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THE RIGHT TO CHOOSE DEATH

After the legalisations of abortion and gay marriage, many people feel that assisted dying should be the next civil right to be enshrined in Irish law. But campaigners, while hopeful, know that the road ahead will be a long and hard one

By **Siobhán Brett**

Philip Nitschke is now 71 years of age, but he was almost 50 when he came up with a device he called a “deliverance machine”. The Australian doctor set up a bedside computer that was designed – once three unambiguous questions were answered affirmatively – to administer a lethal dose of barbiturates, intravenously, with one click. Since then, Nitschke and his contemporaries in the right-to-die movement have moved on from rudimentary beginnings (including, at the start, makeshift techniques using helium balloon kits and plastic bags) to newer, more elaborate means of ending one’s own life.

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“The lack of a legal framework forces people to go undercover and to go prematurely. It’s the cruellest of the cruel. It’s not enough for Irish people to sit back and say: ‘What if?’”

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His latest innovation is Sarco, a capsule in prototype that looks somewhat like a giant computer mouse and features a detachable, biodegradable coffin. The Guardian called Sarco “a controversial suicide pod”. Exit International, the Nitschke-founded non-profit that advocates for legal assisted dying, called it the world’s “first 3D-printed euthanasia machine”.

After five minutes of a supply of liquid nitrogen being released into the capsule, the occupant dies, but not before experiencing a brief feeling of euphoria, Nitschke maintains. Sarco is also portable.

“Overlooking the crashing waves of the Pacific Ocean? Where you die is certainly an important factor,” Nitschke is quoted as saying.

In countries where conversations about life, death and self-determination are nascent and fraught – if they are taking place at all – this kind of creative and calculated pragmatism can seem very far away.

But after this country legalised gay marriage and abortion, many people feel that assisted dying is the next civil right on the agenda for Ireland. One of them, the most prominent among them, is Tom Curran.

Relentless campaigning

Curran and his partner, Marie Fleming, campaigned relentlessly but unsuccessfully to allow him assist her to die. Fleming, a university lecturer who suffered from multiple sclerosis, died at home in Wicklow in 2013 at the age of 59.

In the years following her death, Curran disclosed that he did, in fact, help her to die according to her personal wishes. A Garda investigation into Fleming’s death was launched in 2016. Curran, in his own words, “stepped back a bit”.

“I didn’t want it to look as though I wasn’t taking the guards seriously,” he told me.

Privately, he had been as busy as ever. With the help of four young barristers at the Public Interest Law Alliance, he wrote the private members’ bill on assisted death that was introduced by the independent TD John Halligan.

But a general election that elevated Halligan to junior minister, meaning he was in less of a position to take up the mantle, meant that the bill never got to the second stage.

Curran has been speaking with a number of politicians about starting over. “But the situation in Ireland right now is that there’s really very little happening,” he said.

Beyond Ireland, Curran travels regularly and takes on a large volume of work on behalf of Exit International in his role as its European coordinator.

He has worked with Exit since 2010. He and Nitschke brought a two-man comedy routine, Dicing with Death, to the Edinburgh Fringe Festival in 2015. Later this year, he plans to help a terminally ill Australian man travel to Basel in Switzerland to end his life.

After the referendum in favour of legalising abortion was carried, Curran was contacted by “an amazing number of people” in support of his work, expressing optimism that the right to die would be next up.

“I was very impressed,” said Curran, a deliberate and measured speaker who does not veer into emotional banality or cliché. “And a bit heart-warmed.”

This year, he is preparing to make a renewed effort in Ireland, and hopes to host a public meeting on assisted dying some time in February.

With Exit International, Curran has been exploring the possibility of a large international meeting on assisted dying and rational dying in Ireland, a possibility which seems more viable now, he said, “particularly because of the way Ireland has moved along in recent years”. This would take place in September or October, he said.

Curran said that if the international meeting could be held in Ireland, “it would really bring it into people’s consciousness and allow us to go forward”.

“There’s a definite enthusiasm to help people like Marie. Any enthusiasm is probably based on emotion brought out by Marie, and the court case, and Marie’s death,” he said.

“But enthusiasm is hard to sustain. Unless ideas are kept in the public con-

sciousness, they drift. The abortion vote reminded people because I haven’t been reminding them all along.”

According to Curran, the pool of people who are interested in assisted dying is broadening and deepening in Ireland. But the charging of Dubliner Gail O’Rorke just over five years ago on three counts of conspiracy to assist the 2011 suicide of her friend, Bernadette Forde, has stemmed assistance in the open.

There was an expectation that the DPP would follow the same non-prosecution policy as the British authorities, but that was not the case with O’Rorke, Curran said. The fact that she was charged and tried has had not only a chilling effect on assistance, but a distorting effect on statistics.

Switzerland is the only country that permits visitors to legally end their own lives with help. Its best-known right-to-die society is Dignitas, with which Marie Fleming registered five years before her death.

At the wintry tail-end of 2010, Forde broached the idea of travelling to Dignitas with O’Rorke. Forde later made arrangements to travel, but the travel agent managing the booking alerted An Garda Síochána, whose subsequent intervention thwarted the trip.

“The result of Gail’s trial is that people from Ireland talking to Dignitas and travelling to Dignitas are travelling there via Britain, and they’re giving British addresses,” said Curran. “Therefore, Dignitas’s Irish numbers have fallen right down.”

Charged with assisting suicide

Gail O’Rorke first met Bernadette Forde, who became her close friend, when Forde hired O’Rorke to clean her home in the late 1990s. O’Rorke is still working as a cleaner in Dublin; when called her earlier this month, she had finished her third house of the day and took the call in her parked car.

Forde, who suffered from multiple sclerosis, took her own life in the summer of 2011. She used the drug pentobarbital. It had been ordered from Mexico by O’Rorke, who spoke admiringly of Forde’s single-minded and fastidious approach to her own arrangements.

“You’re terrified for yourself and for those you leave behind,” she said. “Bernadette left notes, a file, a dictaphone message. She liked to control everything in her life, in a positive way. She worked as head of HR at Guinness. She brought that level of order to everything, that box-ticking characteristic.”

In the end, the recordings left behind seemed not to matter. In November 2013, O’Rorke became the first person in the history of the state to be charged with assisting in another’s suicide.

She wishes the investigation had been opened while Forde was still alive. “All the suspicion isn’t necessary. It’s so bloody frustrating,” she said.

Lack of regulation forces people to travel, or to privately procure drugs that may be counterfeit, of low toxicity, or “blank”. Availing of Dignitas’s support would have meant, in Marie Fleming’s case and many others, not having to end life seven or eight years sooner than needed or desired, O’Rorke pointed out.

“The lack of a legal framework right now forces people to go undercover and to go prematurely. It’s the cruellest of the cruel,” she said. “It’s not enough for Irish people to sit back and say: ‘What if?’”

When I first contacted O’Rorke, she replied by text: “I feel [in a referendum] it would be a landslide vote for the right to choose our exit from this world with structured support.”

But the question of death is less positively animating than either gay marriage or abortion for younger voters. O’Rorke gave this a lot of thought and consideration while the jury was being selected for her trial.

“My big fear was young people coming on to the jury who didn’t have parents who were elderly, or hadn’t previously given any consideration to what it is to reach that stage of illness, that stage of life,” she said.

She was also afraid that Catholicism would get in the way of the judgment of older jurors. Since then, her belief



Tom Curran has been campaigning on the issue for many years; below, Curran with his late partner Marie Fleming and relatives
Picture: Barry Cronin/Courtpix



Dr Philip Nitschke, dubbed Dr Death by some in the media, holds up a drug testing kit which is used as part of assisted suicides
Getty



Alexander Bannink, the designer of the Sarco euthanasia pod, explains how it works to a woman sitting in the device and wearing virtual reality glasses
Getty



There’s a definite enthusiasm to help people like Marie. But enthusiasm is hard to sustain

in the ability of a younger generation of voters to agitate for regime change has strengthened. “I do see motivation among the younger generation,” she said. “They’re not going to be young for ever.”

O’Rorke joined the Solidarity Party last year. She said the pressure that the party applied on the government in different ways left her feeling “a bit empowered”, and she is satisfied that the party is ready to champion the right to die. She does not share the same hope when it comes to the present government.

“Because he [Leo Varadkar] wasn’t elected by the people, he’s not ready to take the risk. Not until the movement behind it grows. He can’t initiate, because to do so would be to hedge his bets with the older population. It’s unfair, and it’s pathetic,” she said.

O’Rorke is exceptionally warm and generous in conversation, uses the sparkling heart emoji to sign text messages, and quietly describes the composure and courage exhibited by herself for the duration of the trial at the Criminal Courts of Justice as “a mask”.

“People will come up – it’s died off a bit, now – but people will come up to you, shake your hand, and tell you how amazing you were,” she says.

“I would tell them all: you would have done the same thing yourself. What was I supposed to do? Your government has abandoned you. Supporting Bernadette is a badge of honour I will wear for ever.”

The abyss of pain

The model for assisted dying used in the US state of Oregon has been long espoused by activists and campaigners, who are convinced of its suitability for Ireland.

Last April, Gaynor French, a biologist in her 40s with a diagnosis of terminal cancer, gave a phone interview with the Sligo-based radio station Ocean FM. In a very collected way, French outlined her vision for “legal, voluntary assisted



The emphasis is on terminating hopeless suffering, not terminating life

Oregon-based non-profit Compassion & Choices, knows Oregon’s experience better than most. In Switzerland, there is no implementing law; instead, there’s a loophole that has been availed of for 40 years. In Oregon, eligibility is spelled out in an articulated regime.

“The requirement of terminal illness in



Oregon is such a clear and comprehensible boundary for people to understand,” Coombs Lee said.

“Not until 20 years after we made it legal, when all of the investigative data was there in spades – peer-reviewed journals, studies into how well the scheme worked for patients, families and medical professionals – not until then, in 2008, did a second state [Washington] follow suit.”

Six American states, as well as Washington DC, now have assisted dying statutes.

“Oregon did a tremendous service to the world, in providing that dataset. What happens when you allow individuals who meet criteria the autonomy to take action in alleviating the pain of dying? We didn’t appreciate that the psychological benefit of obtaining that agency would be so great,” she said.

Coombs Lee, who was a nurse and then a clinician for years before becoming an attorney and later working in public policy, said she saw her campaigning as in some way redemptive for the suffering she personally imposed on patients in her care.

She said that it was a comfort to her to know that, living in a state like Oregon, “I won’t get irrevocably stuck in some kind of horror”.

“I can have the prescription in hand and never fill it, or I can fill the prescription and never take it,” said Coombs Lee, who is 71. “Roughly 50 per cent of people take it.”

The solution of travelling to Switzerland, as Coombs Lee sees it, is no solution. “Firstly, it forces the hand of all of the people who don’t ultimately take the medication – it forces them to travel to Switzerland while they’re healthy, to pay the thousands of dollars, and get started on all of that procedural stuff, so that it becomes very unlikely that they will say: forget it, let’s not do it.”

People who had the medication in hand tended to wait, she said. “It’s not until you’re at the edge of the abyss of pain and dysfunction that taking it makes sense.”

On the subject of opposition to legislation for assisted death in Ireland, Coombs Lee, who has visited this country many times and described it as a place of “intense reverence” for her, said it was her impression that Irish people were negotiating their relationship with the Catholic Church.

“There’s a sense I pick up on... I hope it’s accurate... the sense of being somewhat liberated from doctrine,” she said. “Of course, individual people are free to be guided by doctrine. But the state can no longer enforce a particular doctrinal relationship with the divine.”

Fierce opposition

Rob Jonquière began his professional life as a family doctor in the Netherlands, and in that role was treating patients “struggling with terminal situations”. In the 1970s and 1980s, he started fulfilling requests for assisted death from sick and dying patients, “long before it was legal at all”.

Jonquière finished practising as a family doctor, and was heavily involved in the implementation of legal assisted dying in the Netherlands in 2002. Since his retirement, he works in a voluntary capacity as the executive director of the



Gail O'Rorke helped her friend Bernadette Forde (inset below left) to die in 2011' Picture: Feargal Ward



Gaynor French died last September at a Galway hospice. After her cancer diagnosis, French had called for 'legal, voluntary assisted dying' Ray Ryan



Barbara Coombs Lee, president of the Oregon-based Compassion & Choices

World Federation of Right to Die Societies. I asked Jonquière if he thought that, 17 years on, the Dutch legislation needed to be updated.

"It doesn't need to change, because it covers practically all problems," he said. "The emphasis is on terminating hopeless suffering, not terminating life. Psychological situations like early dementia and other conditions all already fit into our law."

Jonquière noted that in Victoria, Aus-

tralia, and with a new bill in New Zealand, more and more criteria were being added to the proposed laws in a bid to subdue opposition. "In ten years, people will want to expand those conditional laws," he said.

The sense of the World Federation of Right to Die Societies is that, in Ireland, Catholic Church opposition will be a problem.

"There will be fierce opposition not on principle, but on religious grounds,"

said Jonquière. "Catholic politicians, in the end, say no."

The political appetite for legislation in Ireland is difficult to detect. This reporter's queries to the majority of party press offices on the subject for the purposes of this article went unanswered.

Advocates to whom I spoke encouraged contact with more minor left-wing parties, like People Before Profit. But even that party was just "working on a position internally", it said.

"Once we get that position, it will be presented to the membership of the party to agree on it," said one of its councillors, Madeleine Johansson. "Sometimes, mainstream parties don't tackle issues they think of as divisive. Smaller parties like ourselves pushed the Eighth to the front, we were always clear on our position on that."

Johansson said she thought the "political establishment" was slow to reflect societal change.

"Changing views on abortion had been going on for a long time, but the campaign afforded the space to talk about it," she said. "Some people found their opinion slowly changing over its course."

Graphic detail

In 1975, at the behest of his terminally ill wife Jean, an English journalist named Derek Humphry made her a mug of coffee that contained a fatal quantity of

Second. She drank it and died at home in his company. She was 42.

Humphry later founded the Hemlock Association, an organisation central to the beginning of the right-to-die movement in the US. Membership of Hemlock (since dissolved) rose to almost 50,000 by the early 1990s.

Humphry, once described by the New York Times as "a man of restrained but not humourless mien", has for years supported assisted suicide for the dying in a manner that is tenacious and scatter-shot, sometimes isolating less hardline supporters. The level of graphic detail contained in his 1991 book *Final Exit* affronted many medical ethicists.

Inquiries to Humphry's websites notwithstanding, I was surprised to see the 88-year-old's name appear in my inbox one evening. His reply offered only a list of relevant websites and the nations that had legalised assisted dying.

I immediately sent a response from my phone: "Thanks, Derek. Do you think Ireland is capable of legalising in the short to medium term?"

Humphry replied – from his own phone – in a fashion so simple as to make two weeks' worth of reporting seem like a waste of time.

"Public opinion in all developed countries is swinging toward improved human rights," he wrote. "The signs are that Ireland is moving towards allowing doctor-assisted suicide – of course surrounded by a body of safeguards against misuse."



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