



Submission to the 39th Session of the United Nations Human Rights
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[A] Introduction

1. Hope Ireland is a coalition of medical professionals and disability rights advocates who aim to bring informed perspectives to the debate around euthanasia and assisted suicide in Ireland. Our organisation was founded in 2015 by the disability rights advocate Dr Kevin Fitzpatrick OBE. We seek to contribute to the public discourse on end of life matters with evidence based arguments explaining why the introduction of assisted suicide and euthanasia is a regressive step for vulnerable people, particularly older people and people with disabilities.
2. This submission highlights how a proposed bill in the Irish parliament to legalise euthanasia and assisted suicide impacts negatively on people with disabilities, older people and people with terminal illnesses. The proposed bill is incompatible with Ireland's obligations to protect the right to life, particularly of the most vulnerable in society. In summary, the bill fails to safeguard the right to life in Irish law.

[B] Current situation in Ireland

3. Regarding euthanasia, there is no specific prohibition on this practice, as deliberately ending the life of another person would be a form of unlawful killing, contrary to common law and

section 4 of the Criminal Justice Act 1964. The penalty upon conviction for such an offence is a maximum sentence of life imprisonment.

4. Regarding assisted suicide, under the Criminal Law (Suicide) Act 1993, it is an offence if someone 'aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide'. The penalty upon conviction for this offence is a maximum sentence of 14 years imprisonment.
5. In 2013, High Court and Supreme Court both upheld the constitutionality of Ireland's prohibition on assisted suicide the landmark case of *Fleming v Ireland*.¹ Writing for the Divisional High Court, Kearns P noted that: '*The prohibition on assisted suicide is rationally connected to this fundamental objective of protecting life and is not remotely based on arbitrary, unfair or irrational considerations.*'²
6. Kearns P further acknowledged in his judgement the serious consequence which may arise as a result of legalising euthanasia or assisted suicide, namely that the state could put the right to life of other people at risk:

*'Yet the fact remains that if this Court were to unravel a thread of this law by even the most limited constitutional adjudication in her favour, it would – or, at least, might – open a Pandora's Box which thereafter would be impossible to close. In particular, by acting in a manner designed to respect her conscientious claims and to relieve her acute suffering and distress, this Court might thereby place the lives of others at risk.'*³

7. Upon appeal to the Supreme Court, Denham J affirmed the radical effect of creating a 'right to die' in Irish law:

*'A right which extends to the termination of life must necessarily extend to a right to have life terminated by a third party in a case of total incapacity. The concept of autonomy which extends not just to an entitlement, but to a positive right to terminate life and to have assistance in so doing, would necessarily imply a very extensive area of decision in relation to activity which is put, at least prima facie, beyond regulation by the State. When it is considered that recognition of such a right implies correlative duties on the State and others to defend and vindicate that right (and which must necessarily restrict those parties' freedom of action), **it is apparent that the right contended for by the appellant would sweep very far indeed.** It cannot properly be said that such an extensive right or rights is fundamental to the personal standing of the individual in question in the context of the social order envisaged by the*

¹ *Fleming v Ireland* [2013] IEHC 2.

² *Fleming v Ireland* [2013] IEHC 2 para 75.

³ *Fleming v Ireland* [2013] IEHC 2 para 77.

*Constitution. The right to life which the State is obliged to vindicate, is a right which implies that a citizen is living as a vital human component in the social, political and moral order posited by the Constitution.*⁴

8. The Irish Medical Council makes the above legal position clear in section 46 of its *Guide to Professional Conduct and Ethics* (8th Edition 2019). Section 46.9 requires registered medical professionals to ‘not take part in the deliberate killing of a patient.’⁵
9. A previous legislative attempt was made to introduce euthanasia and assisted suicide in 2015, when a Bill was introduced to Dáil Éireann, the lower house of the Oireachtas (the Irish houses of parliament).⁶ However it never reached second stage, and was not debated or voted upon.

[C] Proposed legislation

10. On 15 September 2020 the Dying with Dignity Bill 2020 was introduced as a Private Member’s Bill to Dáil Éireann. If passed, it would legalise euthanasia and assisted suicide for any resident on the island of Ireland who is living with a ‘terminal illness’. The Bill does not require that the person who will avail of euthanasia or assisted suicide should be near the end of their life.
11. The bill was debated for 90 minutes on 1 October 2020, and it passed Second Stage on 7 October with 81 votes in favour to 71 votes against. Only one speaker was permitted to speak against the bill, and he was allotted 5 minutes to do so, making a mockery of the entire legislative process whereby the merits of bills are discussed robustly.⁷ The bill is presently being considered by the Oireachtas Committee on Justice, who collected submissions from expert groups and members of the public on the bill. The deadlines for submission closed on 28 January 2021.
12. Numerous professional medical bodies, human rights groups, and disability rights groups have expressed grave concern about the proposed legislation. Concerns specifically focus on the fact that the bill fails to safeguard the right to life of vulnerable people in Irish society.
13. The Irish Human Rights and Equality Commission have said the bill does not contain ‘adequate safeguards’ which would protect the right to life.⁸

⁴ *Fleming v Ireland* [2013] IESC 19 para 113.

⁵ Irish Medical Council *Guide to Professional Conduct and Ethics* (8th Edition 2019).

⁶ Dying with Dignity Bill 2015, <https://www.oireachtas.ie/en/bills/bill/2015/125/>.

⁷ Dáil Éireann debate, Thursday, 1 Oct 2020 Vol. 998 No. 4
<https://www.oireachtas.ie/en/debates/debate/dail/2020-10-01/27/>.

⁸ Irish Human Rights and Equality Commission <https://www.ihrec.ie/documents/submission-to-the-committee-on-justice-on-the-dying-with-dignity-bill-2020/>

14. The disability rights groups, the Independent Living Movement Ireland, have raised concerns about the very process by which this bill may become law, noting that *'We question legislative processes that are just focussed on singling out citizens for legalised assisted suicide based on a narrative led by a medical condition or prognosis.'*⁹ They noted that at a time when people with disabilities are lobbying Irish politicians for a right to a Personal Assistance Service (PAS), *'it would sadden (and incense) disabled people if the right to die was granted over the right to live.'*¹⁰
15. A broad coalition of professional medical bodies have raised serious concerns about the impact of this bill on the right to life. The Irish Society of Physicians in Geriatric Medicine (ISPGM), representing over 130 specialists in the care of older people informed the Oireachtas Committee on Justice that *'there are particular concerns that physician-assisted suicide and euthanasia are corrosive to developing insights into personhood and solidarity with providing excellence of care.'*¹¹

16. The Royal College of Surgeons in Ireland told the Oireachtas Committee on Justice that it:

*'believes that the proposed legislation is not in accord with best medical practice. The introduction of doctor assisted suicide is not in the best interests of patients and does not address the real issues of death with dignity. Much better that the State would not persist in this but instead support the neglected area of palliative care which has been so beneficial but could be undermined by doctor assisted suicide.'*¹²

17. Irish Healthcare Professionals for Dignity in Living and Dying, a coalition of over 2000 medical professionals in Ireland informed the Oireachtas Committee on Justice that:

*'We believe the bill creates risks for many receiving healthcare that outweigh any potential benefits. ... We are concerned about the impact on people who already struggle to have their voices heard in our society – older adults, the disabled, those with mental illness and others.'*¹³

⁹ Independent Living Movement Ireland, 'Disabled People and the Dying with Dignity Bill: Prioritising the right to die, over rights to live' page 7, <https://ilmi.ie/wp-content/uploads/2021/01/ILMI-Submission-on-the-Dying-With-Dignity-Bill.pdf>.

¹⁰ Independent Living Movement Ireland, 'Disabled People and the Dying with Dignity Bill: Prioritising the right to die, over rights to live' page 3, <https://ilmi.ie/wp-content/uploads/2021/01/ILMI-Submission-on-the-Dying-With-Dignity-Bill.pdf>.

¹¹ Submission from ISPGM concerning proposals to legislate for physician-assisted suicide and euthanasia, 19 Jan 2021, http://ispgm.ie/wp-content/uploads/2021/02/ISPGM_PAS_EWeb-2.pdf

¹² Submission on the "Dying with Dignity Bill 2020" by the Royal College of Surgeons in Ireland, https://royalcollegeofsurgeonsinireland.newsweaver.ie/icfiles/1/14181/88945/6510366/_nw_test_mailing/9db2a2884f7b5be9d5741a30/rcsi%20submission%20dying%20with%20dignity%20bill%202026.01.21%20edit-.pdf

¹³ Irish Healthcare Professionals for Dignity in Living and Dying <https://ipmca.ie/ihpc4did/>

[D] The right to life in international law

18. The right to life is safeguarded in international law and is recognised by:

- Article 40.3 of the Irish Constitution
- Article 6 of the ICCPR (ratified by Ireland in 1989)
- Article 2 of ECHR
- Article 10 of the CRPD

19. Case law has made it emphatically clear that the right to life does not contain an implied 'right to die'. In *Pretty v UK* the European Court of Human Rights said that:

*'Article 2 cannot, without a distortion of language, be interpreted as conferring the diametrically opposite right, namely a right to die; nor can it create a right to self-determination in the sense of conferring on an individual the entitlement to choose death rather than life. 40. The Court accordingly finds that no right to die, whether at the hands of a third person or with the assistance of a public authority, can be derived from Article 2 of the Convention.'*¹⁴

20. In relation to the applicant's (Ms Pretty's) claim that the ban on assisted suicide violated her Article 8 rights concerning respect for private and family life, the Court unanimously held that:

*'The Court does not consider therefore that the blanket nature of the ban on assisted suicide is disproportionate.'*¹⁵

21. In *Pretty*, the court also held there are positive obligations to safeguard this right to life:

'Furthermore, the Court has held that the first sentence of Article 2 § 1 enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction (see L.C.B. v. the United Kingdom, judgment of 9 June 1998, Reports of Judgments and Decisions 1998-III, p. 1403, § 36). This obligation extends beyond a primary duty to secure the right to life by putting in place effective criminal-law provisions to deter the commission of offences against the person backed up by law-enforcement machinery for the prevention, suppression and sanctioning of breaches of such provisions; it may also imply in certain well-defined circumstances a positive obligation on the authorities to take preventive operational measures to protect an individual whose life

¹⁴ *Pretty v United Kingdom* 2346/02 [https://hudoc.echr.coe.int/eng#{"itemid":\["001-60448"\]}](https://hudoc.echr.coe.int/eng#{)

¹⁵ *Pretty* para 76.

*is at risk from the criminal acts of another individual.*¹⁶

22. If the Irish parliament passes this bill, it will be in breach of a recommendation from the Parliamentary Assembly of the Council of Europe. The 1999 resolution called on all members states of the Council of Europe to:

*'respect and protect the dignity of terminally ill or dying persons... by upholding the prohibition against intentionally taking the life of terminally ill or dying persons.'*¹⁷

23. Also, if this bill passes it will be contrary to the World Medical Association's 2019 Declaration on Euthanasia and Physician-Assisted Suicide, which is emphatic in its opposition to euthanasia:

"The WMA reiterates its strong commitment to the principles of medical ethics and that utmost respect has to be maintained for human life. Therefore, the WMA is firmly opposed to euthanasia and physician-assisted suicide.

24. The consequences of legalising euthanasia are catastrophic for people with disabilities and older people, and such laws are open to abuse. Concerns in this regard have been raised before international Human Rights bodies. Multiple international Human Rights tribunals and institutions are aware of abuses in the operation of euthanasia and assisted suicide laws, particularly in European countries. Some bodies have expressed concern at the operation of euthanasia enabling legislation.

25. The UN Committee on the Rights of Persons with Disabilities critically noted that the euthanasia law in Belgium could be *'misused to kill off persons with intellectual disabilities.'*¹⁸ The European Court of Human Rights is currently examining abuses of the euthanasia regime in Belgium. Tom Mortier's 64 year old mother suffered from depression, and was euthanised by her hospital without the knowledge or consent of her family. After her death Tom received a call from the hospital asking him to sort her affairs. His case against Belgium is pending before the ECtHR.¹⁹

26. The UN Human Rights Committee has expressed shock the operation of euthanasia laws in the Netherlands. It said that:

'The large numbers involved raise doubts whether the present system is only being used in extreme cases in which all the substantive conditions are scrupulously maintained ...

¹⁶ *Pretty* para 38.

¹⁷ Parliamentary Assembly of the Council of Europe, Recommendation 1418 (1999).

¹⁸ UN Human Rights Office, "Committee on the Rights of Persons with Disabilities considers the initial report of Belgium" (19 September 2014)

<<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15073>>;

¹⁹ <https://apnews.com/8217108af4f841b3a2d551ca73eecd9c>

*The Committee is gravely concerned at reports that newborn handicapped infants have had their lives ended by medical personnel.*²⁰

27. In Canada, after only 4 full years of their euthanasia laws being operational, the Federal Government have proposed a new Bill to allow people who are not in an imminent risk of death to receive help to end their lives.²¹ Instances of abuse of the system are widely documented such as:

- *'Family says B.C. man with history of depression wasn't fit for assisted death'*²²
- *'Facing another retirement home lockdown, 90-year-old chooses medically assisted death'*²³

[E] Recommendations

28. Hope Ireland suggests that the following recommendations be made to Ireland, in order to adequately safeguard to the right to life:

- i) Acknowledge that there there is no 'right to die' in international law;
- ii) Acknowledge there is no international legal obligation on Ireland to introduce euthanasia or assisted suicide;
- iii) Commit to promoting access to high quality palliative care as a Human Right for all;
- iv) Resist the legalisation of euthanasia and assisted suicide;
- v) Listen to the voices of the medical professional in Ireland, as they remain overwhelmingly opposed to euthanasia and assisted suicide;
- vi) Listen to the voices of people with disabilities in Ireland, as they have expressed grave concerns about the impact of the bill currently before the Dáil;
- vii) Affirm its support for the Irish Medical Council Guidelines which state that *'You must not take part in the deliberate killing of a patient'*;
- viii) Recognise palliative care as a human right, define it as part of the health-care system and dedicate the necessary resources to it;

²⁰ U.N. Human Rights Committee, "Concluding Observations of the Human Rights Committee, The Netherlands," U.N. doc CCPR/CO/72/NET, 2001.

²¹ <https://www.theguardian.com/world/2020/feb/24/canada-government-access-assisted-dying>

²² <https://www.ctvnews.ca/health/family-says-b-c-man-with-history-of-depression-wasn-t-fit-for-assisted-death-1.4609016>

²³ <https://www.ctvnews.ca/health/facing-another-retirement-home-lockdown-90-year-old-chooses-medically-assisted-death-1.5197140>

ix) Improve public awareness of palliative care via media and information campaigns;

x) Integrate palliative care into all services and settings of the health-care system, in particular extend palliative-care services to all patients with life-threatening or life-limiting chronic conditions.