**Grasping the nettle of assisted dying will sting people with disabilities.**

According to Sarah Wootton, Chief Executive of Dignity in Dying, formerly known as the Voluntary Euthanasia Society, the current law on assisted dying does not work, and ‘it is time for the UK to grasp this nettle.’[[1]](#footnote-1) Notably, since 2014 there have been several attempts to grasp the nettle none of which have managed to uproot it: two bills, various parliamentary debates, and a number of court cases all have failed to change the law. Wootton’s comment refers to two new challenges to the existing situation in the UK: the Jersey Assisted Dying Citizens’ Jury meeting in March 2021 and the private bill put forward in the House of Lords in May 2021 by Baroness Meacher, Chair of Dignity in Dying. Grasping the nettle may be an encouragement to be bold and do something difficult. But often stinging nettles are best left alone, especially when pulling them up causes harm.

In English law the Suicide Act 1961 decriminalised suicide. However, assisting suicide is still a crime and the discretion to prosecute lies with the Crown Prosecution Service, with added guidance issued by the Director of Public Prosecutions in 2010. Jersey does not have a law against assisting suicide and so the situation in Jersey appears ambiguous, hence the recent independent panel set up to discuss the issue. To be clear, in English law suicide has been decriminalised: in 1961 it was recognised that survivors of suicide attempts needed help not potential imprisonment. This does not make suicide legal, still less a right.

Challenges to English law have been further fuelled by examples of countries which have already enacted assisted dying and euthanasia legislation. However, before we go grasping nettles it may be useful to see what we can glean from some of the experiences in these countries. Giving evidence to the Jersey Jury meeting, Robert Preston’s data from Oregon showed that 94% of requests gave being ‘less able to engage in activities making life enjoyable’ as the reason for seeking assisted dying. In evidence on Canada’s Medical Assistance in Dying (MAiD), Trudo Lemmens, professor of law at Toronto University cited data pointing to the sense of being a burden, loneliness, inadequate palliative care, and lack of disability support as major factors at 82% in requests for assisted dying. Moreover, in Canada where assisted dying was initially available only to the terminally ill, the ‘rights rhetoric’ had encouraged the expansion of assisted dying provision outside of an end-of-life context such that people with disabilities may be fast tracked for death. Michael Talibard and Tom Binet, representatives of the pro-assisted dying group End of Life Choices argued that assisted dying should not be tied to a prognosis of six months to live because this was difficult to predict and anyway the choice for assisted dying depended on patients who find their lives unbearable.[[2]](#footnote-2)

Presenting evidence at a different forum, to the Quebec committee on the evolution of the Canadian legislation, Irene Tuffrey-Wijne, professor of Intellectual Disability and Palliative Care at London’s Kinston and St George’s University, detailed cases in the Netherlands where clinicians decided that certain patients were suffering unbearably and there was no prospect of improvement in their condition, thus making them eligible for euthanasia. Clinicians described the normal patterns of autism and learning disability as intolerable suffering. Certainly, in these cases people had asked for euthanasia yet the criteria applied for eligibility was not related to illness, terminal or otherwise, and persistent requests were interpreted as capacity rather than being challenged as possibly inability to appreciate the significance of the information or to weigh up the alternatives. Instead, their condition was regarded as untreatable because the person would not be able to cope with treatment; suffering and difficulties in coping were put down to the intellectual disability so that, in effect, having a learning disability was enough to warrant euthanasia or assisted dying.[[3]](#footnote-3) Moreover, countries such as Belgium accept that polypathology, a collection of minor medical problems, satisfies the criteria for terminal illness.[[4]](#footnote-4)

We already know about the blights on the lives of people with learning disabilities: an increased sense of loneliness, lack of support, stigma, discrimination, hate and mate crime, inequalities in all areas of life, being treated as unproductive and a burden, valued less than other people, subject to inappropriate and negative value-laden decisions by some healthcare professionals. We already know that even before the pandemic inequalities in healthcare have led to high levels of premature deaths and preventable comorbid health conditions.[[5]](#footnote-5) Covid-19 has put a spotlight onto some of these inequalities as the NHS has identified some factors that make admitting people with learning disabilities and autism to hospital for treatment problematic and so less desirable,[[6]](#footnote-6) and it remains unclear how the NHS will prioritise in its growing waiting list for treatment for non-covid related illnesses.

The current law against assisted suicide tries to protect vulnerable people and in doing so it witnesses to the dignity of people with disabilities who, like all human beings, are deserving of society’s care, attention, and protection. The proposed assisted dying legislation, even with its apparent restrictions, normalises suicide as a solution to feeling unproductive or a burden or dependent or in need of care. When urging people to grasp nettles think about who you will sting.

**Pia Matthews 1.6.2021**

1. https://www.dignityindying.org.uk/news/first-reading-baroness-meacher-private-members-bill-assisted-dying/ [↑](#footnote-ref-1)
2. <https://www.gov.je/Caring/AssistedDying/Pages/JerseyAssistedDyingCitizensJuryMeetings.aspx> [↑](#footnote-ref-2)
3. http://www.tuffrey-wijne.com/?p=956 [↑](#footnote-ref-3)
4. https://www.forumlibertas.com/wp-content/uploads/2021/02/JMP-Eutanasia-en-Be%CC%81lgica-2021.pdf [↑](#footnote-ref-4)
5. <https://www.equalityhumanrights.com/sites/default/files/being-disabled-in-britain.pdf> p.97 quoting BMA 2014 *Recognising the importance of physical health in mental health and intellectual disability: Achieving parity of outcomes* [↑](#footnote-ref-5)
6. DHSC *COVID-19: our action plan for adult social care* 1.3 <https://www.gov.uk/government/publications/coronavirus-covid-19-adult-social-care-action-plan/covid-19-our-action-plan-for-adult-social-care>; <https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2020/03/C0031_Specialty-guide_LD-and-coronavirus-v1_-24-March.pdf> [↑](#footnote-ref-6)