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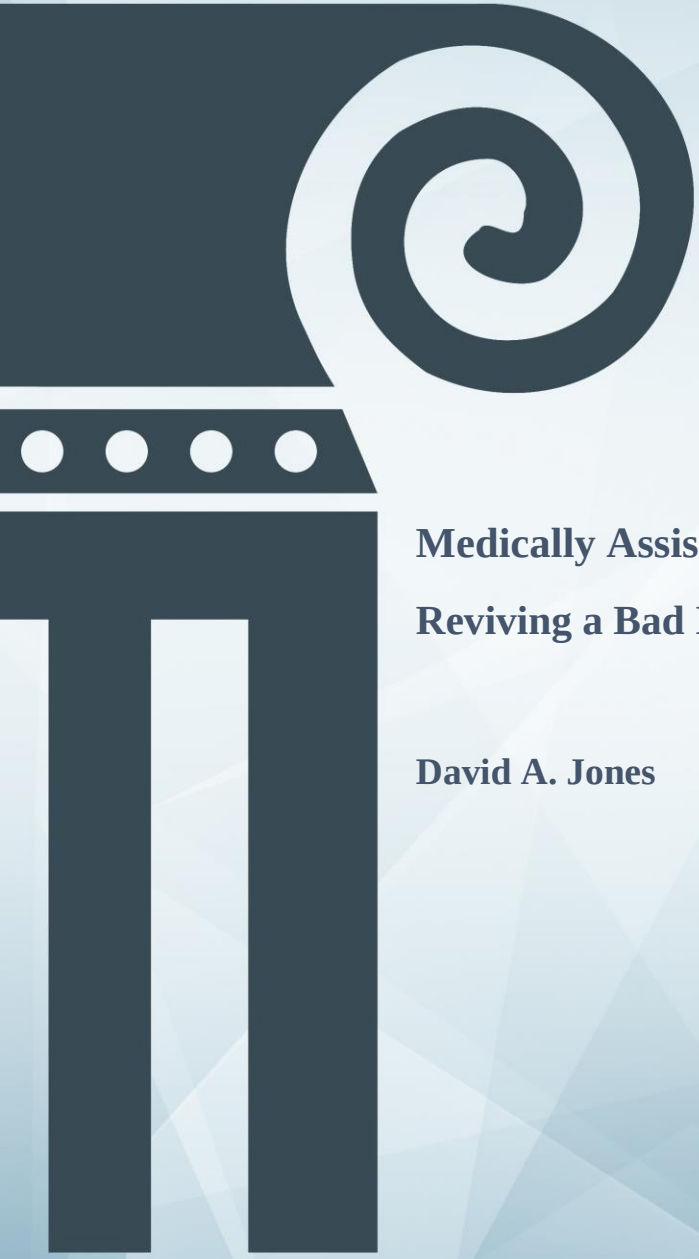

Medically Assisting Suicide

Reviving a Bad Idea

David A. Jones

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Medically Assisting Suicide
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Introduction

Once again a Bill[1] has again been introduced in the House of Lords that would permit doctors to facilitate the intentional ending of a patient's life. It does not differ in substance from the Marris Assisted Dying (No. 2) Bill that was rejected in 2015[2] by the House of Commons by 330 votes to 118. The latest iteration of the Assisted Dying Bill is being sponsored by Baroness Meacher who is also Chair of the campaign organisation Dignity in Dying.

Changing the Name or Changing the Aim?

Dignity in Dying[3], originally called the Voluntary Euthanasia Legalisation Society, was the first national right-to-die association. It was founded in 1935 by Charles Killick Millard[4], a public health physician based in Leicester. He was known for his strong support for vaccination while criticising compulsory or mass vaccination as unnecessary (an issue that is now topical again) but he was also known as a proponent of the eugenicist ideas of Francis Galton.

Millard was personally in favour of non-voluntary euthanasia, i.e. without the consent, of those whom he judged to be a burden on society, but he regarded the proposal to legalise voluntary euthanasia as being more likely to attract public support. It was the thin end of a wedge but it was not thin enough. The Voluntary Euthanasia (Legalisation) Bill was debated in the House of Lords[5] in December 1936 and was rejected by 35 votes to 14.

Millard was still alive in 1950 when the possibility of legalising voluntary euthanasia was revived in the Lords[6] by Lord Chorley, but again without

1 https://publications.parliament.uk/pa/bills/lbill/58-01/069/5801069.pdf
2 https://hansard.parliament.uk/commons/2015-09-11/debates/15091126000003/AssistedDying(No2)Bill
3 https://www.dignityindying.org.uk/news/voluntary-euthanasia-society-changes-name-70-years-become-dignity-dying-23-jan/
4 https://www.jstor.org/stable/261131
5 https://api.parliament.uk/historic-hansard/lords/1936/dec/01/voluntary-euthanasia-legalisation-bill-hl
6 https://api.parliament.uk/historic-hansard/lords/1950/nov/28/voluntary-euthanasia

success. At around the same time Millard took up the campaign for the early release of Sigbert Ramsauer[7], a mid-ranking officer in the SS and Nazi concentration camp doctor who had been convicted of killing prisoners by lethal injection with phenol. Ramsauer, an Austrian, portrayed his killings as acts of euthanasia. Millard expressed his sympathy for Ramsauer and seems to have regarded Ramsauer's actions as humanitarian even though the deaths were involuntary, i.e. against the will of those concerned, and the victims were allied prisoners of war. Millard did not restrict his support to acts of voluntary euthanasia.

Dignity in Dying is clear that it is currently campaigning only for "assisted dying for terminally ill, mentally competent adults"[8] where the lethal dose is self-administered. It does not campaign to "legalise assisted dying for people who are not dying, known as assisted suicide", or to "allow doctors to end the lives of their patients, known as euthanasia" or to "legalise assisted dying for people who do not have capacity to make the decision for themselves". However, it refrains from expressly criticising the practice of euthanasia, or from acknowledging the abuses associated with it in countries such as the Netherlands and Belgium. Dignity in Dying merely states that "Some jurisdictions around the world have introduced assisted suicide and euthanasia laws. Parliaments in these countries passed these laws because they thought they were the right laws for their country. We believe an assisted dying law is the right law for the UK." This may be the current campaign strategy, but it should be noted that, as recently as 2003, the same organisation, then called the Voluntary Euthanasia Society, endorsed a Bill[9] that would permit assisted suicide and euthanasia for people who were not dying. For many of its supporters, the Meacher Bill is a staging post on the way to the unrestricted availability of assisted suicide and voluntary euthanasia.

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7 https://academic.oup.com/ehr/article-abstract/CXXVII/525/493/395477?redirectedFrom=PDF

8 https://www.dignityindying.org.uk/assisted-dying/not-campaigning-for

9 https://publications.parliament.uk/pa/ld200203/ldbills/037/2003037.pdf

The Record: Unchecked Expansion, the Netherlands, Belgium, Oregon and Switzerland

After a further rejection of a Voluntary Euthanasia Bill in 1969[10], the next serious attempt to consider the matter was the House of Lords Select Committee on Medical Ethics in 1992.

The Committee included several members who were sympathetic in principle to the idea of legalising euthanasia and/or physician assisted suicide. However, when the Committee reported in 1994, while strongly endorsing the right of patients to refuse unwanted medical treatment, it decisively rejected the legalisation of euthanasia. In the words of Lord Walton[11], its chair:

> Ultimately…we concluded that such arguments [in favour of euthanasia] are not sufficient reason to weaken society's prohibition of intentional killing which is the cornerstone of law and of social relationships…
>
> One compelling reason underlying this conclusion was that we do not think it is possible to set secure limits on voluntary euthanasia. As our report shows, we took account of the present situation in the Netherlands… [we] returned from our visit feeling uncomfortable, especially in the light of evidence indicating that non-voluntary euthanasia—that is to say, without the specific consent of the individual—was commonly performed in Holland.

Since the time of that report, Belgium has also legalised euthanasia. There is compelling evidence that non-voluntary euthanasia continues to be practised on a large scale both in Belgium and in the Netherlands. Furthermore, in both countries, doctors have increasingly begun to use terminal sedation as a means of intentionally ending life without the reporting requirements of euthanasia.

While euthanasia is practised in the Netherlands, Belgium and Luxemburg, and more recently in Canada, Switzerland has permitted assisting suicide since

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10 https://api.parliament.uk/historic-hansard/lords/1969/mar/25/voluntary-euthanasia-bill-hl

11 https://hansard.parliament.uk/lords/1994-05-09/debates/40522656-8041-4d6f-a2a0-d7f9a9cbc3db/MedicalEthicsSelectCommitteeReport

1942. It is illegal only if provided for selfish motives. Organisations such as EXIT Deutsche Schweiz (founded in 1982) and Dignitas (founded in 1998) have thus been able to establish assisted suicide as an organised practice. However, these organisations operate with little external oversight and there are no legal restrictions on who can obtain assisted suicide. Switzerland is the Wild West of assisted suicide.

A different and more restrictive practice of physician assisted suicide was legalised in Oregon, in the United States, in 1997. Oregon has provided the model for the most recent attempts at changing the law in England and in Scotland, including the current Meacher Bill. In restricting eligibility for assisted suicide to those with less than six months to live and in requiring that patients take the lethal dose themselves rather than have the doctor administer it, the thin end of the wedge has been sharpened still further.

It was this model that was rejected by parliament in 2015 and, in the six years since it was debated, nothing has occurred that would provide reassurance about the safety of this legislation. Over this period, even according to official statistics, more than 80,000 have died by euthanasia or assisted suicide. In every jurisdiction where these acts are legal there have been a significant increase in annual figures (Belgium 20 per cent, Switzerland 22 per cent, Washington 25 per cent, Netherlands 26 per cent, Oregon 85 per cent, Luxembourg 213 per cent, California 291 per cent, Canada 646 per cent)[12]. Canada, which has seen the highest rises, has now overtaken the Netherlands as having the highest

[12] Belgium https://organesdeconcertation.sante.belgique.be/fr/organe-d%27avis-et-de-concertation/commission-federale-de-controle-et-devaluation-de-leuthanasie;
Switzerland http://www.dignitas.ch/images/stories/pdf/statistik-suizid-ftb-bevoelkerung-lebenserwartung-ch-e.pdf;
Washington https://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/DeathwithDignityAct/DeathwithDignityData;
Netherlands https://www.euthanasiecommissie.nl/de-toetsingscommissies/jaarverslagen;
Oregon https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Pages/ar-index.aspx;
Luxembourg.https://sante.public.lu/fr/actualites/2021/03/euthanasie/euthanasie-rapport-2019-2020.pdf;
California https://www.cdph.ca.gov/Programs/CHSI/Pages/End-of-Life-Option-Act-.aspx;
Canada https://www.canada.ca/content/dam/hc-sc/documents/services/medical-assistance-dying/annual-report-2020/annual-report-2020-eng.pdf.

number of deaths from euthanasia: 7,595 in 2020. At the same time as numbers rise there are fewer legal restrictions, fewer protections, and more abuse, including continuing non-voluntary deaths. In no jurisdiction has there been a decrease in deaths or an increase in safeguards.

The law itself has also changed. In the Netherlands in 2016 a woman with dementia who had an advance decision requesting euthanasia had to be restrained[13] while she was injected with the lethal dose, because she was resisting. This action was upheld as lawful[14] in 2020 and the law has thereby been expanded. Euthanasia of someone who lacks capacity, on the basis of an advance decision, is legal in Netherlands even if the person is resisting. In Canada, the law which was passed in 2015 has already been expanded to remove the requirement that death be "reasonably foreseeable"[15] and a further extension to patients with mental illness[16] is actively being considered. In California, which also legalised assisted suicide in 2015, proposals are now being discussed to amend the law (SB380)[17] to remove safeguards such as a 15 day waiting period and the need for a psychiatric evaluation and to weaken institutional conscience protections. If the evidence from jurisdictions that had legalised euthanasia and/or assisted suicide gave cause for concern in 2015 there is much greater reason for concern now.

The Questions Raised

There is no clear principle that would prevent the restrictions included in the Meacher Bill from being expanded once the law has been passed. If it is appropriate to encourage or assist suicide among terminally-ill people who are in the last six months of life, why is it not appropriate to do so for those who are chronically ill and who fear they will suffer for a much longer period? And if it is appropriate to encourage or assist suicide for such a patient, why is it not

13 https://www.bbc.co.uk/news/world-europe-49478304
14 https://www.bbc.co.uk/news/world-europe-52367644
15 https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2021/the-continuing-evolution-of-medical-assistance-in-dying
16 https://psychnews.psychiatryonline.org/doi/10.1176/appi.pn.2021.6.31
17 https://www.billtrack50.com/BillDetail/1311769

permitted for a doctor to administer the lethal dose by injection, where the patient would strongly prefer this to self-administration?

Over the last 85 years there have many attempts to legalise euthanasia and/or assisted suicide in the United Kingdom: at least 10 Bills in the last 25 years alone. In assessing these Bills, it is important to focus on questions of principle and the big picture as the experience from other jurisdictions is that the details can and will change and supposed safeguards will fall away. Once the law is passed euthanasia will expand in terms of practice and by means of future amendments to the law.

In relation to euthanasia, it is essential to ask whether the practice of voluntary euthanasia can be controlled effectively or if it will lead to non-voluntary euthanasia and varieties of coerced euthanasia. In relation to physician assisted suicide, it is essential to ask whether the commitment to prevent suicide extends only to the young and healthy or whether it extends equally to people with disabilities or with chronic, progressive or terminal conditions.

Wrong Diagnosis, Wrong Prescription

In Oregon, in 2020[18] out of 245 assisted suicides, only 3 (1.2 per cent) were referred for psychological or psychiatric evaluation before giving the lethal dose. In contrast, 130 (53 per cent) cited concern about becoming a "burden on family, friends/caregivers" as a reason for seeking death. However, the concept of being a "burden" to others is a relational concept. It is a matter of perception and is strongly influenced by depression and by the presence or absence of structures of support.

The effect of legislation such as the Assisted Dying Bill is to increase the perception of being a burden. If assistance in suicide is an option then people are effectively required to justify their continued existence. The oppressive effect of this idea is illustrated by a story related by the Australian bioethicist Nicholas Tonti-Filippini[19] who died in 2014 and who suffered from a

[18] https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf

[19] https://www.firstthings.com/web-exclusives/2010/12/our-lives-are-worth-living-an-open-letter-to-the-prime-minister-of-south-australia

progressive and incurable illness which might well have qualified him for assistance in suicide under the Assisted Dying Bill:

> For several years, until I objected, I received from my health insurer a letter that tells me how much it costs the fund to maintain my health care. I dreaded receiving that letter and the psychological reasoning that would seem to have motivated it. Each year I was reminded how much of a burden I am to my community. The fear of being a burden is a major risk to the survival of those who are chronically ill.

There is no inevitability about a change in the law in this area. The status quo is never as newsworthy as a change in the status quo, but it remains the case that euthanasia and assisted suicide are illegal in most states in the United States, in most countries in the European Union and in great majority of nations in the United Nations.

Euthanasia and physician assisted suicide have remained illegal in England for the last 85 years, and this is not because the question of whether to legalise them has not been asked. It has been asked repeatedly but has been answered repeatedly with a resounding "no". The proposal that doctors be permitted either to kill their patients or to provide patients with the means to kill themselves is deeply dangerous both to those immediately concerned and to others.

Killing people who see their existence as a burden, to themselves or to others, or assisting their suicide, was a bad idea in 1936. It remained a bad idea in 1950, and in 1969, and in 1994, and in 2015 and it remains a bad idea today. Rather than encouraging or assisting suicide among people with sickness and disability, what is needed is a constant effort to find new ways to help people to live well and to do so for the whole of their lives.

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