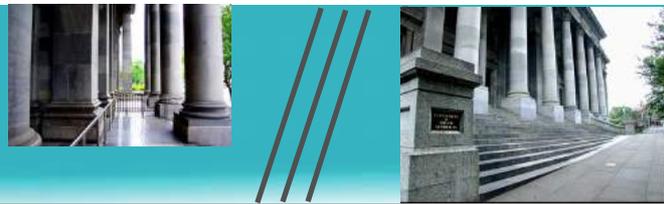


End of Life Choice



Newsletter on current debates

Voluntary Euthanasia in Australia

The following description of the current practice of voluntary euthanasia in Australia is from the final report of *The Parliament of Victoria Legal and Social Issues Committee Inquiry Into End of Life Choices, June 2016*. (pp173-185)

Prosecutions for assisting another to die

Family and friends have been prosecuted for assisting a loved one to die with offences ranging from aiding and abetting suicide to attempted murder.

There have been 10 prosecutions in Victoria over the last 25 years. Nobody prosecuted for assisted dying has received a custodial sentence.

A constant theme in case law is the remarkable degree of leniency shown to offenders, even though there is a clear violation of the criminal law. This pattern of leniency resonates with experiences in other Australian jurisdictions and in international jurisdictions.

The reliance on individual discretion to achieve just outcomes rather than the systematic implementation of the law ... suggests that the law as it stands does not align with the community's views of reprehensibility. This analysis is reflected in the judgment of Justice Cummins in *DPP v Rolfe*:

Your actions do not warrant denunciation; you should not be punished; there is no need to deter you from future offences; and you do not require reformation.

If such actions are not reprehensible, it is important to determine whether it is reasonable and just that people who assist a loved one to die should bear the stigma and opprobrium of prosecution and criminal conviction.

Unlawful medical practice

A 2001 study of the attitudes of surgeons to assisted death found that 36 per cent

had administered drugs in doses larger than necessary to relieve symptoms with the intention of hastening death. (Douglas et al, *MJA*, 175/10, p511)

These findings were echoed in a 2007 study that found 43% of doctors who had treated at least one terminally ill patient had been asked at least once to hasten death by administering drugs. The study also found that 35% of these doctors reported administering drugs with the intention of hastening death at least once.

Despite facing potential criminal convictions, medical practitioners are openly performing unlawful assisted dying. This is occurring in an unregulated environment, sometimes in circumstances that compromise patient care.

Dr Edward Brentnall, MBE, OAM, told the Committee that he and other doctors act to end patients' lives:

Many doctors have acted to end patients' lives when their suffering is due to an incurable illness. I have certainly done so.

Professor Hal Swerissen of the Grattan Institute:

We currently allow voluntary euthanasia, but we have it hidden.

Doctors not prosecuted

There have been no prosecutions of doctors in Australia for assisting a patient to die, despite evidence that they do. There are several reasons:

- criminal law institutions have no way of identifying end of life medical cases that ought to be investigated
- police and prosecuting authorities are reluctant to pursue suspected cases of doctors performing assisted dying
- there are serious evidentiary obstacles in proving that a doctor intended to hasten the death of a patient in administering treatment.

The obstacles to prosecuting doctors for providing assisted dying and the lenient treatment of people charged with assisting a loved one to die indicate serious flaws in the end of life legal framework.

The widely acknowledged fact that members of the medical profession are known to be breaching the law but avoid prosecution shows that those in authority do not believe that justice would be served by robust application of the law as it stands.

Impact on Patient Care

Under the existing legal framework, what is available to patients at the end of life depends on what their doctor may suggest or be willing to do. In the absence of criteria and safeguards, decision making relating to assisted dying depends on the values of individual doctors and their interpretation of a situation.

Professor of Public Health at the University of Melbourne, Rob Moodie, expressed this view in his submission:



For many doctors their ability to provide adequate end of life care and to relieve intolerable pain and suffering can become an entirely arbitrary situation which depends on the medical practitioner's courage and moral beliefs, on the patient's disease, and on where the patient is based.

Certain patients may gain access to lethal medications or assistance from health practitioners in ending their lives. Others may have the means to travel to a jurisdiction where assisted dying is permitted. These options are far less accessible to disadvantaged groups.

This point was also made by Dr Roger Hunt, Medical Head of Palliative Care at the Queen Elizabeth Hospital in Adelaide in his submission:

The law is unfair because it doesn't treat people equally. Some people can be helped to die on their own terms as a result of their knowledge or connections; some are able to hasten their death by the refusal of life-sustaining treatment. But others do not have access to the means for their life to end.

In the absence of regulation, there is the risk of a lack of accountability, transparency, and oversight of medical practices that end in death. As such, there is a risk of inadequate protection of vulnerable people from coercion, no verification that assisted dying is a measure of last resort and no established criteria for assessing the merits of a request for assisted dying.

This point was made clear by Professor Moodie in his submission:

There is almost complete silence within the profession about the end of life practices that do occur, and this lack of transparency actually can open up the possibility of abuse.

SAVES

South Australian Voluntary Euthanasia Society

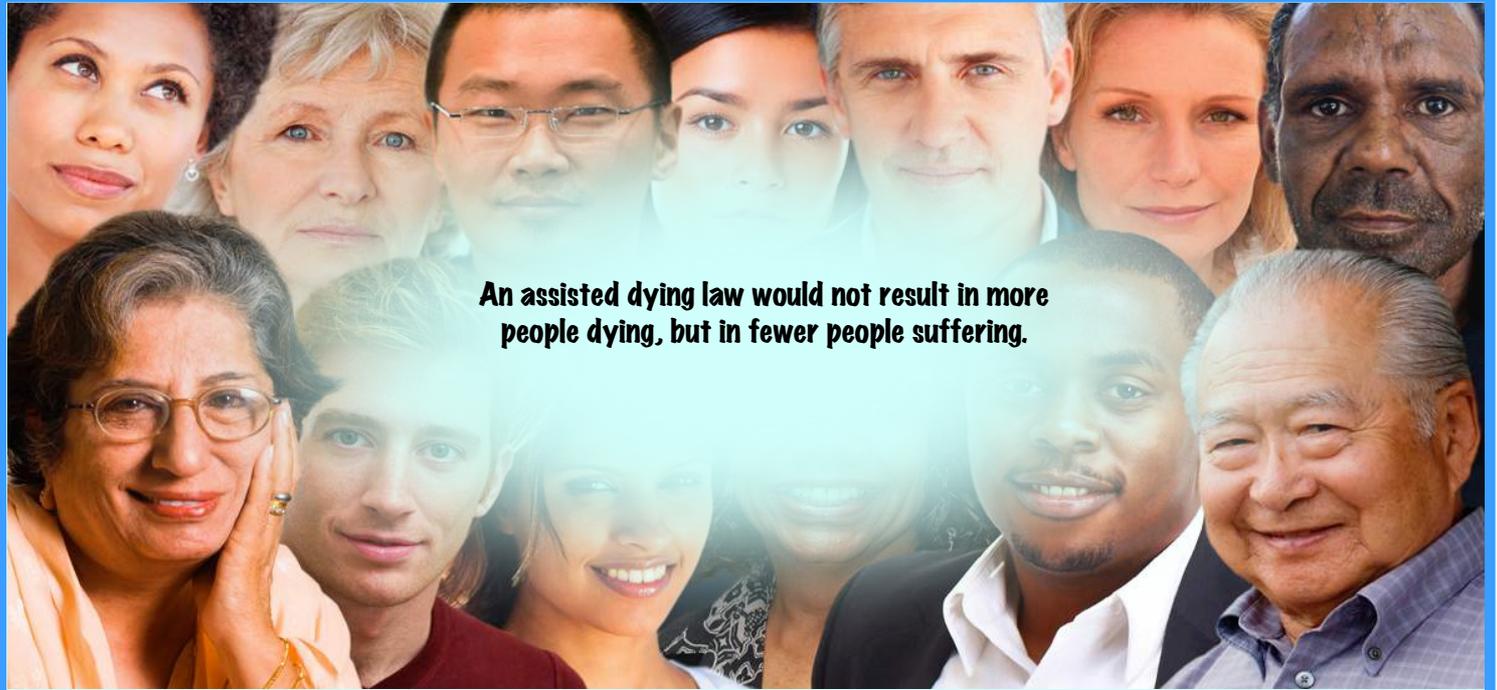
saves.asn.au



Compassion for suffering
The freedom to choose
Add your voice to the call



SAVES was established in 1983 to campaign for legal, medically assisted choice in end-of-life arrangements. The aim is to relieve suffering by providing choice for people at the end of their life. SAVES works in the community and with Members of Parliament to achieve law reform.



An assisted dying law would not result in more people dying, but in fewer people suffering.

"Knowing the pathology being faced, the lack of any treatment to reverse its inevitable progress, and aware that effective palliative care is doing its best, I may recognise that a patient's option for an assisted death is logical, and is sought with clarity and respect, free from anger or despair. In such circumstances I would value an assurance that I would incur no risk of criminal action in providing assistance for that release."

**Em Prof of Palliative Care, Ian Maddocks,
AM MD FRACP FAFPHM FChPM DTM&H
Senior Australian of the Year 2013**

"I think those who have a terminal illness and are in great pain should have the right to choose to end their lives, and those who help them should be free from prosecution."

Prof Stephen Hawking, Cosmologist and Author

Specialist Support Groups

Christians Supporting Choice for Voluntary Euthanasia
christiansforve.org.au

Doctors for Voluntary Euthanasia Choice
drs4vechoice.org

South Australian Nurses Supporting Choices in Dying
facebook: [SA Nurses Supporting Choices in Dying](https://www.facebook.com/SANursesSupportingChoicesinDying)
My Body My Choice

facebook: [facebook.com/pages/MY-BODY-MY-Choice-VE](https://www.facebook.com/pages/MY-BODY-MY-Choice-VE)

Voluntary Euthanasia Youth Advocates
facebook: [Support SAVE-YA Law Reform](https://www.facebook.com/SupportSAVE-YA-Law-Reform)

Lawyers for Death with Dignity
saves.asn.au/lawyers

Resources

Andrew Denton's GoGentleAustralia website

<http://gogentleaustralia.org.au>

SAVES End of Life Choice Newsletters

<http://www.saves.asn.au/newsletters.php>

The Wheeler Centre podcasts Better Off Dead

<http://www.wheelercentre.com/broadcasts/podcasts/better-off-dead>

The Voluntary Euthanasia Story: the epic journey to make it legal - Adelaide forum, June 2015

<http://www.saves.asn.au/resources.php>

