

Death Discrimination

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Topic: Legal: Should the following law be maintained?

A person who aids or abets the suicide or attempted suicide of another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

ACT Human Rights Law

Human rights may be subject only to reasonable limits set by territory laws that can be demonstratively justified in a free and democratic society.

Everyone has the right to enjoy his or her human rights without distinction or discrimination of any kind.

Article 26 of the International Covenant on Civil and Political Rights which is embedded in the ACT Human Rights Act states that

'All persons are equal before the law and are entitled without discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

ACT Crimes Act 1900

- **Suicide**
- Section 16 Suicide etc – not an offence
- The rule of law that it is an offence to commit, or to attempt to commit, suicide is abolished.

AN ELECTIVE DEATH

An Elective Death would be based on the following principles:

- It is the responsibility of government to ensure that everyone dies with dignity.
- A good health system should be able to guarantee a good death.
- A good death is defined as a peaceful, pain free and quick death.
- Like birth, death is a matter of individual choice and in the same way it should be supported by the state.
- To elect death is a legitimate goal that people may have for themselves.
- An Elective death respects people's right to die at the time of their choice.
- An Elective death is defined as a voluntary decision to shorten one's own life.

Elective Death Unit

An Elective Death would be provided in an Elective Death Unit

- An Elective Death unit would be well-publicized in or linked to a local hospital.
- The Elective Death Unit would have a) a 24 hour a day service with the resources to make professional personal, financial, and relationship counselling available to clients as well as immediate access to police, the coroner, organ donation and funeral services; b) an education facility designed for all members of the community and targeted for specific age groups and their particular stage of life needs to educate and inform people about death; to assist people to let go of life, to understand what death is and to prepare themselves for death; c) rooms with the facilities to assist those wanting an elective death to die comfortably in the presence of people they select; d) provision of the facilities to enable a peaceful, pain free and quick death to be undertaken independently without the help of other people.

Elective Death Unit

- The Elective Death Unit would provide any adult ACT citizen with an elective death following a) provision of a reason for the wish for death, b) offers of help through counselling or other assistance as needed, c) a cooling off period negotiated with the person wanting to die. The decision to die would be respected as would the decision to live.
- On diagnosis of a terminal illness, terminally ill people may request a referral from their doctors to the Elective Death unit for an elective death at the time of their choice. Accessing the counselling services of the Elective Death Unit would be a matter for them.
- The Elective Death unit would be required to maintain records of the reasons for people requesting an elective death and report regularly to the Assembly on their findings.
- The ACT Government would co-ordinate public and private health systems to link into the Elective Death unit so that they can refer clients to it.

Death by disease compared with an Elective death

Death by Disease	An Elective Death
Suicide	Elective Death
People die by hanging, gassing, shooting, drowning, jumping etc.	People receive counselling and if they still want death they are provided with a peaceful death
Doctors who assist a death are criminals	Doctors refer patients to elective death unit
People die without assistance in a variety of places as a result of their diseases.	People would take their referral to the elective death unit to die there. Alternatively the elective death unit staff would go where they were required to assist people to die.
Medical staff are currently required to make people comfortable but have to stand by watching while people die as do families.	Staff, are trained in the processes required and use of medications specifically to assist people to die. They don't necessarily have to have medical backgrounds.

Response to the decriminalizing of suicide

Section 17 Suicide – aiding etc

- A person who aids or abets the suicide or attempted suicide of another person is guilty of an offence punishable, on conviction, by imprisonment for 10 years.

Federal Law

Australian Capital Territory (Self Government) Act 1988

Part IV Powers of the Legislative Assembly

Section 23 Matters excluded from power to make laws

- (1A) The Assembly has no power to make laws permitting or having the effect of permitting (whether subject to conditions or not) **the form of intentional killing of another called euthanasia (which includes mercy killing)** or the assisting of a person to terminate his or her life.

Human Right

Everyone has the right not to have his reputation unlawfully attacked.

Human Right

No-one may be treated or punished in a cruel, inhuman or degrading way.

Murder

(1) A person commits murder if he or she causes the death of another person—

- intending to cause the death of any person; or
- with reckless indifference to the probability of causing the death of any person;

Human Right

Everyone has the right to liberty and security of person.

Human Right

Every person has the right to life and has the right not to be arbitrarily deprived of life.

Human Right

Every person has the right not to be arbitrarily deprived of their property.

ACT Human Rights law states

‘.....the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground, such asproperty.’

Our right to choose

- ‘it is fundamentally wrong for governments to make choices for us about our own bodies. People do not belong to the government. The denial of the right to die at a time of our choosing can result in a lingering, painful death. If the law prevents us from making free choices about our lives, then we are not free at all.’

Conclusion

- The label 'suicide' should be allowed to drop out of modern languages and be replaced by the term elective death because it has no meaning in modern law.
- People should be given assistance to die. Law to the contrary should be repealed.
- People who give assistance do not have to be medical staff. They should be specifically trained to provide the full range of assistance required but helping people to die does not need high level medical skills.
- All the issues around people wishing to die should be fully discussed, not just the issue of giving assistance when people are dying of disease.
- Law that denies assistance to die actively and cruelly discriminates against those who wish to die in any way other than by disease. This is unacceptable.
- Governments' assumption that we can only have safety in death if we agree to maintain the laws as they are is incorrect because with an Elective Death we could have not only safety but also freedom, compassion and a good death.