

# Brown's euthanasia bill a perilous test for Gillard

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## **THE Labor leader should not let this law be put back on the books.**

NEW Prime Minister Julia Gillard will be called on to reveal more of her core beliefs, with the immediate test being the euthanasia bill that highlights a cultural divide in Western society.

Greens leader Bob Brown's decision to introduce a private member's bill to restore the power of parliaments in the Northern Territory and the ACT to legislate for euthanasia poses a political challenge for the minority Labor government and for Gillard.

Brown's bill in its mechanics deals with territory powers but its essence is to open the door to euthanasia in Australia.

The bill is facilitated under new parliamentary procedures and the Labor-Greens alliance.

Gillard has announced that Labor will allow a conscience vote but that cannot gainsay the political question: Will the Gillard government become the means to authorise legalised killing in Australia by abandoning the 1997 law of the national parliament?

This would be a threshold and false step for Australia. It is difficult to imagine that Gillard wants this stamp on her prime ministership.

During the past dozen years euthanasia has won little acceptance in most Western nations beyond The Netherlands and Belgium in Europe and the states of Oregon and Washington in the US. Two years ago human rights champion Frank Brennan told a Senate committee: "Since the commonwealth exercise the US Supreme Court has said there is no right to euthanasia. It would seem to me that on balance nothing has changed or, if anything, the anti-euthanasia case is probably slightly strengthened if we look at developments in equivalent jurisdictions."

The clinching case against euthanasia has been put by Australian-Canadian lawyer and ethicist Margaret Somerville in evidence to the Australian parliament: "If you look at the most fundamental norm or value on which our type of societies are based, it is that we do not kill each other. No matter how compassionate and merciful your reasons for carrying out euthanasia, it still alters that norm that we do not kill each other to one where we do not usually, but in some cases we do."

Once this threshold is crossed and killing is sanctioned, what are the terms, conditions and safeguards? Given the frailty of human history, does anybody doubt the scope and scale for abuses?

In a speech to the NSW parliament on October 16, 1996, premier Bob Carr said this question was "the bottom line that we must face as legislators": Was it possible to legislate euthanasia with the safeguards necessary to assure the sick, vulnerable, indigenous and invalid? "I do not think it is possible," Carr answered as the parliament found against euthanasia.

In 1995 the Northern Territory passed its euthanasia law, an event of moment for the Territory and Australia. The law was a shocker and the safeguards deficient. It was negated by the 1996 bill moved by Liberal MP Kevin Andrews, as a private member, carried in the House of Representatives on an 88-35 conscience vote on December 9, 1996. In the Senate the Andrews bill was passed 38-33 in March 1997.

The national parliament's overriding of the Territory was a proper exercise of its constitutional powers and political authority. There was no issue of territory rights, then or now. The national parliament had the constitutional power and, as Andrews said, if the national parliament could not legislate on an issue that went, literally, to the life and death of its citizens, then what on earth was its purpose?

The entire key to the euthanasia debate lies in its great paradox: consistent polls showing a majority in favour. But what, exactly, are people supporting? The 1996-97 debate provides the answer: most people think that turning off life-support machines and discontinuing life-preserving treatment is euthanasia. In fact, this is nothing to do with euthanasia. Indeed, it is the precise opposite of euthanasia. If a family turns off a life-support machine, the patient dies because of their illness, not because of the doctor. But if the doctor gives a lethal injection, then the patient is killed. This is a fine yet critical distinction.

Because euthanasia involves one person being sanctioned to kill another, it cannot be seen just within a human rights framework. It is an ethical and intellectual failure to pretend that euthanasia is merely a human right awaiting recognition. It is about society and its norms and values. There is no escaping the chasm that euthanasia crosses. Creation of a legal framework to permit killing must affect the way all people perceive their lives and the expectations that friends, family and doctors have of patients.

This issue was best put by former NSW politician Tony Burke, now Minister for Sustainability and Environment in the Gillard government, when he led the 1996 campaign from Labor's side: "There is a maxim often used in the capital punishment debate which applies perfectly to legalised euthanasia: whether you support it or oppose it in principle, if one innocent person is going to be killed, that is too high a price." Exactly.

Former Labor MP Lindsay Tanner, on October 28, 1996, tore to shreds the logic of the Northern Territory law. Asking where the line should be drawn, Tanner asked rhetorically: "Why is it that it is only the terminally ill? Why shouldn't it also be the severely disabled? Why not somebody with an incurable mental illness? Why not children who are terminally ill?"

Tanner's point is that lines cannot be firm or fixed. Reinforcing his argument is that many euthanasia advocates, such as Peter Singer, actively promote its extension more widely.

Tanner also dismissed the furphy about territory rights, saying it was absurd to let the Northern Territory, representing 1 per cent of the people, make such a decision affecting all Australians. Finally, he asked: What about the terminally ill who do not want to die? Good question. It was the question hammered by Burke and Andrews. Once the killing culture is established, the aged, sick and disabled will have to consider whether to put up their hands. They will feel obligated. Financial pressures, healthcare costs and expectations of family will assume new dimensions.

The old joke for the sick is that euthanasia is "putting us out of your misery".

Yes, some people in pain want to die and it is hard to deny their claim. Yet there are many others glad to be alive today who would have volunteered for euthanasia if it had been legal five years ago. As Andrews said in 1996, a well person who is suicidal is offered counselling, but under euthanasia an ill person who is suicidal becomes an option for death.

Brown's bill will enable the territories, if they wish, to pass new euthanasia laws.

Gillard gave a tentative sign last weekend of her doubts.

She will guarantee harsh judgments by branding herself as a pro-euthanasia PM or, even worse, by letting such laws back on the books.