Supporting evidence on the moral and philosophical issues underpinning the concept of autonomy as relevant to the right to assisted dying.

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In this submission I confine myself to the moral and philosophical issues in this case. These can be summarised as follows.

1. The case in question is one of assisted suicide. The salient features of such a case are these. A terminally ill patient of sound mind is in such a state that they are unable themselves, unaided, to commit suicide. But they have a settled conviction that either life is at present intolerable, or is shortly to become so, and as a result they wish to die. I shall consider only cases where a reasonable and sympathetic onlooker would well understand that conviction, to the extent of feeling that they themselves would feel the same way if they were in the patient's situation. I shall call these cases ones where the competent patient's decision is rational. I shall not attempt to delineate 'terminally ill' or 'of sound mind', since I only wish

to discuss cases that certainly fall within the boundaries of these terms, however widely or tightly they are drawn.

For a case to be one of suicide, assisted or not, the patient must do something, becoming responsible for his or her own death. But what they do may be very various, and in cases of significant paralysis, may amount only to signaling by one means or another that they wish some event that will lead to their death to take place. At issue is the morality of assistance in such cases.

2. It is right that morality, and the law, take issues of life and death with the utmost seriousness. It is also right that people should have an ingrained aversion to causing the death of others, or even being involved in a situation that leads to someone's death. However there are circumstances where that involvement is unavoidable. A physician who prescribes a painkiller towards the end of life may be hastening a death, but that degree of involvement is thought permissible.

3. All moral systems allow persons substantial freedoms to conduct their lives in ways that they choose. In the United Kingdom people of sound mind may choose which profession to follow, whether to marry or not, whom to marry if they choose to do so, and make innumerable decisions, large or small, about the way to live their lives. Denying a person these freedoms is rightly interpreted as a refusal to recognize their status as a rational agent, and an infringement of their dignity and standing in the community. The choices they make may be wise or unwise, but they are not in general the business of the law. It is no longer contested that these freedoms include the freedom to end our own lives, should we decide

that living on is intolerable, and since 1961 the right to commit suicide has been recognized in English law.

4. The class of cases that concern us are those in which terminally ill, competent patients have a rational wish to terminate their own life, but need assistance because they lack the capacity to do so. They may lawfully ask for such assistance, but as the law stands it would be illegal for anyone to provide it.

Morally, this is extraordinary on the face of it. Consider the following parallel. An innocent prisoner is held in a cell, and any means of suicide has been carefully removed. He has been sentenced to a terrible execution by torture in the morning. He knows what lies in store, and naturally and entirely rationally wishes he could die before it begins. Anyone who loved him would wish it as well. People are allowed to visit him, and you have with you a pill which will kill him quickly and painlessly, and which he implores you to give him. Could anyone in their right mind say that it would be *wrong* for you to do so? That you would even *deserve prosecution*? On the contrary, any sane moral theory would think exactly the opposite. It would not only be *permissible* but also your *duty* to proffer the aid for which he is begging, and it would be a horrible dereliction of humanity to refuse it. Yet the case is directly parallel to those in which it is nature itself that is going to inflict the prolonged and fearful indignity and pain. Mercy, compassion, humanity and decency speak with the same voice in each case.

Of course, someone might feel that they have religious objections to providing the pill, but in that case their religion is standing in the way of morality. We might forgive them for not doing the right thing, just as we might exempt doctors and nurses with religious objections from doing various things that, nevertheless, it is right to do.

5. There are a number of thoughts that might seem to stand in the way of this obvious moral reaction and I shall consider them in turn.

(a) There is the thought that 'human life is of infinite value' and that it is somehow inconsistent with that value to assist in its ending. This is why, as is often remarked, it is held to be illegal to help someone commit suicide in circumstances in which it would be illegal not to help a domestic animal to die. But thoughts about the value of life do not point in only one direction. What is at stake is not the sanctity of life, but the sanctity of nature's way of having us die, however prolonged, cruel, undignified and plain horrible that way may be. In countless ways when nature has a nasty future in store for us we take steps to avoid it—this is what we have doctors for—and this is no different. We value life because we value all the things that make life worth living. When these have vanished, and nothing but wretchedness remains, we do not honour life by standing by as people endure a terrible and unwanted journey into eternity. We honour life by doing our best to ensure that the process whereby it is finished is of a piece with the dignity and desirability of the rest of it.

(b) There is the thought that 'the doctors might be wrong'. The terminal illness might go into remission, and the would-be suicide might go on to live for more happy years, grateful at not having been assisted in what he desired. In the case of the prisoner, there might be a last-minute reprieve, or a change of regime, or an earthquake that throws down the prison walls. Perhaps there might be, but the right course of action is never hostage to bare, outlandish, even miraculous happenings. We act responsibly in the light of what it is responsible to suppose will happen, not in the light of fantasies about what might as a bare possibility happen. It is not rational to avoid the merciful, humane, compassionate course because once in a blue moon it might turn out better not to have taken it.

(c) There is the thought that it would be irresponsible to the point of wickedness to help, for example, a lovelorn teenager to commit suicide when he is convinced that his life will be forever meaningless—so why is the case of the terminally ill any different? The answer is implicit in what was said above. Teenagers have a very good chance of recovering from their despairs. Nearly all of them do so eventually. Hence it would be irresponsible or even wicked to help one to die when so much good predictably lies in front of them. The case of the terminally ill is the exact opposite. With the teenager there is every realistic prospect of a rosier future. With the terminally ill there is none.

(d) There is the thought that hospice care can alleviate much end-of-life suffering, and that we should be putting resources into that rather than legalizing assisted suicide. The clear answer to this is that these are not exclusive alternatives. Countries such as Holland which have legalized assisted suicide also have excellent hospice provisions. It is always going to be a small minority who need assistance and beg for assistance to end their lives. For the rest of us, it is reassuring to be able to hope for excellent end-of-life care and in the end, to receive it.

(e) Finally there is the 'slippery slope argument', that if assistance is allowed in the carefully circumscibed cases of competent but incapacitated patients who are terminally ill then it will spread. This fear is sometimes felt by handicapped persons, who imagine something like the policies of Nazi Germany returning, and by others who imagine elderly people pressured into requesting a death that they did not otherwise want.

The first case is irrelevant; it is not even on the slipperiest of slopes. We are talking about assisted suicide, not general euthanasia. You can only assist suicide when suicide is already the decision of a competent adult, and any reform of the law would be careful to put in place the kinds of safeguard that already exist in other jurisdictions, certifying that this is

indeed the settled desire of a competent adult who is terminally ill. The euthanasia policies of Nazi Germany paid no attention to what their victims actually desired. They did not assist in implementing the victim's wishes, but overrode them (which of course is what the present law also does).

The same safeguards alleviate the problem of elderly and ill patients being pressured into seeking assistance, for instance by family or friends who stand to benefit from their death. We are, of course, none of us free from all influences as we make decisions in life, but those decisions may be responsible and rational nonetheless. A patient may well find that one of the factors making his or her life intolerable is the extent to which they are a burden on others, and this feeling could be one factor in a responsible choice to end his or her life. The decision would be properly autonomous for all that, and if the situation is in any case intolerable, we will judge the decision rational. Autonomy is only compromised when actual threats, coercion, or abuse are applied. A panel might have reason to fear that this is the case. But there should be no difficulty of principle in finding whether it is. Courts find it possible to judge of coercion and threats in many situations besides this one.

The law does not in general fear a slippery slope leading from cases of competent rational decisions to cases of coercion, threats, and force. If I freely choose to give you some money you are entitled to the gift. If you have coerced, threatened, or forced me to hand over the money, you are not. But nobody takes the existence of the second sort of case to be a justification for making gift-giving itself illegal. It is the same in the cases in point.

Finally there is no evidence that jurisdictions that have legalized assisted suicide find themselves sliding down slippery slopes. Although this is often denied by those opposed to assisted suicide, in fact the statistics from the countries and states that have legalized it are remarkably stable [Dignity in Dying] .

(6) The thoughts I have outlined and discussed cloud discussion of the issue, but they should not obscure the basic morality that applies. This is a morality of respect for people's own rational decisions about their lives. It is a morality of understanding not only physical pain, but the mental pains of fear, indignity, and longing to be spared a wretched existence that is shortly to end in any event. And it is a morality of compassion and humanity. This is the common moral core not only to modern liberal and secular traditions, but to many religious traditions as well. There is no decent alternative.

(7) Although the moral argument I have presented is, in my view, incontrovertible, there is one important subsidiary point. We none of us like to dwell on the idea that may be badly injured, say in a traffic accident. But it is at least a comfort to know, in the back of our minds, that were this to happen we would get the utmost aid from competent, skilled medical professionals. We none of us like to dwell on the excruciating turns our journey to death might take. But it would be a nice additional element in our lives if we could have the same comfort at the back of our minds about that. At present, in the United Kingdom, we none of us can.