

An Address by Jeanne Arthur President, Dying with Dignity ACT Inc.

The Australian Constitution **Section 116, Commonwealth not to legislate in respect of religion**, The Commonwealth shall not make any law for imposing any religious observance....

The prime task of DWDACT is to bring about law reform in the area of dying. We wish to make the choice to die the decision of the individual supported by the state.

One of the ways in which we have addressed the need for law reform is to look at existing law and to propose changes to it. Until this year our focus has been on law in the ACT. Our alternative to existing law is a proposal for an elective death and elective death centre which would enable people to die safely and peacefully. This year our focus has turned to Federal law and in particular to the Australian constitution.

Many people imagine that the way we die now is natural and everything we do to manage death is the normal way to think and act about the ending of life. In fact religious ideas have been embedded in our law for thousands of years; in particular, religious ideas about the purpose of suffering.

When the Northern Territory government made a decision 22 years ago to provide assistance to die it was the first government in the modern world to respond in a human rather than a religious way to the suffering of people at the time of their deaths. It was proposing a secular response to dying rather than a religious one.

Why did its very conservative proposal to assist people to die threaten politicians then and continue to pose a threat to politicians now? Part of the answer can be found in the *Declaration on Euthanasia in the Sacred Congregation for the Doctrine of the Faithful* provided by the Vatican on its website.

There are three points at which the decision to permit assistance to die rather than to penalize giving assistance confronts the religious response.

Firstly the religious see it as promoting suicide. The fact that Crimes Acts around the country state that the act we call suicide is not a crime is irrelevant to Church authorities. In absolute contrast to these laws The Declaration on Euthanasia states *Intentionally causing one's own death, or suicide, is therefore equally as wrong as murder; such an action on the part of a person is to be considered as a rejection of God's sovereignty and loving plan.*

Secondly according to the Declaration giving assistance to die is *an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated. Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used. It is necessary to state firmly once more that nothing and no one can in any way permit the killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying. Furthermore, no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care, nor can he or she consent to it, either explicitly or implicitly.*

Thirdly, according to the Declaration, *suffering, especially suffering during the last moments of life, has a special place in God's saving plan; it is in fact a sharing in Christ's passion and a union with the redeeming sacrifice which He offered in obedience to the Father's will. Therefore, one must not be surprised if some Christians prefer to moderate their use of painkillers, in order to accept voluntarily at least a part of their sufferings and thus associate themselves in a conscious way with the sufferings of Christ crucified (cf. Mt. 27:34). For a person not only has to be able to satisfy his or her moral duties and family obligations; he or she also has to prepare himself or herself with full consciousness for meeting Christ. Thus Pius XII warns: "It is not right to deprive the dying person of consciousness without a serious reason."*[6]

You might be asking yourself what has all this to do with the modern secular world? Why would modern law concern itself with these ideas? Once again the answer can be found in the Declaration which states, *no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care, nor can he or she consent to it, either explicitly or implicitly nor can any authority legitimately recommend or permit such an action.*

Members of our Federal Parliament are bound by the Australian Constitution which states in **Section 116, Commonwealth not to legislate in respect of religion**, The Commonwealth shall not make any law for imposing any religious observance....

A religious observance is defined in the Compact Oxford English Dictionary as compliance with the requirements of law, morality or ritual.

Current Federal and ACT law complies with the Vatican's definitions of euthanasia. It denies the validity of Section 16 of the ACT Crimes Act which makes suicide not a crime. Consistent with the Declaration it makes the act of choosing to die or of giving assistance to die acts of intentional killing. In doing this it forces everyone into having to die of disease in order that they have a meeting with God and fulfil God's plan whether they are religious or not. Only death by disease enables us to suffer and to meet Jesus.

How has it come about that the modern Australian nation has let itself be lumbered with a 2000 year old religious law that affects a crucial aspect of everyone's lives?

In a recent article in *The Conversation* Jonathon D James wrote,

Surprisingly, Christians currently number more than 40% of the Coalition government and about 30% of the Labor opposition. This is high for a nation labelled "secular".

If you think this is high I advise you to observe the swearing in of the next new government where I estimate 90 percent of the Coalition members will pick up the Bible and about half of Labor MPs will.

This very high level of infiltration by religious MPs in our parliaments across the country has meant that all moves to make change towards a secular law have failed. Our MPs have correctly assumed that we would not know about Section 116 of the Constitution and we would not notice why they were voting the way they were and that therefore we would not challenge them.

For example when the Euthanasia Laws Act was being debated Peter Costello, the then Deputy Prime Minister and treasurer spoke in favour of it saying *My view is that the dignity of life is such an important principle to be valued above other human rights that it should never be surrendered easily and, if at all possible, never surrendered. It is a religious belief; a moral belief, if you like. You either take that view or you do not, in my opinion. I do take it. People who do not take it I do not think will ever be persuaded. But it is fundamental, I think, to the beliefs that have guided our civilisation and our society from the days of the Ten Commandments. It is the Judaeo-Christian ethic, 'Thou shalt not kill.' My belief is that, as a result, human life is something important and the dignity of life is to be prized highly.*

Another Coalition MP Mr Baldwin stated *The Holy Bible teaches us that our bodies are not our own to do whatever we like with; that God created us in his image and that we are the stewards of those bodies and, as stewards, we will be given an opportunity to give account of that stewardship. Our bodies are the temples of God and therefore sacred to Him and it is not our right to destroy that which is not ours to own. In doing so, we break the fifth commandment, 'Thou shall not kill.'*

It was only this year when I was looking for a means to challenge the Federal Parliament's constitutional right to make laws for the territories that I came across the clause that denied them the right to make law for imposing religious observances. I contacted Ian Wood who is the convenor of Christians for VE who gave me a number of documents that opened my eyes to the clear impact religious belief had in the passage of this Act. I believe that our politicians have broken the law and we pay the penalty for it. The deaths we experience are the

result of their allegiance to their own brands of religion whether it's based in Rome or wherever. I don't think I have ever felt betrayed by Australian politicians before but I do now.

The fact that Dying with Dignity ACT has members who are religious shows that it's not necessary to impose the observances described in the Declaration on us. Dying at a time of your own choice with assistance for them still means that when they die they will meet God.

Dying with Dignity ACT is following this through. We are once again looking for legal advice and support to make a challenge in the High Court to the Euthanasia Laws Act.

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