

Submission to The Committee on Justice on the Dying with Dignity Bill 2020

One of the most remarkable things about social change is that, when we look back, the transition between past and present can seem so seamless. The Civil Rights Movement, abortion, same sex marriage etc.. We can easily forget that all of these changes didn't happen overnight, people had to fight for these rights to come into force. By contrast we tend to forget the imagined fears and illogical arguments put forward in opposition. We forget how misguided the opposition to what now seems normal was at the time and wonder why it took so long for our society to come to it's senses. The argument for assisted dying is one that history will be kind to. Like things of the past, assisted dying has the force of morality at it's heart and when change does come we will look back and wonder why it took so long. We will realise how unfounded the arguments put forward in opposition were and as has happened in other countries change will be based on growing and unstoppable public opinion.

Here in Ireland we pride ourselves on our freedom to control our own lives but, if we care about the way we live, we must also care about the way we die. In our compassionate Ireland we still insist that some people, often against their express wishes, have a prolonged and sometimes painful end of life. The Right to Die on our own terms is possibly the last civil and human right to be given the consideration it deserves here in Ireland. Even the Supreme Court of Ireland agreed that if it was in there power to grant this right to Marie Fleming they would but if this is a right that they would have made available to one person then it should be available to every other person who finds themselves in similar circumstances.

The issue of Dying with Dignity is one of had come to public attention for a number of reasons. Among them is the huge advancements in medicine in recent years. This has brought with it the almost total elimination of many of the diseases which were common many years ago and the effective treatment of many of those that brought about death. This has resulted in people in most countries living much longer but brings with it the likelihood that while living

longer we are more likely to spend the final years of our life suffering from a progressive and incurable disease, reducing the quality of those final years. While many will be happy to live and die under these circumstances there is a sizeable number of people who decide not to continue with life in this way. These are fully rational people who feel that they have the right to decide not to continue with the degeneration that life offers them and want to avoid a prolonged and most likely a painful or troublesome death.

This is the issue that the Dying with Dignity Bill 2020 proposes to address. It follows a previous attempt to legislate for assistance to die in a bill presented in 2015 as a private members bill by Independent TD John Halligan. Legislation to allow assisted dying has already been enacted in many EU countries and is on to agenda in many more. It is also becoming increasingly available in countries around the world.

In Ireland the discussion on assisted dying dated back many years. Here assisted dying was not explicitly illegal up to 1993. Up to this date suicide was a crime and therefore assistance was automatically a crime. In 1993 suicide was decriminalised and as part of this process a new crime of assisting a suicide was added to our statute books. This makes the crime unique in that it is illegal to assist someone to do something that is not a crime. While this was intended to protect the venerable it didn't take into account the rational people who wish to alleviate their suffering by bring forward their deaths. This bill aims to address this omission by allowing the assistance of the death of another in limited specific circumstance as laid out in the bill.

It is fair to ask why assistance may be needed in the planned death of another. The answer to this question is twofold. Firstly the decision to end ones own life to avoid a prolonged distressing and possibly painful death in itself implied that the death must be peaceful, painless and quick. This is not a simple as it may seem as the means to provide a peaceful death remain almost exclusively in the hands of the medical profession. This, in itself, provides the necessary safeguard to limit the availability and protect the venerable but requires the assistance on a medical professional to provide the means. The second reason is that the people who are most likely to avail of assistance are likely to suffer from some disabling and progressive illness which will likely make it impossible

to them to implement the means of ending their own lives. To allow a disability to prevent access to something that is legally available to any able bodied person is nothing short of discrimination as explicitly stated in our constitution.

One of the advantages of our delay in addressing the issue of assisted dying is that we can look to other countries where legislation has made assisted dying legal. We can learn from these countries and see that the fears of things like the slippery slope and an increase in the suicide rate are unfounded. There are also many examples of how monitoring and reporting can be implemented.

On the question of compatibility with the Constitution this has already been addressed by the Supreme Court in their summing up in of the Fleming case in 2013 that there is no Constitutional impediment to legislation to allow for assisted dying in specific situations providing sufficient safeguards are in place. Similarly the European Court and Human Rights Legislation have found that there is nothing to prevent individual countries from enacting legislation to allow for assisted dying which has happened in many countries.