

## Managing Mortality, Euthanasia on Trial

by Ian Parsons and Christopher Newell; Villamanta Publishing Service, Geelong, 1996; 208 pp; \$24.95 softcover.

The first legislation in Australia — and indeed the world — legalising active euthanasia has recently come into effect. There has been extensive publicity surrounding the preparation and passage of the *Rights of the Terminally Ill Act 1995* (NT) and the various challenges that are still occurring.

*Managing Mortality* covers many of the current issues but it is different from other books on euthanasia in several ways. First, as suggested by the title, the book presents a 'trial' of the issues by a 'jury' who are asked to decide, on the basis of evidence from 'witnesses', what decisions should be made for particular terminally ill people.

The jury includes people from all sides of the euthanasia debate:

renowned advocates (Marshall Peron, former Chief Minister of the Northern Territory who introduced the NT Act in Parliament, Dr Darren Russell, one of the Victorian doctors who admitted that they had helped patients to die, and Dr Helga Kuhse, Monash University philosopher);

renowned opponents (Margaret Tighe, President of Right to Life Victoria and Chairwoman of Right to Life Australia, Nicholas Tonti-Filipini, Roman Catholic bio-ethicist, the Most Reverend Dr Keith Rayner, Anglican Primate of Australia, Dr Brendan Nelson, former President of the AMA and Tony Keenan, Australian Federation of AIDS organisations);

disability workers (Elizabeth Hastings, Australian Disability Discrimination Commissioner, Tony Lawson, former President of the Victorian Guardianship and Administration Board);

disabled people (Joan Hume, quadriplegic activist writer on disability issues, and Anne McDonald, cerebral palsy, formerly Kew Cottages);

friends of the disabled (Dina Bowman, policy analyst whose disabled child died in infancy, and 'Charles' whose AIDS-infected lover was helped to die).

The second feature of the book is that it focuses on specific cases in discussing the philosophical issues. The cases are those of the 'witnesses', including:

Joanne, 58, with progressive cancer, blind, chronic nausea, distressed, whose husband supports her wish to die but whose children oppose it;

• Danny, 32, a keen athlete, quadriplegic and seeking death after an abseiling accident;

• Milan, 34, with AIDS-related dementia and infections controlled by drugs — if they were withdrawn, he would die slowly and painfully;

• Abdul, born intellectually disabled but happy until he contracted lymphatic cancer in his 20s, causing pain, distress and death within 12 months;

• Beth, a newborn baby with severe spina bifida that will allow her no potential for independent quality of life and will always require extensive medical attention and who will die if medical support is withdrawn.

The bulk of *Managing Mortality* discusses the traditional issues in the euthanasia debate, often directed to the stories of the witnesses, using the views of the jury which the authors tape-recorded and transcribed. Should mentally competent people be allowed to choose to die? Should earlier expressed wishes of once-competent people be followed when they are no longer competent? Should euthanasia be extended to non-competent people, like children and people with intellectual disabilities? Is there an ethical difference between allowing people to die by non-treatment and active intervention? What should be done if people reject palliative care? Is AIDS unique in terms of inevitable outcome and, if so, does it provide a compelling reason for changing the law? What impact might the legalisation of euthanasia have on the availability and provision of health care and other support services? Will people no longer trust doctors and be afraid to seek medical care if euthanasia is lawful? (Many other underlying and incidental questions are listed for consideration, both arising from the case studies and from the discussion in each chapter, on pp.143-53.)

The jurors' views on questions such as these are placed side by side in each chapter to allow readers to compare their responses. At the end, the two authors summarise their own conclusions — Ian Parsons, a community educator with Villamanta Legal Service, as Counsel for Euthanasia; and Dr Christopher Newell, Senior Lecturer in Medical Ethics and Disability Studies at the University of Tasmania, as Counsel against Euthanasia.

The feature of the book, however, that was most interesting for me was its exploration of the link between euthanasia and disability. This is illustrated by the first question put to the jurors: Why do people choose to die? The expected response from the pro-euthanasia perspective is that people want to die because they have severe pain or distress; they want to 'control' their time of death; they are concerned for their family and carers; they are afraid of what will come — loss of dignity, independence, self-worth, depression etc. But perhaps 'we [as a community] tend to wish people with disabilities 'out of the way' because they threaten us all' (p.20); and 'in a climate where euthanasia is lawful, Joanna is, in fact, even more likely to feel that she is a burden and, therefore, that she in a sense owes it to her family to seek an early death' (p.21). These ideas are repeated in the questions for further thought and discussion: 'Are physical and social norms and stereotypes of perfection a factor behind requests to die?' 'Is disability worse than death and why?' 'Do [media accounts of disability] suggest dominant attitudes that treat people with disability, or those on the margins of society, less favourably?'

Both authors are experts in disability issues — one from his own experience. Dr Christopher Newell lives with a disability that has threatened his life on several occasions; and Ian Parsons works for Villamanta Legal Service, a State-wide community legal service for people with disabilities in Victoria. Also, as noted earlier, several jurors have disabilities or work with disability issues. It is not surprising, therefore, that the exploration of community attitudes towards disability, and their link with views on euthanasia, is a particular strength of the book.

For legal readers, it will perhaps be disappointing that, although there are many references to 'the law', there is no mention of any of the legal cases in which judges are slowly coming to terms with changes in community attitudes and expectations in relation to dying patients. Only one juror is a lawyer (Tony Lawson) and the Bibliography includes only two legal articles (one by Margaret Otlowski in this journal ((1995) 20 *Alt.LJ* 90-3)). Also, despite the attempt to 'contextualise' the type of decisions that must be made about people seeking euthanasia, and to make them less 'abstract', by presenting the witnesses' stories, these soon become shorthand descriptions for a

common situation: 'the quadriplegic athlete'; 'the seriously ill newborn' etc. People are far more diverse and life more complicated than this categorisation suggests — though time and space are, of course, limited!

In brief, there is much in the book that will interest legal readers about the

philosophical and ethical debate in relation to euthanasia, particularly its link with community attitudes to disability. Proponents and critics of euthanasia alike should find it provocative.

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## Pink Triangle—The gay law reform debate in Tasmania

by Miranda Morris; UNSW Press, Sydney, 1995; 134 pp, index; \$27.95 softcover.

Few books display so vividly the complexities of the role and operation of law in our late 20th century society as Miranda Morris' *Pink Triangle — The gay law reform debate in Tasmania*. Disarmingly slim, the book nevertheless packs a heavy punch in its simple narration of the events and attitudes which thrust Tasmania into the world spotlight and earned it international condemnation from the United Nations Human Rights Committee. The continued refusal of Tasmania's Upper House to decriminalise acts of sexual intercourse between consenting adults of the same gender only serves to heighten the relevance of this book published late last year, and makes the essential questions asked by the author about Tasmanian society even more engrossing.

*Pink Triangle* charts the course of the homosexual law reform movement in Tasmania from its early beginnings at an information booth at the weekly Salamanca Markets in Hobart. The discrimination and persecution which the Tasmanian Gay and Lesbian Rights Group (TGLRG) endured as the Hobart City Council sought to smother their voice by banning them from the marketplace is recounted in such a way that it is difficult for the reader to contain his or her indignation as the arrest toll mounts.

The activities of the TGLRG at Salamanca were remarkably mild and so the response of the Council and the police seem even more extraordinary. The display of various logos and slogans was prohibited as was the collection of signatures to petition for law reform. Morris forcefully recreates the sense of oppression which must have charged the air of the Salamanca Markets in 1988, and brings to the reader's attention parallels with the deprivations of human rights which occurred in Europe and culminated in World War II. This historical context is present throughout the book

(indeed it is a mental association made by the title) though thankfully it is employed with subtlety and without a tendency towards melodrama.

The outrage engendered by the early chapter on Salamanca is the powerhouse for the remainder of the book, which can easily be read in one sitting. Morris shifts the focus from the confrontations at Salamanca to the no less disturbing public debate which she methodically covers at various levels and stages. The most pleasing thing about this book is Morris' heavy reliance on quotations from Hansard, the media and private interviews. By skilfully blending the results of her research she presents the myriad of views which were exchanged in the reform debate which is the focus of her work. The frightening bigotry and ignorance reflected in some of the opinions (but notably those quoted in the chapter concerned with the Parliamentary debates) would be lost in any attempt to paraphrase. By letting the key figures speak for themselves, Morris is able to present as objective a narrative as possible. She also exposes the depth of passion felt on both sides of the struggle — passions which remain after a United Nations ruling, the involvement of Amnesty International, the enactment of the Commonwealth's *Human Rights (Sexual Conduct) Act 1994* and the continued efforts of politicians in the Tasmanian Lower House.

So absorbing is the story of the TGLRG's fight for law reform and the views of all those involved (the chapter dealing with the response of several religious denominations is particularly fascinating), it is perhaps easy to lose sight of the fact that all this activity and debate is the product of two legislative provisions contained in the *Criminal Code 1924* (Tas.). Indeed the style of the book is distinctly non-legalistic and this may frustrate some readers. However, it

is hardly surprising given that Morris is a social historian seeking to explore what it is about Tasmania — and more specifically its early history and relationship to the mainland — that led to such concerted and confrontational opposition to the recognition of gay rights.

While that is undoubtedly an interesting question, this reviewer found that the book's strength lay in its depiction of a battle where both sides recognised the power and authority of law in society. The feeble compromise suggested by some Tasmanians that the laws remain as a symbol of disapproval but not be actively enforced was unsatisfactory to both sides. The role of law in reflecting and, indeed, determining society's acceptance or rejection of homosexuals is just as important as the other factors which undoubtedly led to the formation of the key players' beliefs.

Additionally, the book provides a very good demonstration of the law-making process for lay people and law students. From the lobbying of citizen's interest groups, through government policy formulation, and then to debate in a bi-cameral Parliament, this example is rounded out by reference to the international law and Commonwealth legislation which sought to override the effect of the Tasmanian *Criminal Code*. The TGLRG is currently seeking a declaration from the High Court that the *Human Rights (Sexual Conduct) Act 1994* does indeed have this effect.

Inevitably, the question must arise — for whom is this book intended? I do not think it was a question which Morris addressed — nor need she have. This book is of interest to many sectors of the community, namely those which still suffer from discrimination due not only to sexuality, but also their gender, age, race or political beliefs. It also raises many questions for those of us involved in the law and can assist us in appreciating the enormous social impact of the area in which we work and our possible role as agents for legal change. But ultimately, *Pink Triangle* should be read, as Justice Kirby suggests in his foreword, by all 'those who believe that Australia is a basically tolerant country'. Morris' work serves as a reminder to us of the fragility of basic freedoms. It is the responsibility of all Australians, but in particular the legal community, to ensure that the hard won gains of this century are not lost as we enter the next.

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