as a new colony, assuming

ownership of what was considered uninhabited by a recognisable people with any recognisable structure or laws (*Terra Nullus*).¹⁶ This event was to change Aboriginal history forever. It created intergenerational trauma, mistrust and the death of many. Intergenerational trauma and mistrust is a result of the colonisation which saw disease and policies of "kill the savages" reducing the population. The first half of the twentieth century involved the forcible removal of children into government and church missions for the perceived sake and benefit of assimilation. This is known to us as the Stolen Generation.¹⁷ For many years we only saw Aboriginal People with colonial eyes.

Change was happening in the 1960s when Aboriginal people were first acknowledged as persons and given the right to vote. In 1992, the term *Terra Nullus* was abolished with the much-celebrated Mabo Case.¹⁸ In 2008, the Australian Parliament offered a National Apology to those of the Stolen Generation. This has led to a ten-year program entitled Closing the Gap, which seeks to improve the life expectancy (which is 17 years below that of the non-indigenous population), education and employment outcomes for Aboriginal People.¹⁹ In the recent census, 600,000 people were identified as Aboriginal or Torres Strait Islander²⁰ or three percent of the population. This figure is however highly inaccurate given that identifying as Aboriginal carries a certain stigma and discrimination and identifying is often seen as a barrier to proper services and care.

Euthanasia and Its Effect on Aboriginal People

Aboriginal Australians suffer from complex and higher rates of disease than the general population including cancer, diabetes and cardiovascular disease. These are often left undiagnosed because of the intergenerational trauma and mistrust of hospitals, as they are perceived as places of

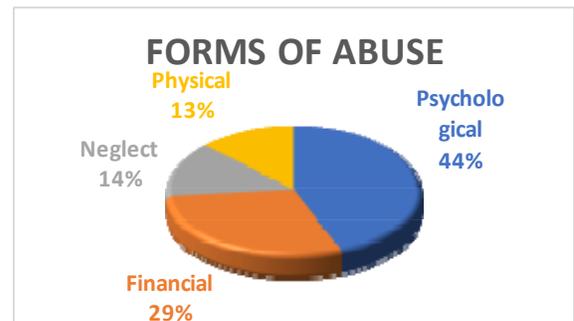
death. It's the place where you say goodbye to your loved ones. If euthanasia legislation is approved, this would again create further mistrust among Aboriginal peoples, as highlighted in the findings of the 1995 introduction of legislation in the Northern Territory. During the two-year period of the legislation, there was a major decrease in seeking medical advice and a significant increase in sexual diseases (some causing sterilization) because of the mistrust that a needle could end a life. The following comments were made in testimony to the Senate Legal and Constitutional Committee in 1996.

- “We are all really frightened...They reckon the government is going to round up all the real sick people and those with V.D. and things like that and finish them off. That's not the Aboriginal way. People are frightened to go to hospital now.”
- “It was not ‘the Aboriginal way’ or that it was contrary to Aboriginal Law.”
- “We strongly believe that natural death is the best way. Even if the person is suffering and is in pain, the person knows and the family knows that the person will finish soon. The brothers and cousins they have the final conversation with the person who is dying and all other family members sit around the person in a big circle.”
- “Our spirit goes away when we die naturally but it won't if we get the needle.”
- “Because of our strong preservation of life, to kill someone is an evil act and therefore that evil must be destroyed.”²¹

Any legalization on euthanasia would require a large amount of resources to bring attitudinal change. This would need to be achieved by educating Aboriginal people, in order to alleviate mistrust in doctors. This money would have been better spent on preventing diseases in this vulnerable population.²²

Australia's Elderly

Australians are living much longer lives, with 3.7 million Australians or 15 percent of the population over 65 years of age.²³ With this growth, has come a higher proportion of elder abuse. It is expected to become more common as there is a wealth divide between generations. The World Health Organization defines elder abuse as "a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person". Elder abuse can be physical, psychological or emotional, sexual or financial.²⁴ Recent reports released from an elder abuse hotline saw 2,130 calls received in 2016-17, with the most common form being psychological and financial abuse. The financial abuse was mainly incurred by other family members to what is known as inheritance abuse.



Euthanasia and Its Effect on Australia's Elderly

With elder abuse on the rise, as well as the growing costs of health care for the aging euthanasia could become a great temptation. As Sydney surgeon Robert Claxton writes, "Medically assisted suicide would be a great temptation to a cash strapped health department and an irresistible temptation to those seeking to inherit money from relatives."²⁵

Current proposals have safeguards in place, but what happens when the slippery slope occurs and laws become more relaxed? What about cases like that of the scientist David Goodall, who at 104 was in reasonably good health, declared that he had just had enough?²⁶ What happens to those who are old or live with disabilities, or even just perceive themselves as a burden on their families? Religion used to carry the respect for life in society but will law and medicine carry this forward?²⁷

Australian Responses

The Catholic Church in Australia is the largest health care provider outside of the government with over 75 hospitals (21 public and 54 private) and over 550 residential and aged care facilities. Catholic Health Australia (CHA) which represents these facilities has responded by declaring that euthanasia will not take place in Catholic hospitals. In its submissions to government, CHA wrote that its members are committed to providing the best possible compassionate care, and that governments should divert funding into palliative care programs where we can compassionately protect and dignify a patient's life rather than hasten their death.²⁸ There may be some uncertainty on the future impact on our Catholic public hospitals by taking this stand if we are to continue to receive government funding.

Secondly, there are emerging discussions on changing the education of health care providers. Part of this change is to provide training for all interns in palliative care departments, prior to the practice of their immersion in emergency departments. This move would have doctors well trained in understanding palliative care to help cover the shortfall in regional areas. With greater education in palliative care for all relevant health professionals, and palliative care training modules in universities, a far better treatment in palliative care is highly likely.²⁹

Finally, we can learn from Indigenous Wisdom. Aboriginal people have taught us about connection with land, community and time. Aboriginal people speak of the need of human memory and the spirits of the great, great, great grandfather in order to look forward to the great, great, great grandchild through imagination when we are making important collective decisions. For Aboriginal and Torres Strait Islander people, health is a holistic notion; it is considering not just the well-being of individuals, but also that of communities, time and country. The question must always be asked, how do we want our future grandchildren to die?³⁰

Conclusion

Catholic health care in Australia like most countries has a long history of caring for the poor and vulnerable. As the Australian Parliament continues to debate current euthanasia legislation, Catholic health care will continue to advocate for the vulnerable, especially its First People and the elderly. In a growing secular world, we are challenged by Jesus' words of fullness of life and the parable of the Good Samaritan. That is the mission entrusted to us, to continue to be that voice for the voiceless. To lose compassion is to lose what it means to be human. When St. Paul wrote to the people of Rome that the life and death of each of us has its influence on others (Romans 14:7-12), he recognized the most

fundamental fact: We are relational beings and for us Australians, our Aboriginal people show us this truth. We have much to learn from our Aboriginal people and those in end-of-life care, for they teach us how to care, they teach us how to let go, and they teach us how to live and how to die.

¹ In Australia, voluntary assisted dying / suicide is more commonly referred to as Euthanasia.

² Census of Population and Housing: Nature and Content, Australia 2016. www.abs.gov.au

³ <https://www.parliament.vic.gov.au/publications/research-papers/send/36-research-papers/13834-voluntary-assisted-dying-bill-2017>

⁴ Australia consists of 6 States and 2 Territories. The Territories are much smaller in population with laws governed by the Commonwealth of Australia. The 1995, the Euthanasia Bill was overturned in 1997 when the Northern Territory was ruled not have the power to make such laws.

⁵ See Professor Rod MacLeod, "More Palliative Care Services needed for Rural and Regional Australia", Hammond Report, April 10, 2017 and the "NSW Palliative Care the Subject of Scathing Auditor-General Report", ABC News, 17 August 2017.

⁶ John Keown, *The Law and Ethics of Medicine*, Oxford University Press, Oxford, 2012, p.26

⁷ The recent death of well-known Australian scientist 104-year-old David Goodall who travelled to Switzerland to end his life was quoted as saying, *If one choses to kill oneself, then that should be fair enough. I don't think anyone else should interfere.* See Guy Birchall, "What We Waiting For?", *The Sun* 10th May 2018.

⁸ Manfred Novak, "UN Covenant on Civil and Political Rights: CCPR Commentary" (NP Engel, 2nd rev. ed, 2005) as quoted in Australian Human Rights Commission, *Euthanasia, Human Rights and the Law*, May 2016 pages 30-34.

⁹ Karl Quinn, "Language as a Battlefield: How we got from Euthanasia to Voluntary Assisted Dying", *Sydney Morning Herald*, 12 October 2017.

¹⁰ Julia Medew, "Euthanasia: A question of Trust", *Sydney Morning Herald* November 12, 2014.

¹¹ Thomas Malthus, "An Essay on the Principle of Population" as quoted in Prateek Agarwa, "Intelligent Economist" April 2, 2018. <https://www.intelligenteconomist.com/malthusian-theory/>

¹² See Robert Mickens, "Learning to Get Real by Pope Francis", *NCRonline.org*, Jan 26, 2015 <https://www.ncronline.org/blogs/roman-observer/learning-get-real-pope-francis>.

¹³ See <http://theconversation.com/census-2016-shows-australias-changing-religious-profile-with-more-nones-than-catholics-79837>

¹⁴ See Dan Fleming, "We need better Ethical Arguments when the Stakes are So High", *Health Matters*, Catholic Health Australia, Autumn 2018, p.33

¹⁵ Catherine Liddle, "Why a connection to country is so important to Aboriginal communities. 3 August 2017

<https://www.sbs.com.au/nitv/article/2015/10/22/why-connection-country-so-important-aboriginal-communities>. See also Cynthia Ganesharajah, "Indigenous Health and Well-being: The Importance of Country", *AIATSIS*, April 2009.

¹⁶ History has shown us that Aboriginal People have a complex kinship which does not allow for intermarriage and with over 500 nations and over 280 languages spoken, an understanding of working the land and strict mores that were governed by the Elders of the community.

¹⁷ For more on the Stolen Generations refer to <https://www.australianstogether.org.au/discover/australian-history/stolen-generations>.

¹⁸ For information on Mabo refer to <https://aiatsis.gov.au/explore/articles/mabo-case>

¹⁹ For more on Closing the Gap refer to the latest reports <https://closingthegap.pmc.gov.au>.

²⁰ To be recognised as Aboriginal requires verification of Aboriginal descent, self-identification, and community recognition to which a Certificate of Aboriginal identity is issued. See www.antidiscrimination.justice.nsw.gov.au

²¹ "Aboriginal Issues", Senate Legal and Constitutional Legislation Committee *Euthanasia Laws Bill 1996*, March 1997 p. 39-55. Euthanasia also raises issues of security for medical teams who will administer when in Aboriginal Culture to deliberately kill someone can cause a payback situation." p.55

²² Julia Medew, "Euthanasia: A Question of Trust". *Sydney Morning Herald* November 12, 2014.

²³ Australian Institute of Health and Welfare, "Older Australia at a Glance", 21 April 2017 see <https://www.aihw.gov.au/reports/older-people/older-australia-at-a-glance/contents/demographics-of-older-australians/australia-s-changing-age-and-gender-profile>

²⁴ Refer to World Health Organisation: http://www.who.int/ageing/projects/elder_abuse/en/

²⁵ Julia Medew, "Euthanasia: A Question of Trust". *Sydney Morning Herald* November 12, 2014.

²⁶ Guy Birchall, "What We Waiting For?", *The Sun* 10th May 2018.

²⁷ (Unpublished paper) Margaret Somerville, *Unaddressed Issues in the Australian Euthanasia Debate*, p.12

²⁸ CHA Australia, Voluntary Assisted Dying Bill Discussion Paper.
https://cha.org.au/images/CHA_Submission_Victorian_assisted_April_10_2017_FINAL.pdf

²⁹ Professor Rod MacLeod, “More Palliative Care Services needed for Rural and Regional Australia”, Hammond Report, April 10, 2017.

³⁰ Margaret Somerville, “The Ethical Imagination, Human Memory and Proposed Victorian Euthanasia Legislation.” Address to the Annual Dinner for the Victorian Catholic Doctors and Catholic Lawyers, 17 June 2017. (Unpublished) See also National Aboriginal Community Controlled Health Organisation “Aboriginal health means not just the physical wellbeing of the individual but refers to the social, emotional and cultural wellbeing of the whole community in which each individual is able to achieve their full potential as a human being thereby bringing about the total wellbeing of their community.” <http://www.naccho.org.au>