

FOR LIFE. FOR ABILITY



LIFE. THE FIRST RIGHT

FOR LIFE. FOR ABILITY. LIFE - THE FIRST RIGHT.

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INTRODUCTION

The latest statistics indicate that at least 400,000 Irish people now live with some form of disability. That means that disability affects at least one in ten Irish people, and that's not counting the family members, nurses, doctors, friends, therapists, counsellors, coaches and all the other people who are also directly in contact with disability every day.

People with disabilities have made huge strides in Ireland in the last generation and are making valuable contributions to our society today. But in spite of these great achievements, some vociferous promoters of abortion are seeking to use disability before birth as a “reason” to make abortion widely-available in Ireland.

This kind of lethal discrimination is antithetical to Irish culture, where we have always sought to give extra assistance to people with disabilities and infirmities. All our recent legislation to better integrate into society those with special needs shows the Irish commitment to supporting people with different levels of ability.

By focusing on the fundamental right of every human being – the right to life – this report puts all other individual rights into perspective. It shows how abortion in the case of disability is in opposition to our progressive society, as it makes a mockery of all the recent achievements made by people with disabilities. For how can we as a society say, with any sincerity, that we respect the lives and contributions of our disabled citizens, if we are prepared to kill them before they are born?

Abortion on the ground of disability is not the liberal or caring position that it is portrayed to be; rather, it is an emotive, “hard case” which is being used by a small contingent of activists to try to force abortion upon an unwilling Irish public. Despite all of their protestations to the contrary and

despite the constant admonitions by the media not to be “emotive”, abortion campaigners do not shrink from exploiting the women and babies involved in personal traumas in order to further their agenda of introducing abortion on-demand into Ireland.

In repeated surveys and at the polls, the Irish public have, time and again, rejected abortion. And now, a commitment has been made by the current Government not to legislate for abortion – on any grounds, including disability. But this complete lack of public and governmental support has not stopped Irish abortion promoters, along with some in the Health Services Executive (HSE), the legal profession and the media in their efforts to change our abortion laws through test cases in the Courts, as the recent ‘D’ Case highlighted.

The aim of this booklet is to prove that abortion is never justifiable on the grounds of disability. We will examine the legal and philosophical arguments against abortion on such grounds and also investigate the eugenic ideology which is behind this push to eliminate the disabled. In this way, we intend to give people the information they need to argue the case for life.

And, not wanting to leave the issue without making helpful proposals, this report also offers positive solutions to the challenges posed by disability. Rather than seek justification for killing the innocent and vulnerable, we ought to concentrate our efforts in helping families living with a disability to better cope with day-to-day life. In this way, our society can offer hope rather than desperate quick-fix solutions, which only ever make things worse for the individual and for society. Abortion does not prevent disability – it only kills a disabled child.

LEGAL STATUS OF THE DISABLED

The legal protection of the unborn in Ireland is set out in the 8th amendment to the Irish Constitution, Article 40.3.3°, which provides:

Admhaíonn an Stát ceart na mbeo gan breith chun a mbeatha agus, ag féachaint go cuí do chomhcheart na máthar chun a beatha, ráthaíonn sé gan cur isteach lena dhlíthe ar an gceart sin agus ráthaíonn fós an ceart sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur féidir é.

In English this reads:

The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

Importantly, the Irish for “unborn”, “na mbeo gan breith,” translates directly into “of the living, not yet having been born”. Logically, therefore, the term “unborn”, being unqualified, applies so as to cover all the unborn, regardless of age, regardless of disability.

That is, in Article 40.3.3°, there are no exceptions made for any type of unborn baby – female, black, disabled – and so, we know that the protections afforded by the amendment were not meant to safe-guard one single type of unborn baby, but rather, all unborn babies, regardless of sex, colour or disability. Therefore, we may presume that the intention of the amendment is to protect all unborn life.

The problem with Article 40.3.3° is not inherent; rather, it arises when one tries to interpret its terms so as to limit them in some manner. The constant attempts by abortion promoters to interpret Article 40.3.3° as permitting abortion in certain instances, and their attempts therefore to

deny some of the unborn the protection of the Article, are what has caused problems to date.

This type of misinterpretation was not a problem regarding the protection of babies with disabilities until recently. In two cases, both coincidentally called ‘D’, two women who had babies diagnosed with disabilities, sought to, and eventually did obtain abortions.

THE EUROPEAN ‘D’ CASE - 2006

In the 2006 D Case, an applicant took her case before the European Court of Human Rights complaining that she could not obtain an abortion in Ireland for her disabled unborn child. The Court, however, deemed her complaint inadmissible, but not before saying that she should have exhausted all domestic remedies first.

The European Court was suggesting an interpretation of the Irish Constitution in which the right to life of the mother might supercede the right to life of the unborn in a case where the unborn child was diagnosed with “an abnormality incompatible with life”. And the Irish Government lawyers, who were charged with defending the Irish Constitution in the European Court seem to have agreed with this stance.

In the judgement of the European Court, the lawyers representing the Irish State said: “The foetus was viable in the X case, whereas in the present case there might be an issue as to the extent to which the State was required to guarantee the life of a foetus which suffered from a lethal genetic abnormality”.

The State’s lawyers also claimed before the European Court, that, “the courts were [...] unlikely to interpret [Art. 40.3.3] with

remorseless logic, particularly when the facts were exceptional...'

And they went on to say: "If therefore, it had been established that there was no realistic prospect of the foetus being born alive, then there was 'at least a tenable' argument which would be seriously considered by the domestic courts, to the effect that the foetus was not an 'unborn' for the purposes of Article 40.3.3°, or that even if it was an 'unborn', its right to life was not actually engaged as it had no prospect of life outside the womb".

These lawyers, acting on behalf of the Irish State, seemed to give the signal indicating that Irish courts may interpret Article 40.3.3° as not giving protection to some unborn, even though the text of the Article clearly does not limit the group of unborn to be protected. This is plain judicial activism, contrary to the text of the Constitution.

THE DUBLIN 'D' CASE - 2007

The more recent of the two 'D' Cases involved an expectant teenager who was in the care of the HSE. Sometime after she learned that her unborn child was suffering from a severe brain anomaly – anencephaly – she decided to abort her baby.

Initially, the HSE sought to prevent her from travelling to England for the abortion, insisting that, at all times, it required District Court approval to release the girl from care. But as the hearing proceeded, the Health Services made an astonishing about-face, even going so far as to take a High Court judicial review of a judgement in the District Court which accorded with their original intentions to prevent her from travelling.

Throughout the court hearing, some of the

media and the court personnel, tried to de-humanise the child by telling lies in their reports and by calling the baby names, like, "an aberration of nature". Still, this little baby was a human being, who deserved all the rights and protections which every person, born and unborn, is entitled to under the Irish Constitution, regardless of disability.

DISTRICT COURT DECISION

And it is well to note here that this is exactly the judgement made by the District Court Judge Brennan before the case was reverted back to the High Court for a judicial review. In refusing the application to travel made by the HSE on behalf of Miss 'D', Judge Brennan said that doing so would be a failure to vindicate the constitutional right to life of the unborn.

By his ruling, the District Court judge legally recognised the fact that, under existing Irish law, though this baby might not have lived very long after birth because of its disability in no way justifies its killing.

HIGH COURT JUDICIAL REVIEW

But, as stated already, the HSE decided to take a judicial review of the District Court's ruling, and so the case went to the High Court where Judge Liam McKechnie ruled that the Constitution did not prevent Miss 'D' from travelling pursuant to the "right to travel" amendment made in the wake of the X Case. And, in the event, the senior counsel, Mr Connolly, appointed by the Attorney General, Rory Brady, on behalf of the unborn, agreed.

So, in the end, in spite of the judgement of the District Court, the HSE and the High Court had their way, and Baby 'D' was taken to England and killed. And as we

learned from the court proceedings, the HSE had no compunction about the killing of this little baby, as they already had blood on their hands from six other defenceless babies, whom they claimed to have had taken to England for abortion.

'NO LIFE' IN SECOND 'D' CASE?

One of the most revealing aspects of the second D Case was how Judge McKechnie's thinking on the case mirrored that of

the Irish State lawyers in the previous D Case argued before the European Court of Human Rights in 2006. In this light, and with regard to Baby D, Judge McKechnie stated that: "The undisputed evidence is that this baby will not live and that is what we are dealing with." Crucially, he went on to say that because Article 40.3.3 vindicates only the "right to life" of the unborn, it [Art. 40.3.3] might not apply to Baby 'D', as there would be "no life".

And though, in the end, Judge McKechnie

DEFINITION OF DISABILITY

dis·abil·i·ty, dis-&-'bil-&t-Ē (n).

Lippincott Williams & Wilkins Stedman's Medical Dictionary, 28th Edition © 2006, defines disability thus: (1) According to the International Classification of Impairments, Disabilities and Handicaps (World Health Organization), any restriction or lack of ability to perform an activity in a manner or within the range considered normal for a human being. The term disability reflects the consequences of impairment in terms of functional performance and activity by the person; disabilities thus represent disturbances at the individual level. (2) An impairment or defect of one or more organs or members.

More specific to Ireland, a number of different working definitions of disability exist in the context of different pieces of legislation. The two main definitions of disability at use in Ireland are to be found in the Equal Status Act 2000 and the Education for Persons with Special Educational Needs Act 2004.

Under the **Equal Status Act 2000**, disability has been defined as...

(a) the total or partial absence of a person's bodily or mental functions, including the absence of a part of a person's body;

(b) the presence in the body of organisms causing, or likely to cause, chronic disease or illness;

(c) the malfunction, malformation or disfigurement of a part of a person's body;

(d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction;

(e) or, a condition, disease or illness which affects a person's thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour and... which exists at present or previously existed but no longer exists or may exist in the future, or which is imputed to the person concerned and this person is treated less favourably than another person is, has been or would be treated.

Under the **Education for Persons with Special Educational Needs Act 2004**, disability means, '...a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which result in a person learning differently from a person without that condition'.

decided to rule specifically on the issue of travel in this case, he could have also ruled on the 'life' issue. From what the judge intimated about Article 40.3.3 not applying to Baby 'D', it is evident, therefore, that this is the line being taken by the Government in relation to abortion on the ground of disability.

Of course, this kind of reasoning is as utterly faulty as it is deplorable. In fact it defies reason, as it violates the principal of non-contradiction, in which a thing either is or isn't something. Clearly, the child is in the womb, and so, by any definition, it is an 'unborn'. And it is clearly alive, otherwise, there would be no case in the first place. So, by saying that there was no 'life', the Government lawyers in Europe and Judge McKechnie were not making an objective statement, rather, they were making their subjective opinion be known based on the "quality of life" the child was likely to have after birth.

Despite this lack of clear reason on the part of Judge McKechnie, the attorney for the unborn, Mr Connolly stressed that Baby 'D' was "active and has the right to life". He also said that the issue of when life began was not relevant, the issue was when it was dead. And it was only then that the constitutional protections for the unborn did not apply.

We will all die – "no life" (in the words of Judge McKechnie) – at some point. When a cancer diagnosis has been made of a terminal illness, therefore, should we simply kill the patient in anticipation of his death?

Judge McKechnie's illogical and subjective extra judgement statements were in the very least, unprofessional. But they were also revealing, at least to the degree that they make public aware of the Government's thinking on the issue.

The attempt by the judiciary to pervert language, by saying that a clearly living and unborn person is neither alive nor unborn, beggars belief. This is not simply a matter of linguistic acrobatics, it is a matter of extreme injustice.

THE SPECTRE OF EUGENICS IN THE 'D' CASE

Eugenics is the prejudicial social philosophy and practice which advocates the selection of one type of genetic trait over another.

Although Justice McKechnie and the media were keen to say that the D Case was not about people with disabilities or about children with profound neurological difficulties, once one person is selected against, like Baby 'D', what is to prevent others from being likewise eliminated from the gene pool. And who shall be the judge of what conditions do or do not qualify for abortion?

Again, during the case, Mr Connolly, Counsel for the Attorney General and the unborn, Baby 'D', warned that any debate about the cognitive functions of the unborn could lead to an unsavoury push for eugenic abortions for babies with any abnormality. He said that the court should not enter "the dangerous area of eugenics" or into defining life by the measure of cognitive function. We agree with Mr Connolly's statements and call on the Government to re-think their position on foetal abnormality before Ireland goes down a slippery slope to eugenic abortion.

IMPLICATIONS OF THE 'D' CASES AND FUTURE CHALLENGES

As was stated earlier, Justice McKechnie could have ruled on the 'life' issue in the D

DISABILITY IN IRELAND

Between 11% and 16% of Irish people say that they are living with a disability. These percentages do not represent only those people born with a disability, but also those, who, by accident or by incidence of a disabling condition or disease say that they are disabled. Thus, about 400,000 Irish people say that they are disabled.

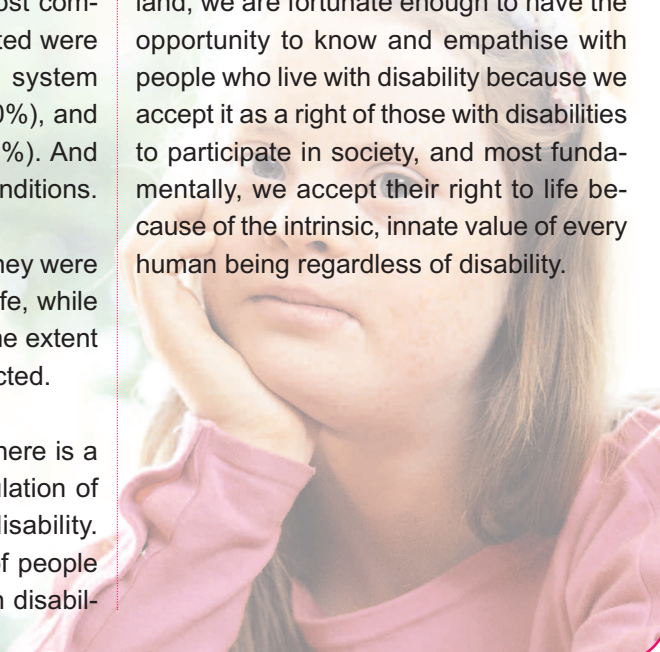
Of these, one-quarter said that they had a mobility impairment, while the most common other disabling conditions cited were associated with the circulatory system (17%), the respiratory system (10%), and the musculo-skeletal system (13%). And another 20% reported multiple conditions.

About one-quarter of these said they were not restricted at all in their daily life, while about 55% were restricted to some extent and one-fifth were severely restricted.

According to the surveys, then, there is a significant proportion of the population of Ireland directly affected by a disability. Couple that with the proportion of people engaged in caring for people with disability,

and that number rises substantially. And then add the number of people who are related to or friends with someone who has a disability and it is quite probable that at least half of the population of Ireland is directly affected by disability.

This is all to say that to be affected by someone living with a disability is to be able to empathise with that person, not just as a statistic, but as a real person. In Ireland, we are fortunate enough to have the opportunity to know and empathise with people who live with disability because we accept it as a right of those with disabilities to participate in society, and most fundamentally, we accept their right to life because of the intrinsic, innate value of every human being regardless of disability.



Case, but instead, he limited his ruling (though not his other statements in court) to the issue of travel. Given his statements (*extra* judgement) and those of the lawyers for the Irish Government in the European D Case, it is possible that a new grounds for obtaining an abortion in Ireland could've been handed down.

This would have been disastrous for the unborn and for Ireland. However the judgement did not establish new grounds for abortion in Ireland, but kept intact the status quo.

However, this is the type of 'hard case' challenge which the Irish abortion lobby had been waiting for and they will not stop with this case. They will wait for another

hard case and when they have a willing victim, they will take another case and another and another, all the time trying to weaken the protections against the unborn.

These people in the media, the government and the court system, most of whom have probably never had any first-hand experience of working with the disabled, seek to employ a totally subjective standard as to which babies 'deserve' to live and which 'must' die. In the long run, they hope that their bloody-minded 'search and destroy the disabled' mentality settles in Ireland, as the first step to the availability of wide-scale abortion.

The judges of the Irish Court system are

not omniscient nor omnipotent, and neither are they untouchable. They are political appointees and, as such, in a sense they are beholden not just to the government of the day, but to the people who elected that government.

And where the electorate is concerned, it is well to remember that according to the Irish Constitution, the sovereign people

have the last say on any matters of the Constitution. So we urge any interested parties to demand from their public representative that they appoint judges who will honour what the electorate intend and if it comes to it, that the people will be given the opportunity to vote on anything that would change the Irish Constitution regarding abortion.

MODELS OF DISABILITY

A model of disability is a way of perceiving disability and a way of contextualising disability not only for those who live with disabilities but also for society as a whole.

The two most common models are the 'medical model' and the 'social model'. The medical model sees a person's disability as the 'disabling' factor, whereas the social model sees social barriers as the 'disabling' factor. In other words, the medical model defines the 'problem' in terms of an individual's physical or mental disability whereas, the social model defines the 'problem' not in terms of the individual, but rather, in terms of society's prejudice against disability, lack of understanding about the same, and, or lack of social integration and inclusion offered to people with disabilities.

It is well to note here that the language society employs is very important, as language can either bind someone to or loose someone from a particular stereotype. In terms of the two models of disability, the use of the medical model in social parlance can automatically incapacitate and limit a person with a disability. By contrast, the use of the social model can actually empower a person with a disability, as they, along with society, realise that the

'problem' is not internal but external; it is not they who must change, but rather, it is society which must adapt to the needs of all its members.

The following statements illustrate the difference between the two models:

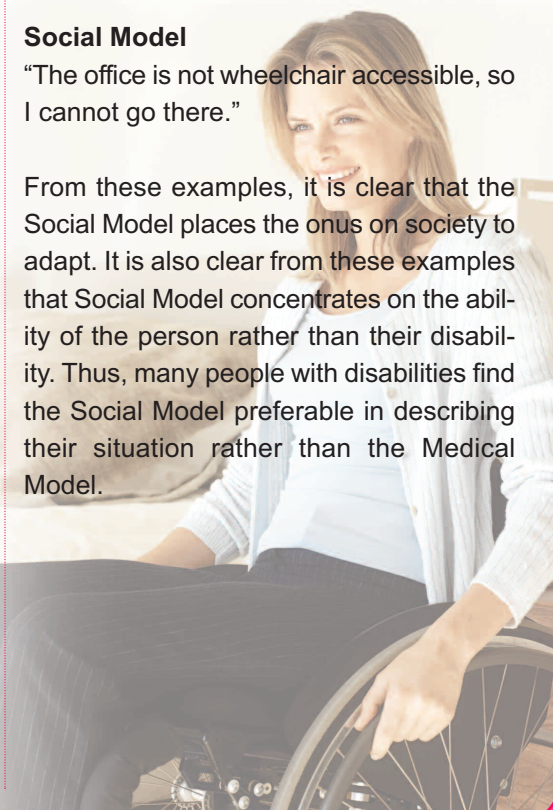
Medical Model

"I have Spina Bifida. I have to use a wheelchair, so I cannot go to the office to work."

Social Model

"The office is not wheelchair accessible, so I cannot go there."

From these examples, it is clear that the Social Model places the onus on society to adapt. It is also clear from these examples that Social Model concentrates on the ability of the person rather than their disability. Thus, many people with disabilities find the Social Model preferable in describing their situation rather than the Medical Model.



THE PHILOSOPHICAL ARGUMENT

It was the ancient Greek philosopher Aristotle who first called man, “a rational animal”. Indeed, man is an animal, though like no other animal; he is separated from all other animals (and indeed, all other things) on account of his rationality, his capacity to reason. Along with reason, man also has a volitional capacity. These two capacities, implemented by the intellect and the will, set man apart from the rest of the animals, and make him absolutely unique in all creation. The capacities of intellect and will literally make a human being infinitely different to every other thing in the known universe, and, as such, give man an incalculable intrinsic value – simply in being human.

But note well, rationality is a property of man because it flows from his essence, and as such, rationality, in and of itself, is not the essence of man. A human being has the capacity for rationality and not the other way round; that is, a human being is not dependent on rationality to be designated as a human being.

It is possible, then, to have a human being, who, for whatever reason, does not fully manifest rationality (think of a child or in the instance of this discussion, a mentally disabled person), but the fact that a given individual does not display the capacity to reason does not make him any less human by nature, nor does it detract in any way from his innate worth as a human being.

As stated above, man is different to all other created things. But every human being is also different to every other human being, and this is due to the personhood of the individual. Whereas human nature is shared by many, personhood, that which identifies us as who we are, is not shared. Personhood manifests itself in a peculiar mode of existence which has never, nor is now, nor ever will be

replicated. A person's act of existing is his and his alone. Therefore, it is in his personhood that man is unique.

Where disability is concerned, therefore, we must say that a disabled person is as much of a person as a non-disabled person because his existence as a person ontologically is that substratum upon which rests his disability, just as any other characteristic he possesses. A disability is part of personhood, part of the unique mode of existence which some people inherit congenitally or acquire by way of accident.

It would be a logical fallacy to say that a disabled person is something essentially different to a person without a disability, just as it would be a logical fallacy to claim that a black person is something essentially different to a white person or that a woman is something essentially different to a man where personhood and humanity is concerned. In each of these cases, a person simply must be a person first and foremost to be further described as male, female, black, white or disabled.

Thus, the main premise of the philosophical argument which impinges on the legal as well as all of the moral arguments, is the principal that a person with a disability, born and unborn, is indeed, and in fact, a person, endowed with a unique and induplicable personhood, which has an infinite value in and of itself, and is therefore deserving of the respect and protection of our laws.

EUGENICS - UTOPIA AT ANY COST

But if the foregoing philosophical argument for the life of the unborn is largely being ignored, what other arguments are filling the void?

Simply put, the practice of abortion on the grounds of disability is ideologically supported by eugenics, whether this is explicitly stated or not.

A 2002 literature review of elective abortion rates in the United States found that 91–93% of pregnancies with a diagnosis of Down's Syndrome were aborted. Physicians and ethicists are concerned about the ethical ramifications, with some commentators calling it "eugenics by abortion".

Eugenics is a prejudicial social philosophy and practice which advocates the selection of one type of genetic or social trait over another. Etymologically, the word eugenics derives from the Greek word *eus* (good or well) and the suffix *-genēs* (born), and was coined in 1883 by Francis Galton who argued that "what nature does blindly, slowly, and ruthlessly, man may do providently, quickly, and kindly".

Eugenics is sometimes broadly applied to describe any action whose goal is to eliminate any "imperfections" in human genetics. Some forms of infanticide in ancient societies and our present-day pre-emptive abortions and designer babies may be seen as eugenic. In their utopian zeal, eugenicists, old and new, have resorted to using science to select against certain genetic groups, usually, as it turns out, groups to which the eugenicists do not belong.

Eugenics is based on, and is itself, pseudoscience; eugenics is not based on hard scientific fact, but rather on the subjective prejudice of the eugenicist. In other words, eugenicists advocate specific policies that might lead to a perceived improvement of

the human gene pool. But, since defining what improvements are desired or beneficial is a cultural choice rather than a matter that can be determined objectively (e.g., by empirical, scientific inquiry), eugenics has often been deemed a pseudoscience which does not stand up to scientific scrutiny.

The most disputed aspect of eugenics has been what constitutes an "improvement" of the human gene pool and what is a "defect". This aspect of eugenics has historically been tainted with racism, sexism, ageism, sectarianism, and elitism (whether political or intellectual).

There is no scientific consensus on what constitutes a "genetic defect". It is often argued that this is more a matter of subjective, individual choice based on environment. What appears to be a "defect" to one person may not be so to another. And who is to judge?

As one pertinent example, we can most certainly state that disabled persons can succeed in life, and thus condemnation must accompany pre-natal diagnoses of congenital disorders which lead to abortion. Whether or not this is state-sponsored or "voluntary", this type of discrimination against the disabled is a deadly form of genetic cleansing, masquerading as 'social improvement'.

MODERN PROMOTION OF EUGENICS

Some notable geneticists, including Nobel Prize-winners John Sulston and James D. Watson, who support genetic screening, have said respectively, "I don't think one ought to bring a clearly disabled child into the world", and, "Once you have a way in which you can improve our children, no one can stop it".

And Bob Edwards, the embryologist who created the first test-tube baby through in vitro fertilization, predicted that "soon it will be a sin of parents to have a child that carries the heavy burden of genetic disease..."

THE EUGENIC MINDSET AND ITS DEADLY EFFECTS

Far from being unthinkable, these comments reflect unspoken attitudes and practice outside of Ireland.

The drive for pre-natal testing in the 1970s was eugenic. Since that time, doctors have scrambled to advance pre-natal technology in response to consumer demand, mainly from parents who didn't want the perceived onus of raising children with Down's Syndrome. Now pre-natal testing is capable of discerning hundreds of conditions. This has enabled doctors to identify and abort children not only with chronic disabilities but with common disabilities and minor ones. Among the aborted are children screened for deafness, blindness, dwarfism and limb anomalies.

In one case in the United States, a woman who had an extra finger asked doctors to abort two of her children because they had a 50-50 chance of having the same condition. And closer to home, in Britain, an unborn 28-week-old child was aborted because new techniques for detecting foetal abnormalities indicated that the child had a cleft lip and palate. When challenged in the courts as a case of "unlawful killing," the prosecutors refused to file charges, relying in part on guidance by the Royal College of Obstetricians and Gynecologists who stated there is "no precise definition of serious handicap."

Clearly, once a eugenics mindset becomes ingrained in any society, nothing

less than perfection will suffice when it comes to unborn children. And this means that those deemed to be less-than-perfect will suffer the lethal consequences.

DISABILITY ACTIVISTS REJECT EUGENICS

Disability activists have strongly argued against this "perfection only" mindset, saying that, although their impairments may cause them some difficulties, what really disables them as citizens is a socio-cultural system that does not recognise their right to genuinely equal treatment. They reject the claim that any form of eugenics could be to the benefit of the disabled, considering their treatment by historical eugenic campaigns. And, as such, disability rights groups in the EU have stated their opposition to eugenic abortion based on pre-natal genetic indications.

- The European Blind Union has stated its opposition to abortion for genetic indications in its manifesto: "the right to life shall include the prohibition of compulsory abortion at the instance of the State, based on the pre-natal diagnosis of disability".

- The disability rights movement in Germany has disapproved of abortion in cases in which the foetus is found to have a congenital defect. This issue for the German disability-rights movement has continuity going back to the early eugenics movement, through to the Nazi era, when Nazi eugenic practices became a concern, and on into the present.

NEW EUGENICS - PGD AND ABORTION

Many parents believe that they are entitled to a "perfect" child, thereby fuelling the development of germ-line genetic engineering (which tries to create desirable traits in an embryo) and Pre-implantation Genetic

Diagnosis (PGD), which is used to select the most desirable embryos after extensive genetic testing has been done before they are implanted in a mother's womb.

Meanwhile, doctors are simultaneously reporting that children born through In-Vitro Fertilization are experiencing higher rates of congenital disabilities than the average population, suggesting that for every problem scientists try to solve through illicit means they create multiple new ones.

Eugenics, PGD and abortion of the disabled go hand-in-hand. Eugenics is the theory, PGD and abortion the practice. Of course, eugenics is not the only reason why abortion is practiced, but it is one of the most insidious and pernicious, as it plays on the hopes and fears of prospective parents: the hope of perfection and the fear of imperfection.

Ultimately, it is the entitlement culture which has grown up around the areas of eugenics and abortion that is heightening a demand for both in other countries. The selfishness of this ideology often goes under the guise of "it's my right to do what I want" or "I don't deserve anything but perfection". In the rush for a quick-fix solu-

tion to the challenges that face the disabled and their parents, what is really lost with eugenic abortion is the recognition that one person must suffer the direct, lethal consequences of the selfish actions of another person.

Just as the Irish state has imposed anti-smoking laws for the protection of society, so too, does the Irish state impose pro-life laws for the protection of the unborn, irrespective of disability. The state has a duty to intervene in both of these cases, as the vulnerable parties need to be protected from the potentially injurious effects of other's choices.

The key to both of these scenarios is that the Irish state recognises in its laws the rights of not one, but two (or more) people, where the more vulnerable of the two clearly has equal standing. In justice, this law should be retained and not misinterpreted to allow for eugenic abortion, as such a ruling would appeal only to subjective interests and, in the end, only serve to devalue the objective worth of every, single human life, regardless of disability. Abortion in the case of disability is always eugenic and therefore, always subjective.

EUGENICS IN THE 20TH CENTURY

From its inception, eugenics was supported by people who saw themselves as superior to others, including well-known racist and founder of Planned Parenthood, Margaret Sanger, as well as Adolf Hitler. Its scientific reputation started to tumble in the 1930s, when Ernst Rudin began incorporating eugenic rhetoric into the racial policies of Nazi Germany.

Eugenics was used as a justification for coercive state-sponsored discrimination, forced sterilisation, the killing of the insti-

tutionalised and, in some cases, outright genocide of races perceived as "inferior" or "undesirable".

Modern means of achieving these goals focus on selective breeding, pre-natal screening, genetic counselling, contraception, in vitro fertilisation, genetic engineering and abortion – all of which are eugenic in nature. That is, the aim of all of these procedures is to exterminate the "inferior", in the search for the "perfect" child and the "perfect" society.

IRELAND'S TRADITION

The eugenic-abortion mindset has never been part of Irish culture, as we Irish have always seen people who have disabilities differently to most of the rest of the world. Rather than stigmatising people living with a disability as somehow less than human, we have traditionally given the disabled an elevated status in our society. This noble tradition is even reflected in our Irish language by the words we use to describe the mentally disabled, 'paisti le Dia', which literally translates into English as "children of God".

Perhaps the reason for our traditionally high regard for the disabled is recognition of the fact that no-one is perfect or without fault, that we all have burdens which are more easily shouldered together. As anyone who has ever met or worked with a disabled person knows, along with those unique struggles, they also bring a unique joy to those they meet.

Our celebration of every life, no matter at what stage and no matter how difficult, is indeed a noble tradition. And as most will remember, it is this celebration of life which inspired the International Special Olympics Committee to choose Ireland as the host nation for the Games of 2003.

We should be rightly proud of having been selected as the first country outside of the United States to host the Special Olympics. Our acceptance and love of our disabled citizens is manifest, as we look beyond their disability to see the person and individual who, like everyone, has certain struggles in their lives, unique to them.

Because of our history, we know first-hand that human life becomes cheapened when intrinsic value is not accorded to it. If some other subjective measure of value is used where human life is concerned, the result is that a whole class of people can become dehumanised and thereby, dispensable in the eyes of society.

Instead of devaluing life, let us endeavour to cherish every life as the gift that it is, no matter what package it comes in, no matter how long or how short. Let us have no hesitation to depend on and use our Constitution as the legal means to retain protection for the disabled, both born and unborn.



FUTURE CHALLENGES TO THE LAW

Increasingly, with the legalization of abortion at all stages of pregnancy, pre-natal testing and diagnosis has become a tool by which parents decide whether or not to abort their unborn child should a disability be present. Physicians are pressured to offer such tests out of fear they will be successfully sued for the "wrongful" birth of a child with a disability.

In some cases the aborted children aren't disabled at all but are mere carriers of a genetic trait that may affect them later in life. Prenatal screening has made it possible to abort children on guesses and probabilities.

The combination of doctors seeking to avoid lawsuits and parents seeking burden-free children means that once pre-natal screening identifies a problem in a child the temptation to eugenic abortion becomes almost unstoppable.

Parents get pressure from doctors who, without even bothering to ask, automatically provide abortion options to them once the pre-natal screening has diagnosed a disability and they feel pressure from society at-large, which having accepted eugenic abortion, looks askance at parents with disabled children.

The right to abort a disabled child, in other words, is approaching the status of a duty to abort a disabled child. Parents who abort their disabled children won't be asked to justify their decision. Rather, it is the parents with disabled children who must justify themselves to a society that tacitly asks: Why did you bring into the world a child you knew was disabled or might become disabled?

The law and its indulgence of every conceivable form of litigation has also advanced the new eugenics against the disabled. In the United States, doctors feel

pressure to provide extensive prenatal screening for every disability, lest parents or even disabled children hit them with "wrongful birth" and "wrongful life" suits.

In a wrongful birth suit, parents can sue doctors for not informing them of their child's disability and seek compensation from them for all the costs, financial and otherwise, stemming from a life they would have aborted had they received that pre-natal information. Wrongful life suits are brought by children (through their parents) against doctors for all the "damages" they've suffered from being born.

This kind of litigation in the United States is creating a situation in which the doctor is being held legally responsible for the genetic state of the unborn children they care for and deliver. This is a kind of eugenic cleansing, driven by the parents' desire to only have "perfect" children and supported by the State's desire to save money in the long-run. But both of these drivers are causing parents and doctors, who would never have otherwise considered abortion, to feel it imperative to have their unborn children tested and aborted if anything is amiss.

There have been other cases, within the EU, most notably in France, in which 'wrongful birth' verdicts have been awarded. With the increasing possibilities for testing, it is possible that the Irish courts could soon become a staging ground for test cases of this sort. We believe that this kind of litigation is bad law and bad medicine. Further, we believe that the Constitution should protect children in this context and that everything should be done within the medical practice to ensure that a "testing mentality" does not take root in Irish hospitals.

ANSWERS TO FAQ'S

1. Disabled children lead difficult lives, so isn't it better not to force them to endure the hardships of an unsympathetic world?

This defeatist attitude only offers a pessimistic view of the capabilities of disabled people and also of the world generally.

The fact is, that most disabled people love their lives and most able-bodied people respect people with disabilities. Instead of focusing on the "burden" of disability, it would be far more helpful to concentrate on the challenge of helping the disabled reach their full potential as fellow human beings.

2. Isn't abortion necessary until facilities for disabled people improve?

The right of equal access and better socio-economic inclusion only make sense if the fundamental right to life, which underpins all other rights, is firmly established. Facilities will not improve when abortion on the disabled is practiced, as governments will always gravitate to what is easier and less costly – and abortion is easier and less costly, in the short-term, than improving society's infrastructure.

3. Isn't "Prevention better than cure?" Doesn't abortion prevent disability?

No, not at all. Abortion only kills children who are already disabled, and in many cases, due to misdiagnosis, children who are not disabled.

4. Shouldn't Pre-natal testing be easily available to prevent disability?

Again, pre-natal testing does not prevent disability; it only detects disability, with the aim of aborting babies which test "imperfectly".

Pre-natal testing instils in people the notion that anything less than perfect will not do. But we're not talking about socks or shoes here, we're talking about a living

human being.

Thus, pre-natal testing where the purpose is to detect and destroy unborn human life is totally unacceptable.

5. Doesn't the screening human embryos for disabilities in the practice of IVF prevent disability?

No. Life has scientifically been proven to begin at conception; after conception, the only thing a conceptus must do is grow and age. The human embryo is alive and it is human, and so, it is entitled to every legal and moral protection.

Apart from the other moral implications of IVF, screening of embryos for disabilities is simply a lethal form of discrimination against disabled people.

6. Don't parents have a right to a healthy child? Should they be forced to care for a disabled child they do not want?

No parent has the "right" to a perfect baby. Indeed, no parent has an absolute right to have a baby, full-stop. Children are gifts, not commodities to be rejected like damaged goods.

The only right that exists in human rights documents is the right to marry and found a family (Art. 6 of the Universal Declaration of Human Rights).

There are programmes to help parents cope more easily with raising disabled children. There are also respite programmes which give periodic breaks to parents of disabled children. And then there is the option of adoption in the case of parents who, even with support, find it impossible to cope.

Society has established these helpful options for parents and therefore abortion should be seen for what it is, a desperate

“solution”.

7. When a baby with severe disabilities is born, shouldn't nature be allowed to “run its course”? Disabled children used to die before modern medicine was available.

Many people who died in the past would stand a better chance of living today because of modern life-saving techniques. The fact that people died in the past is irrelevant to considerations of how they should be treated now,

Disabled people have the same right of access to medical technology as anyone else.

And it should be noted that when people talk about allowing nature to “run its course” in the case of disabled babies, it often actually means that disabled newborns are sedated and let starve to death. This kind of neglect is shameful and ought to be strenuously opposed.

8. What about babies who, like baby ‘D’, would be so severely disabled that they would only live a very short time?

The fact that someone may not live very long, whether at the beginning or at the end of their life, in no way justifies deliberately killing them. In fact, it can be argued that the brevity of their lives demands greater care and attention.

9. Very severely disabled people are an economic burden to their families and to the state. Why should the state be forced to care for them?

This was the view held by the Nazis, which ultimately led to the Holocaust – the idea that there is such a thing as “life unworthy of life”. This is an idea and a worldview which should be rejected by all right-thinking, moderate and progressive people.

Care for people with disabilities ought not to depend on the amount of money available in a particular community. The important thing is to do the best to care for people with available resources.

This may require a shift in priorities, away from the material assets to the human assets of a community.

10. Can't I have a positive attitude toward born disabled people and still be in favour of abortion on the grounds of disability?

No. Actions speak louder than words. Killing the disabled unborn contradicts any avowal of support given to born disabled people. It is a disrespectful ideology which does not acknowledge that disabled born people were, like all people, once unborn people, too. This attitude is a sign of oblivious prejudice.

FAQ'S ON PRE-NATAL TESTING

What is pre-natal testing?

Pre-natal testing is the name given to the range of tests on offer to expectant mothers for themselves and for their unborn babies during pregnancy. These tests, which vary in nature, can be used for a variety of reasons, both negative and positive.

How is pre-natal testing done?

Common modes of pre-natal testing include the ultrasound scan, blood testing of the mother and the scrutiny of fluids and tissues in utero (e.g., amniotic fluid and cells from the placenta).

What are the negative reasons pre-natal testing is offered to expectant mothers?

The unfortunate reality is that pre-natal testing is most often used to detect genetic

or physical abnormalities in the baby in order that he or she can be aborted.

Specialised ultrasound scans and maternal blood tests are used to screen for disabilities in the unborn. These tests can indicate a probability of disability in the unborn, though further diagnostic tests, such as amniocentesis and chorionic villus sampling, provide more precise diagnoses of disability in the unborn, as they can indicate more so-called “markers” of disability.

It should be noted, that, as in any medical testing, there are always misdiagnoses. This is not to say, however, that we are making distinctions between those unborn babies with and without disabling conditions. Rather, what is being pointed out is that science is never fully reliable and that these tests often betray their intentions by falsely indicating disability when, in actuality, there is none.

An American study reported that whereas 10-14% of expectant mothers present with

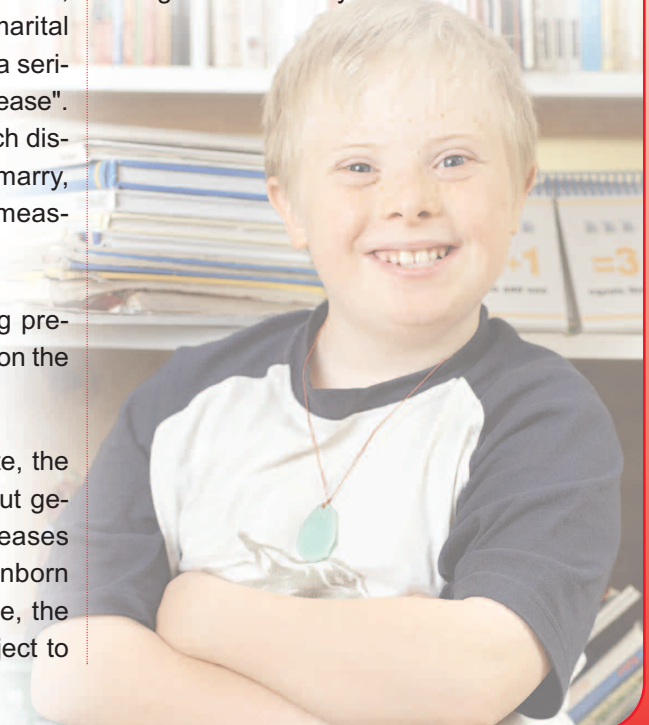
GOVERNMENTS PRACTISING EUGENICS TODAY

Only a few governments in the world have anything resembling eugenic programmes today, the most notable being **China**. In 1993, the Chinese government announced a law, "On Eugenics and Health Protection," designed to "avoid new births of inferior quality and heighten the standards of the whole population." In 1994 they passed the "Maternal and Infant Health Care Law", which included mandatory premarital screenings for "genetic diseases of a serious nature" and "relevant mental disease". Those who were diagnosed with such diseases were required either not to marry, agree to "long-term contraceptive measures" or to submit to sterilisation.

A similar screening policy (including pre-natal screening and abortion) exists on the island of **Cyprus**.

In **Israel**, at the expense of the state, the general public is advised to carry out genetic tests to diagnose certain diseases before the birth of a baby. If an unborn baby is diagnosed with one of these, the pregnancy may be terminated, subject to consent.

And in the **United States**, the Combating Autism Act (2006), ratified unanimously by the United States Senate and signed by President George W. Bush, is an example of modern eugenics legislation. The bill contains provisions to support the development of a pre-natal diagnosis of autism. Autism rights groups are angry that autism is being singled out as “defective” and being “combated” by the Act.



several markers for Down's Syndrome, fewer than 1% of their babies actually have Down's Syndrome. This statistic again demonstrates how unreliable pre-natal testing can be. What it also demonstrates is that those who promote abortion are not interested in who they abort (as misdiagnoses obviously leads to the abortion of many non-disabled babies), but rather in the general availability of abortion on-demand.

It should also be noted that both of the most common diagnostic tests – the amniocentesis and the chorionic villus sampling – are invasive, which means that, in the case of an amniocentesis, a needle must penetrate the uterine wall in order to withdraw some amniotic fluid, and in the case of a chorionic villus sampling, part of the placenta must be taken for biopsy. Such invasive procedures cause miscarriage in 0.5-3% of all cases in which the test is done.

But doesn't pre-natal testing prevent disability?

No. Pre-natal testing simply identifies an already existing disability. As such, it is unfortunately employed as part of the genetic cleansing mission against the disabled by many parents and doctors in a quest for the "perfect baby" and by certain governments who view the disabled as a financial drain on their economies.

Whereas some of the tests, as pointed out, are good in themselves (e.g., the dating scan), the "testing mentality" is what is wrong. The testing mentality usually makes the assumption that abnormalities should be sought out and destroyed, that life has no intrinsic value of its own, but is only valued in its utility.

Employed over a long period of time, this testing mentality has a way of becoming ingrained in social thought and then in so-

cial policy. For example, in Britain, where abortion has been readily available for 40 years, more than 90% of all babies diagnosed with Down's Syndrome and Spina Bifida are aborted. In practical terms, this eugenic "genocide" has resulted in the extermination of an entire class of people.

Again in Britain and in other countries in which abortion has been entrenched for many years, parents who learn that they may have a disabled child are often the subject of intense pressure by medical professionals to abort their babies. And those who rightly see all life as a gift and who buck the trend, opting to cherish their disabled babies instead of abort them, are often berated and condemned for their decision.

Finally, the testing mentality is promoted by a large and lucrative industry established for the sole purpose of seeking out and destroying people who don't measure up to an arbitrary genetic code. When financial productivity is the benchmark used to determine who lives and who dies, the millions of immeasurable contributions of kindness, gentility and joy made by people in all walks of life, disabled or not, simply count for nothing.

What are some of the positive reasons to use pre-natal testing?

Pre-natal testing may be used to track the progress of a pregnancy so that a delivery date can be set, and pre-natal testing can be used to identify and correct potentially complicating conditions in both the mother and the baby.

Some of the complicating conditions which are commonly identified and treated are: pre-eclampsia, which can lead to dangerous high blood pressure in expectant women; diabetes in the mother, which, if left untreated, can cause harm to the baby; and maternal non-immunity to rubella – a

cautionary note to the mother to avoid contact with people who are contagious with that virus.

These reasons for pre-natal testing are positive because they take both expectant mother and baby into account equally.

SPECIAL OLYMPICS - IRELAND 2003

Truly, if there was ever any doubt that the Irish respect and support the integration of people with disabilities in our society, the Special Olympics of 2003 put that to rest. Indeed, it is significant that the 2003 Special Olympics World Summer Games hosted in Ireland, were the first such Games held anywhere outside of the United States. Approximately 7000 athletes from 150 countries competed in the games in 18 official disciplines, and three exhibition sports.

The whole country was involved, as participants stayed in various host towns around the island. Events were staged at many venues including Morton Stadium, the RDS and the National Basketball Arena in Tallaght. Croke Park Gaelic Games stadium served as the central stadium for the opening and closing ceremonies, even though no competitions took place there. Belfast was the venue for roller skating events as well as the Special Olympics Scientific Symposium. In all 177 towns, cities and villages and the Aran Islands hosted delegations from every par-

ticipating nation in the run up to the games. Each town ran programmes to educate the local community about the customs of the country they would host and provided facilities for the teams to acclimatise.

30,000 volunteer officials and support staff assisted in the running of the games, including members of the Irish business community who gave of their time pro bono, and 800 members of the *Irish Defence Forces* who maintained the radio communication network, and provided support for bridge building, security duties, VIP drivers for ceremonial events and emergency medical teams.

With the 2003 Games, we witnessed that ability is what is important, not disability, that the human spirit can triumph over any impairment in the end and not only in sport, but in any endeavour. This witness should lead us to a greater appreciation of the abilities and contribution of all members of our community, irrespective of disability and it should also serve to fortify



PRACTICAL RECOMMENDATIONS

It is important to look to other countries to learn from their good ideas. In the United States, where abortion on the grounds of disability has been legal since the Roe vs Wade decision in 1973, there have been, many good proposals to help eliminate this practice.

One of these has been the government promotion of the mineral supplement, folic acid, for expectant mothers. The inclusion of folic acid in the diet helps to prevent the incidence of congenital disability. We would propose that the government sponsor a programme aimed at making women aware of this fact.

Another proposal recently made in the United States Senate was for the establishment of a national register of families willing and ready to adopt disabled children. This is an idea which has great merit as it would help families in both situations contact each other. It would also have the effect of helping people see that adoption is an available and caring option open to them.

Finally another proposal which was also recently made in the US Senate was for the establishment of source of true information about living with disability. Often-times, if a couple learns that their unborn baby may have some disability, there is no source of good, sound information about the disability itself and how it can be managed, nor about the assistance available to them.

This lack of information has the effect of making the parents think the worst and perhaps consider abortion. With all the helps and information available to people in their position, this kind of situation is indefensible should be remedied with a proper information campaign from the perspective of parents who have risen to the

challenge of raise disabled children.

We believe that it is important to present life-affirming options to women and families distressed at the prospect of disability. Therefore, in order to demonstrate its respect and belief in the advancement of people with disabilities, we encourage the government to make positive recommendations in regard to them and their families.



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