

Speech at the 2nd Mason Institute Medico-Legal Debate

Speaking for Motion

Ladies and Gentlemen, we have heard from the opposition consistently, particularly the 4th speaker of the opposition, that everything seem oh, so clear. Legally; Ethically; Morally, that everything's simple. But I would submit something else.

I would submit that Scots Law on assisted suicide is so unclear, unpredictable and unable to give anything approaching a definitive guideline to citizens as to what may or may not be criminal, and to what actions may or may not attract the attention of the courts and life sentence in prison. This is intolerable.

The vagueness of the law, and the more or less complete lack of transparency in its application by the Crown Office has led to something which is a fudge, and absolute fudge, the continuation of which cannot be justified today.

These are not my words, but the words of Andrew Tickell a lecturer of law at Glasgow Caledonian University and Oxford PhD candidate. These are words supported and adopted by Professor Chalmers, the Professor of Criminal law here at the University of Glasgow when explaining his evidence, his recent evidence last week, to the Health and Sport Committee at the Scottish Parliament. This is the situation we find ourselves in before legislating. This is the situation that we are facing. By regulating, by legislating clearly and actively for the legalisation of assisted suicide, Learned Judge, Ladies and Gentlemen, what we are doing is setting clear regime in which the law and medical profession can work.

Assisted Suicide...it is unclear whether assisted suicide – assisted suicide being an inchoate offence therefore, suicide – is actually legal. The learned Judge in his opening remarks make the point that apparently it is legal in Scotland – or at least not illegal. Up until the late 1800's (the 1880's) there was a firm belief that it probably was illegal to commit suicide in Scotland but for very practical reasons (which I'm sure we can all imagine) incredibly difficult to actually prosecute. This is the situation we have. There was some flip that happened, baselessly, on a judicial whim that made it suddenly "Oh, it's all ok". This is a mess! When Professor Chalmers, when giving evidence to the Scottish Parliament committee said he genuinely does not know what the position in Scotland is, we have a problem.

It is not simple and clear, as the opposition currently make out. It is in fact confusing and confused. By legislating and providing that clear framework, what we are doing is providing a remedy to that problem.

But, Ladies & Gentlemen, Madame Chair, Judge, why legislate on this side of the house? Why make things clearer so assisted suicide is legal, and not illegal? This comes to the main part of the matter, the matter of personal autonomy.

The second Opposition speaker said, and we in the Proposition completely agree that autonomy is not absolute. That is why, in response to comments made by the other Opposition speaker, we *have* the safeguards; we *have* the age-limit. We accept that autonomy is not absolute; but what we also accept is that it is a central principle, in Scotland today.

Because, Ladies and Gentlemen, we acknowledge currently the right to refuse medical treatment. Even when that treatment can save your life, we acknowledge your right to refuse it. Even if that refusal will and definitely lead to your death, we acknowledge your right to refuse it. And conversely, as well as just omission, we acknowledge that ~~even if there is life saving treatment...I beg your pardon...~~ even if there is treatment which is potentially fatal, which present a substantial risk to your life, we accept you are able to opt-in to receive that treatment. We accept that autonomy is at the centre.

Learned Judge, I am not saying that these are the same category as assisted suicide itself – these are categories apart from assisted suicide – but the principle is central and remains. It is that, in all these cases autonomy is paramount. Not absolute, but central.

But Ladies and Gentlemen, we on the proposition understand that this is an emotive argument. We understand that this is a controversial issue. We understand that. But we also understand that this situation needs clarity.

We have always pictured death as something to be feared, and fought against. that has always been our position. But that was before many of us in this room will live long enough to experience terminal and degenerative illnesses. That was before we understood the nature of these illnesses. And most importantly, that was before so many people, a significant, *significant* number of people, wanted the right to end their life.

Ladies & Gentlemen, at the heart of this measure, behind the statistics and the academic arguments and the principles are people wanting an answer. They want an answer of whether they are able to exercise their personal autonomy to act, or whether they must wait to not act later on. People who want an answer to whether they can act or not if someone can kill them without risking prosecution. But, most importantly Madame Chair, people want an answer as to whether they can take positive steps to control their end-of-life decisions now, or whether that must be left to their condition.

Ladies and Gentlemen, this is not an easy argument and this is not an easy decision to make, but it is an important one. So for all the reasons stated by the Proposition, and the absence of reasons and logic of the opposition, I would urge to support the motion before the House tonight.

Paul Cruikshank
4th Proposition Speaker
18th February 2015