Opening presentation to House of Lords Select Committee on the Assisted Dying for the Terminally Ill Bill

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My name is Simon Blackburn. I am the professor of philosophy at the University of Cambridge and a Fellow of the British Academy. I have written and lectured extensively on moral philosophy, including giving the Gifford lectures at the University of Glasgow. I am also a Vice President of the British Humanist Association, and am here at their invitation.

I should like to start by saying how I understand my brief as a philosopher and as a humanist. This brief is not to oppose the moral precepts associated with any particular religious tradition. Many religious traditions incorporate profound thought about human life and its conduct, and it is foolish not to learn from them. The only humanist claim is that we are not passive recipients of inherited teachings, but must actively to use our own experience, feelings, and critical reason in assessing what they offer us. In saying this we are of course saying no more than many people working within religious traditions have also recognized. Traditions are not static, but are constantly being interpreted and reinterpreted in the light of new conditions and new experience. Where we differ is in refusing to confine ourselves within the authority of one privileged set of texts, and still less within one particular interpretation of any given set of texts. We feel able to open our minds to embrace wider human experience, including that of other cultures and philosophers, and that of our common law tradition.

As a result, I expect that much of what I want to offer will be uncontroversial or familiar to you. I hope that it is. But I believe we are dealing with an issue where our thinking may easily be taken over by uncertain meanings, and entrenched but mistaken emotions and inferences. In this presentation I should like to confine myself to some remarks about three examples. Two arise from my knowledge as a philosopher; the third is a piece of firefighting arising from what I have heard about the discussion.

(1) The first is the sanctity of life. We all applaud this, but I believe it is much less clear how it bears on the discussion than many think. One quick opening remark is that opposition to the Bill is not so much based upon the sanctity of life but the sanctity of dying; in other words, the essential inviolability of the process of dying in whatever way nature determines, however long and degrading, undignified and intolerable. More elaborately, we have to remember that every religious and philosophical tradition has faced difficulties when interpreting what the sanctity of life means. Christianity has made exceptions for killing in self-defence and just wars. Historically it made no difficulty about killing in response to blasphemy, apostasy and heresy, as well as for the multitude of crimes that at different times attracted the death penalty — it was an Italian humanist, Cesare Beccaria, who first campaigned for the abolition of the death penalty in Europe in the eighteenth century. Other religions and theocracies still insist on death for a variety of alleged crimes, as does the so-called religious right in the USA. In England,
simple suicide, or the request to discontinue treatments, were once deemed inconsistent with the sanctity of life; now they are not so in law, and I do not hear of campaigns to repeal that.

This means that the sanctity of life needs interpretation. It can be weighed in a balance against the demands of compassion, dignity, and autonomy or the right to self-determination. More ambitiously it can be argued, as it has been by Professor Ronald Dworkin, that the sanctity of life is actually honoured when we give due weight to human dignity and human self-determination. Indeed in the much older moral tradition of the Stoics, it was a crowning glory of human life, a source of liberty and dignity and an insurance against oppression by man or nature, that we have the option of putting an end to misery and pain. On this view, it is proponents of the Bill who have the proper respect for human life. I do not want to insist on that. The point remains that few if any philosophers would argue that a simple, unqualified, three word principle can by itself silence these other considerations. I notice that in many recent cases, especially Bland and Burke, eminent legal authorities have taken the same view.

There is a quite abstract but important point here about very simple principles. Often their force derives from restricting attention to central or normal cases. Yet that force can get an inertia of its own, and go on to inspire reactions to cases that are not central or normal. A prohibition can gain a symbolic horror that carries over to cases where its rationale is completely absent. Perhaps I may remind your Lordships of the well-known mountaineering example of *Touching the Void*, and the difficulty people had in coming to terms with the idea that the forbidden action of cutting the rope was in fact the rational, compassionate, and ultimately the appropriate thing to do. Lord Joffe’s bill concerns only the extreme and fortunately atypical case of competent adults suffering unbearably as the result of terminal illness. Applied to such emergencies, simple moral reactions nurtured on a diet of more ordinary cases may be extremely unreliable.

My final point on sanctity of life is also a short one. The issue attracts a certain rhetoric: we should not play God with life and death, we must be patient before providence, we must put up with our allotted sufferings, soldier on, take what Fate has in store for us. Such thoughts have a historical pedigree, although many philosophers believe that they met their Waterloo two hundred and fifty years ago in the famous essay, *On Suicide* by David Hume. But in the present context we must remember that people still impressed by such ideas may indeed choose not to exercise the liberties this Bill would give them. But it is no part of our political or legal culture to enable them to enforce their views on others. If it were, we would be imprisoned by fatalism, unable to ameliorate our lives in countless ways. We would not have inoculations or anaesthetics, nor for that matter houses or umbrellas. We could not even applaud doctors for prolonging life, nor heroes for risking it.

(2) My second topic is the omissions/commissions doctrine: the division between failing to attempt resuscitation or other intervention, and actually intervening to assist the process of dying. Some very respected philosophers have denied that the distinction carries any moral weight at all. I disagree. I think it is serviceable enough in some cases, and there can be pragmatic reasons for using it to make distinctions. But, again, not always. Its significance lapses in cases where we do
something by doing nothing. At first sight that appears paradoxical. But it is not: philosophers are familiar with the concept of levels of action, in which you do something by acting, or equally do something by refusing, refraining or failing to do anything. You can betray someone by saying nothing. Sometimes it is happenstance whether it requires an act or an omission to bring about a result, and when that is so, there may be no moral difference between exploiting the happenstance and doing nothing, or instead doing what is needed. Perhaps I may give an example. In a prison regime it might be an inhuman and degrading act to switch on sleep-depriving music for twenty four hours a day. But it would be an equally inhuman and degrading omission to fail to provide sanitation or edible food or to switch on heat during the winter. One could not be pleased that a son or brother was interred in one camp rather than the other, nor pleased that the prison regime escaped censure through this piece of casuistry. In October Your Lordships heard — from Dr Wilks, the Chairman of the BMA ethics committee, answering the Earl of Arran, and from Dr Lloyd answering Lord Taverne, that the public is mistrustful of the distinction. I think the public shows wisdom, especially when, even if death is coming soon, doing ‘nothing’ results in slow death by thirst or hunger or choking on saliva, when doing ‘something’ could mean a swift and desired sleep. As has been suggested to you, and will shortly be emphasized by Philip Havers QC, it is surely discriminatory and unjust to allow deliberate omissions when a dying patient is lucky enough to be able to obtain merciful release by people doing nothing, but to forbid parallel commissions when he is not. In fact, as the prison example suggests, the act/omission doctrine is more often used to provide a moral comfort zone for agents who believe they can shelter behind it, than to indicate anything we are likely to wish for ourselves and those we care for.

(3) The third point I would like to touch upon is that of autonomy, and the relation between the patient and the doctor. I have heard this issue described as if it is a contest or a see-saw: either the patient is in control and the doctor downgraded, or vice versa. This entirely mistakes the logic of the situation. The proposal empowers both patient and doctor. The patient becomes free to ask for an intervention, and largely reassured in advance that he or she can procure it should they wish it. The doctor becomes free to provide it, or not, according to judgment and conscience, but without fearing the very real shadow of the criminal law. A corollary of this is the predictable increase in trust between patient and doctor, of which you have actual evidence from other countries. The doctor loses, it is true, a legal fig-leaf for standing aside and doing nothing, but the point of the Bill is that this is a fig-leaf that should not be desired nor afforded. The only real loser in terms of power is indeed the criminal law, although in my judgment what it loses in victims it gains in terms of clarity and strength of principle. Thank you for your attention.