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EDITORIAL

The impact of Voluntary Assisted Dying legislation on indigenous populations

In an erudite and moving article first published in Parliament of New Zealand after a second reading, the Weekend Australian,¹ Senator Patrick Dodson has questioned the benefit of the proposed WA legislation for "voluntary assisted dying" (a euphemism for euthanasia) for aboriginal Australians. He regards the Bill as having the potential to exacerbate existing distrust in "whitefella medicine" and that it will drive a wedge in efforts to "bridge the gap". He argued that it will cause overall detriment, with little gain, to first nation peoples. He claimed that the Bill has been introduced without due consultation with the aboriginal community. It is a persuasive article.

In October 2019 your editor worked briefly at Tauranga Hospital, New Zealand and was interested to discover that a similar Bill (the even more euphemistically-named End of Life Choice Bill²) is currently proceeding through the

As a unicameral House, the NZ Parliament lacks a formal review process and relies on public submissions for this function. Tauranga is a rather well-heeled community with a high number of retirees, but it also has a sizeable Māori community. As a result of Dr Dodson's article and an unexpected request from a dying Māori patient's daughter for me to "euthenase" her father, who was unconscious after an intracranial haemorrhage (justified by the fact that the Bill had been tabled in the Parliament), I wanted to know whether similar comment had been requested or received by NZ legislators in respect of the Māori community. It turned out that this is indeed the case, and that similar reservations to Dr Dodson's have been voiced. We quote below directly from the prologue to the draft Bill containing a report of submissions received by the NZ Parliament.²

Māori tikanga

Although not all submitters who identified as Māori oppose the bill or consider it inconsistent with Māori tikanga (values), others have several concerns. Submitters described a Māori worldview where people are part of their whānau, hapū, and iwi, where care, respect, and reverence are shown for the elderly and terminally ill, and life and wairua (spirituality) are valued. Some believe that assisted dying would breach the tapu (sacredness) of the person and have spiritual consequences for those involved.

Some submitters consider that the bill would breach the Treaty of Waitangi. In particular, they cited the Treaty's underlying principle of tiaki (protection) of Māori values and, under Article 2, the concept of the taonga (treasure) of life.

Other submitters consider that the bill would contravene holistic models of Māori health, such as Te Whare Tapa Whā, which sets out four equally balanced foundations of Māori health: physical, spiritual, family, and mental.

Belief that the bill would contribute to discrimination in the health system

Some submitters believe that assisted dying would further contribute to discrimination and prejudice that already exists in the health system. They consider that Māori and Pasifika are less likely to be able to pay for health care, and that they receive lower standards of care and have less access to palliative care. Therefore, they believe these groups will be disproportionately more likely to request assisted dying than other groups.

Submitters also believe that these groups are less likely to be treated by health practitioners of their own culture or those who understand their world view. They regard it as important that health practitioners understand the

correct procedures for tāngata māuiui (sick people), their transition to death, and the treatment of tūpāpaku (the deceased).

Consulting with non-Western cultures

Many submitters recommended that leaders of non-Western cultures be consulted about the bill and its potential effect on members of these groups. They noted that a written submission process may not obtain fully representative views from these groups. Some submitters observed that Māori tikanga concerning life and death will vary across the country, so wide-ranging consultation is important.

The ethnic dimension on both sides of the Tasman Sea is just one of the underlying complexities of euthanasia. Setting aside the point of principle of whether it is ever ethical to deliberately end a life for medical reasons (if such an issue can be set aside), the concerns of this Journal in relation to the WA Bill are the changed roles of the State, citizens and medical practitioners at the end of life, the position of individual doctors whose opting-out capacity for reasons of conscience is diminished, the undermining of Palliative Care, the implied creation of a new medical specialty to undertake the "assistance", and the likely extension of listed criteria for the supposedly voluntary act, as has been seen in other jurisdictions.³ Similar comment in relation to corresponding legislation in Victoria has appeared in one of our sister journals.⁴ To these concerns, Dr Dodson has added detriment to the aboriginal community, already facing chronic and profound problems. One difference between Australia and New Zealand in this area is that most of the Australian public appear, on the basis of street demonstrations and conversations held by the author, to be in favour of the legislation, but no formal survey has been done to our knowledge. On the other hand, the NZ Parliament records that 90% of submissions were against.² However, this is not a comparison of like with like, and caution is required when one is faced with claims of support for or opposition to emotive legislation. As an example, we note claims that 80% of WA nurses support the WA Bill,⁵ but this claim arises from a survey of 32,000 nurses to which only 6000 responded (a response rate of 18.75%).⁶

The opportunities given to the aboriginal community to comment on the WA legislation and their overall concerns are far from clear. Dr Dodson has claimed that consultations were not conducted well, that stakeholder submissions were not made to an exposure draft of the bill, and that too many assurances depend on the 18-month implementation phase.⁷ However, the government claimed that "*the expert panel was aware that Aboriginal health services link with local and community services to facilitate cultural and spiritual support that is needed at end of life for people, their families and communities.*"⁷ This statement does not go to the core of the matter. In apparent contrast to Dr Dodson's concerns, another Kimberley indigenous leader stated "*some of the concerns raised by opponents of euthanasia which cast*

Aboriginal people as vulnerable and at risk from the proposed legislation were furphies used as wedge politics." It is possible this odd comment was directed at an MP (Rick Mazza) who attempted to delay the Bill on the pretext of a claimed negative effect on the aboriginal community.

Both Australia and New Zealand have well-established obligations backed by legislation (and in New Zealand, by the Treaty of Waitangi) to protect and support their indigenous populations. Whether these obligations have been given due attention in WA is uncertain. In New Zealand, it remains to be seen whether the concerns noted by the Parliament are resolved if the Bill is passed.

References

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