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## **Parliamentary Inquiry into Abortion on the Grounds of Disability**

### **Consultation response on behalf of the Scottish Council on Human Bioethics:**

The **Scottish Council on Human Bioethics** (SCHB) is an independent, non-partisan, non-religious registered Scottish charity composed of doctors, lawyers, biomedical scientists, ethicists and other professionals from disciplines associated with medical ethics.

The principles to which the Scottish Council on Human Bioethics subscribe are set out in the **United Nations Universal Declaration of Human Rights** which was adopted and proclaimed by the UN General Assembly resolution 217A (III) on the 10<sup>th</sup> of December 1948.

The name and address of the SCHB can be made available to the public.

The SCHB is very grateful to the UK Parliament for this opportunity to respond to the consultation on **Abortion on the Grounds of Disability**. It welcomes the Parliament's intention to promote public consultation, understanding and discussion on this topic.

#### **Abortion Law**

The *Abortion Act 1967*<sup>1</sup> introduced legislation preventing a person from being guilty of an offence under the law relating to abortion where a pregnancy is terminated on the grounds that, *'there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.'*

The *Human Fertilisation and Embryology Act 1991*<sup>2</sup> amended the *Abortion Act 1967* and initially adopted a 28 week time limit for abortion for fetal disability whilst reducing the limit for abortion on other grounds to 24 weeks. A subsequent Amendment<sup>3</sup> was passed which removed any time limit on abortion for fetal disability.

Therefore, abortions are currently permitted at any time up to and including birth if there is a 'substantial risk' that the child might be born 'seriously handicapped'. The law does not define these criteria and they are broadly interpreted.

This ground for abortion is known as Ground E in practice and, according to Department of Health statistics<sup>4</sup>, 2,307 'Ground E' abortions were carried out in 2011.

#### **Why is this Inquiry Happening?**

As already indicated, the *Abortion Act 1967*<sup>5</sup> sets no time limit on when an abortion may take place on the grounds of disability (Ground E). The current law permits an abortion to take place up to birth (40 weeks) if tests

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1 [http://www.legislation.gov.uk/ukpga/1967/87/pdfs/ukpga\\_19670087\\_en.pdf](http://www.legislation.gov.uk/ukpga/1967/87/pdfs/ukpga_19670087_en.pdf)

2 <http://www.legislation.gov.uk/ukpga/1990/37/section/37>

3 <http://www.publications.parliament.uk/pa/cm198990/cmhansrd/1990-04-24/Debate-35.html>

4 <https://www.wp.dh.gov.uk/transparency/files/2012/05/Commentary1.pdf>

5 As amended by the Human Fertilisation and Embryology Act 1990

for disability indicate that the child may be disabled when born. There is a legal limit of 24 weeks for abortions on other grounds.

From 1 October 2010, the *Equality Act 2010* replaced most of the *Disability Discrimination Act 1995*, the stated purpose of which was to streamline and strengthen anti-discrimination legislation in Great Britain. It includes the legal framework that protects disabled people from discrimination. The Act prohibits discrimination arising from a disability by preventing one person from treating another less favourably because of their disability.

In Section 15 (Direct Discrimination) of the *Equality Act 2010*, it is indicated that:

- (1) A person (A) discriminates against a disabled person (B) if—
  - (a) A treats B unfavourably because of something arising in consequence of B's disability, and
  - (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.
- (2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

In Section 19 (Indirect Discrimination) it is indicated that:

- (1) A person (A) discriminates against a disabled person (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a disability of B's.
- (2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a disability of B's if—
  - (a) A applies, or would apply, it to persons with whom B does not share the disability,
  - (b) it puts, or would put, persons with whom B shares the disability at a particular disadvantage when compared with persons with whom B does not share it,
  - (c) it puts, or would put, B at that disadvantage, and
  - (d) A cannot show it to be a proportionate means of achieving a legitimate aim.

With regard to Section 19, the Explanatory Report of the *Equality Act 2010* indicates that indirect discrimination occurs when a policy which applied in the same way for everybody has an affect which particularly disadvantages people with disability. Where a particular group is disadvantaged in this way, a person in that group is indirectly discriminated against, if he or she is put at that disadvantage, unless the person applying the policy can justify it.

In light of the current legal position, the *Parliamentary Inquiry into Abortion on the Grounds of Disability* is seeking evidence from parents, medical practitioners, academia, support groups, disability groups, lawyers and individuals with an interest regarding the current theory, practice and implications of the approach to abortion on the grounds of disability in the UK.

#### **UK Parliamentary Inquiry Terms of Reference:**

- Establish and assess the intention behind the law governing abortion on the grounds of disability.
- Establish how the law works in practice and is interpreted by medical practitioners.
- Determine the impact of the current law on disabled people and assess the views of groups representing their interests.
- Assess the effectiveness of the information and guidance provided to families following the diagnosis of a disability and the impact that has on outcomes.
- Examine how the law, guidance and support for practitioners and families can be developed going forward.

#### **Scottish Council on Human Bioethics Response**

Discrimination on the basis of disability according to the 2006 UN *Convention on the Rights of Persons with Disabilities* means:

*any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.*<sup>6</sup>

In this regard, the ethicist Stephen Wilkinson defines selection in the context of reproduction as 'the attempt to create one possible future child rather than a different possible future child'.<sup>7</sup> Admittedly, this definition is broad, emphasising the fact that no characteristic of a person or child would be modified; only a choosing between different possible future persons would be taking place. But any selective action in abortion is not just a selection against a disorder in a future person; rather, it is a choice between different persons, as such.

Of course, there are no ethical consequences for a prospective parent to imagine or desire different possible future children. Nearly all future parents long to have healthy as against disabled children. However, when prospective parents initiate specific and concrete decisions to select between children they make a public, factual, and very definite discriminatory appraisal.

This type of critical evaluation is similar to what prospective adoptive parents may experience if an irresponsible adoption agency is not careful to put the needs of a child as a priority. Indeed, if the interests of the child to be adopted are not paramount, then adoptive parents may establish criteria for their possible future child, such as good physical and mental health, sex, age or ethnicity. Of course, when prospective adoptive parents make these decisions, the possible future child that they want to adopt may only exist in their imagination and not in reality. They are not, therefore, discriminating against any existing person in particular. However, their decision to initiate an adoption process by selecting between persons with specified biological characteristics can be considered as a discriminatory decision if no justifiable reasons are present.<sup>8</sup> In other words, it is the possibility of 'choosing' that is at the core of the problem in any kind of selection process of persons since most choices reflect, to some extent, a preference. Moreover, any decision in this area may already reflect the set of values of a person. This means that an act of discrimination would betray a person's willingness to weigh the significance of one child's life and existence over another on the grounds of the child's biological characteristics.

Obviously, the possibility of choosing reflects an individual's right to autonomy, but it also reflects this individual's moral values or ethical principles. Furthermore, the act of selecting a child is a decision that inevitably becomes public and may even become publically acceptable which could then entail dangerous consequences for the whole of society. In turn, both the disabled and non-disabled communities may assume that a certain amount of discrimination against the very existence of some disabled persons is acceptable, though it is not always easy to interpret the unintentional messages that may be received by individuals. But if it could be considered as discriminatory, it would be a decision (if it became public) that would certainly be of interest, and of consequence, to people who already live with a certain disorder. Thus, an important objection to reproductive selection relates to how people with disabilities may be indirectly affected by a societal acceptance of widespread selection. In other words, the fundamental concern of this objection is that selective abortion may lead society towards a direction that may, arguably, devalue and discriminate against disabled persons.

Advocates of selective abortion demur, however, pointing out that it is important to distinguish between a particular disorder and the person having that disorder. They suggest that an ailment may be valued negatively, but the person with the disorder may be valued positively. By this reasoning, there is no conflict of interest between attempts to eradicate a disorder and the help afforded to those who are affected by the same disorder. As Stephen Wilkinson puts it, 'There is nothing wrong with assigning a negative value to the functional impairment aspects of disability and this negative valuation of impairment does not entail and need not be accompanied by any negative valuation of the *person* (italics original) with the impairment'.<sup>9</sup> David Galton makes

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<sup>6</sup> United Nations. 2006. *Convention on the Rights of Persons with Disabilities*, Article 2. Retrieved 20 December 2011 from <http://www.un.org/disabilities/default.asp?id=150>.

<sup>7</sup> Wilkinson, *Choosing Tomorrow's Children*, 2.

<sup>8</sup> Obviously, prospective parents may sometimes have legitimate reasons for wanting to make some restrictions to the kind of child they wish to adopt. For example, they may only decide to have a healthy child because they are not wealthy and are not getting social support so that they can look after the child in an appropriate fashion.

<sup>9</sup> Wilkinson, *Choosing Tomorrow's Children*, 166.

a similar point in arguing that prohibiting such selection on the basis of a risk of discrimination towards individuals with a disability who already exist would be similar to stopping children at risk of polio from being vaccinated to prevent paralysis. This is because existing adults, who have already a dysfunctional leg because of a previous infection, may feel discriminated against and undervalued.<sup>10</sup> The German Ethics Council's report on Preimplantation Genetic Diagnosis, published in 2012, also argues that:

*parents with a genetic risk who already have a child with a disability ... cannot be accused, if they express a wish that their second child may not have a disability, that they wish to reject or humiliate the first child. It is argued that prenatal practice and postnatal reality must be distinguished in principle.*<sup>11</sup>

However, though well-intentioned, these arguments are not convincing since making sure that certain disorders are not brought into existence through selective abortion also means making sure certain persons with these disorders are not brought into existence. And such a statement is clearly discriminatory.

It is difficult to understand how, on the one hand, it is possible to affirm that a certain disorder should not exist while, at the same time, insisting that such a position would have no negative consequences on how persons born with the same disorder are perceived. Persons born with a disability may recognise that their disorder is part of who they are as persons and is associated to their very existence including the origins of this existence. In other words, the argument does not account for the intimate connection between a person's identity, the origins of his or her existence and his or her disability.<sup>12</sup> The Chief Executive of the UK Cystic Fibrosis Trust explained, in 2003, that data relating to pre-implantation diagnosis or pre-natal tests amongst families at risk of having children with this very serious disease was difficult to obtain. This was because 'Families obviously feel that a child already born affected by Cystic Fibrosis may feel unwanted if they know their parents have made a decision of this nature in relation to a subsequent pregnancy.'<sup>13</sup> Thus making sure certain disorders are not brought into existence will certainly give a worrying message to persons, who exist with such a disorder, that they should not have been brought into existence. As Didier Sicard, past president of the French National Consultative Ethics Council indicates "Concern for the other may first mean recognising his or her right to exist".<sup>14</sup>

A similar point related to the necessity of existence of a child in whom a disorder exists is made by the moral theologian and academic Oliver O'Donovan in commenting on abortion remarking:

*But that the interests of a fetus which might achieve life outside the womb, though under a disadvantage, could be served by destruction, is a most obscure claim. And the obscurity is deepened when the argument from compassion is combined with the insistence that the fetus is not a person, and so, presumably, not a suitable object for compassion. It is a strange conclusion indeed, that one may render a service of kindness to a Nobody which it would be immoral to render to a Somebody!*<sup>15</sup>

Of course, though it is recognised that the important concept of identity is difficult to define, it may be argued that the identity of a person may change when he or she becomes sick or healthy. But this does not affect them as existing persons in time and space. A person's temporary or permanent state of health cannot be inherently associated with his or her right to exist. This also means that the decision to change existing persons through treatment while preserving their personal identity is completely different from deciding which persons should exist. In this regard, it is also essential not to equate an afflicted person with a disorder instead of only being affected by a disorder. For example, it is important to emphasise that a person has haemophilia or diabetes instead of just reducing this person to being a haemophiliac or diabetic.<sup>16</sup> Disorders cannot exist on their own

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<sup>10</sup> D.J. Galton, *Eugenics: The Future of the Human Life in the 21<sup>st</sup> Century*, 46.

<sup>11</sup> German Ethics Council. 2012. *Preimplantation Genetic Diagnosis: Opinion*, Berlin: German Ethics Council, 60.

<sup>12</sup> Stephen Wilkinson also notes (unpublished paper) that though it is possible to harm someone who already exists by afflicting him or her with a disorder, it is impossible to harm someone who is brought into existence with a disorder since without the disorder he or she would not have existed. Someone else would have existed instead.

<sup>13</sup> R. Barnes (Chief Executive: Cystic Fibrosis Trust), *Letter to the Scottish Council on Human Bioethics*, 22 July 2003.

<sup>14</sup> Sicard, *La science médicale, la naissance et le risque d'eugénisme*

<sup>15</sup> O. O'Donovan. 1980. *The Christian and the Unborn Child*, Bramcote, Notts.: Grove Books, 19.

without persons nor can persons be considered as disorders. And a person is never just a disorder that should not exist.

More importantly, and somewhat related to the previous response, is the fact that persons who are actually born with a certain positive or negative characteristic may regard themselves (as whole persons) as being associated with this specific trait or ability. People are sometimes very proud of attributes with which they are born since, for whatever reason, they see them as a full part of their identity even though they have not earned them in any way. For example, persons are usually proud of their intelligence, eloquence or good looks and see this as part of who they really are as whole persons. Similarly, individuals with a disability may see their disability as a full part of who they are in spite of the challenges the disability may create.

Observing the connection between disability and identity is, therefore, essential, since many disabled people intuitively understand that children without disabilities are generally more desirable than children with disabilities.<sup>17</sup> This is an awareness that may lead disabled individuals to perceive themselves as different from those who are nondisabled not merely in their capabilities but also on the basis of who they are as persons.<sup>18</sup> In one sense, this should come as no surprise since, as already indicated, nondisabled people are certainly shaped by their abilities. For instance, world-class athletes who train to perfection may think of themselves in terms of the ability to succeed. Their value as persons often hinges on their success, and a failure to succeed may communicate to them that they are failures.

Similarly, people with disabilities may sometimes consider themselves as less capable or even less valued than the so-called 'able bodied' because they may be unable to achieve an expected or desired performance or successful accomplishment in various fields.<sup>19</sup> Still, as disability rights advocates recognise, considerations such as these are inappropriate because they may reflect an unstated assumption that disability is unacceptable or that disabled people may be seen as inferior in some way.<sup>20</sup>

### The perception of disability

If the disability community are correct, modern society has not fully succeeded in respecting the needs and rights of disabled people. Selective abortion procedures may then only exacerbate the feeling of inferiority that persons with disability may experience. And although it is sometimes difficult to interpret the unintentional messages that may be received by individuals, the rationale behind the intentional selection of 'normal' characteristics, or even the availability of such selective tests, may easily translate into an unintentional rejection of people with a disorder.<sup>21</sup> For example, the UK's prohibition in the use of PGD to select for deafness can send the message that the disorder is a serious disability that should be avoided - a position that many in the deaf community reject. This may be one of the reasons why the disabled community is sometimes so vocal in stating that they are, in fact, similar to any other community with specific needs. They suggest that society has not sufficiently adapted or made an effort to accept or integrate them. That society works with nondisabled people far more readily than with persons who may have a disorder.<sup>22</sup>

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<sup>16</sup> L.R. Kass. 1985. *Toward a More Natural Science: Biology and Human Affairs*, New York: Free Press, 89.

<sup>17</sup> A. Fletcher. 2002. 'Making it Better: Disability and Genetic Choice', in *Designer Babies*, 21.

<sup>18</sup> Over a generation ago P. Hunt edited a collection of essays that explored this very issue, 1966. *Stigma: The Experience of Disability*, London: G. Chapman. Although society is now far more accommodating towards disabled individuals, the basic insights of this book remain relevant today.

<sup>19</sup> This is by no means a universal, and much of the literature in disability studies, as well as disability legislation, aims to counteract this. However, a strong case may be made that, on a personal level and uninformed by more academic perspectives, people with disability do indeed wrestle with feelings of inferiority and marginalisation.

<sup>20</sup> This concern can be seen as arising from the eugenic programs in which people without desirable traits were degraded. Whether or not intentionally, an article in *The Telegraph* recently fell prey to this issue by referring to a fetus *without* Down's syndrome as 'healthy', thus implying that a fetus with Down's syndrome would be unhealthy, R. Smith. 2010. 'Blood Test for Down's Syndrome', *The Telegraph*, 30 June. Retrieved 10 August 2011 from <http://tinyurl.com/telegraph-Downs-test>. Many fetuses and people living with Down's are healthy, even if they carry an extra 21<sup>st</sup> chromosome.

<sup>21</sup> A similar concern was noted in the 2003 Council of Europe's report entitled 'The Protection of the Human Embryo In Vitro', Strasbourg, Council of Europe, 32.

<sup>22</sup> The first-person account of M.J. Deegan illustrates this well, 2010. "Feeling Normal" and "Feeling Disabled", in S. Barnartt (ed.), *Disability as a Fluid State*, Bingley, England: Emerald.

The lack of success to fully integrate persons with a disorder thus poses a major question about the appropriateness of sanctioning selection procedures as a common approach to reproduction. Since society already struggles to affirm the equal value of people with disability, how much more difficult will it be when society grows accustomed to making sure persons with a disorder do not exist?

Ironically, then, selection procedures may actually be self-defeating. Societal pressure towards selective abortion may inadvertently reduce the impact of inherent and equal rights. Over time, as disability becomes less common, economic factors may also undermine the equality that disabled people experience.<sup>23</sup> For instance, the cost of caring for disabilities may increase as the demand for services decreases. More specifically, the cost of specialised assisted living facilities, such as the provision of special flats, will rise if fewer people eventually need them. As selection procedures reduce the number of persons born with special needs, the voices of those with disability may become increasingly difficult to hear amidst the numerous other interest groups in society.

Thus, in light of the threat posed by selection procedures, individuals living with disability are unlikely to view these procedures as beneficial, either for them or for society at large, since they will increasingly be seen as an unfortunate minority. In reality, selection may make matters worse since the procedures will likely reinforce the view that disability is undesirable and to be avoided. As the condition is seen and experienced less frequently by the general public, the people affected will be perceived all the more, to be strange or unusual. This, in turn, will have inevitable implications for disabled people and the manner in which they see their value of life and their right to exist.<sup>24</sup> As Ian Macrae, the editor of the magazine *Disability Now* and who is himself affected by a congenital condition, indicated: the screening of embryos 're-enforces the stereotypical notion that...disabled lives are intrinsically less valuable'. Macrae would prefer a society that can address the different needs that these people have, rather than making sure that they do not exist.<sup>25</sup>

The fact that many disabled individuals may already feel deeply distressed because of the risks to their self-perception arising from the possibility of deselection can also be considered as another important reason for rejecting abortion on the grounds of disability.

### **Discriminating against disability and suffering**

Selecting not to have people with disability may be in conflict with contemporary values, including the most basic ethical principle of modern society: the equality of all humanity. It would contradict Article 1 of the UN Universal Declaration on Human Rights which states that, 'All human beings are born free and equal in dignity and rights'. In short, regardless of the severity of a disorder, a person with disability is of equal worth and value to humanity as a person without a disorder. It also means that no matter how much suffering a person experiences in his or her life, this suffering has no implications, whatsoever, on his or her inherent worth and value as a person.<sup>26</sup> Any deviance from these axioms would be the demise of the principles enacted in the UN Declaration and, in turn, of contemporary civilized societies. In other words, the value and worth of a human person (whether disabled or not) cannot be associated, in any way, to their perceived suffering or contentment. It also means that their inherent dignity is in an altogether different ethical dimension or category to how they feel or their experience of life.

Most parents who have welcomed a seriously disabled child, who may be affected by a considerable amount of suffering or even a very short life, do not regret the existence of the child as such.<sup>27</sup> Instead it is the possible suffering, not the child, that the parents wish to remove. Though devastated by any suffering their child endures

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<sup>23</sup> President's Council, *Beyond Therapy*, 56.

<sup>24</sup> German National Ethics Council . 2003. 'Position in favour of the retention and more precise specification of the ban on PGD' in *Opinion: Genetic diagnosis before and during pregnancy*, Berlin: Nationaler Ethikrat. 86.

<sup>25</sup> Quoted in V. Barford. 2011. 'Should My Hereditary Disability Stop Me Having a Baby?', *BBC News*, 18 April. Retrieved 28 April 2011 from <http://www.bbc.co.uk/news/magazine-12987504>.

<sup>26</sup> It is interesting to note here that the aim of many a utilitarian commentator is the demise of the capacity to suffer in individuals. However, this would also imply the demise of any meaningful free will since all human beings would then be reduced to 'happy' automatons.

<sup>27</sup> I. Knight. 2008. 'You Forgot about Love When It Comes to Down's Syndrome, Minette Marrin', *The Sunday Times*, 7 December. Retrieved 11 August 2011 from <http://tinyurl.com/SundayTimes-Downs-parents>.

(and their own suffering in this regard) most parents remain grateful for the existence of their child who is extremely important to them. They would never choose to exchange this child for another, healthier child.<sup>28</sup>

Though perhaps obvious, the parents' desire to eliminate suffering is grounded in an assumption that the life of a child is inherently valuable.<sup>29</sup> This is not to say that the parents welcome the child's suffering. However, as already emphasized, in philosophy and medicine it is important to differentiate between disorders and the very existence of persons with those disorders.

### **Support for Disability**

The seriousness of a disorder may be substantially mitigated by a caring society. Every individual is embedded within a community, and that community wields tremendous influence over the wellbeing of its members. This means that a more communal approach to disability may actually decrease an individual's perceived need to pursue selection and that it is a community that is at fault for a person's difficulty to integrate.<sup>30</sup> As disability advocates tirelessly explain, physical conditions may, in many cases, be bearable if supportive relationships undergird the disability. Of course, the disadvantages related to disability are not always the result of social discrimination; the disorder itself may cause a limited function that a community cannot fully overturn. As Jonathan Glover explains; 'To many disabilities, there is a contribution from a variety of sources, including functional limitation and social context'.<sup>31</sup>

Generally, however, by attending to the needs of all human interest groups, both the disabled and the nondisabled, selection procedures may not be seen as the solution. Again, as already noted, this conclusion does not support the proliferation of suffering. Rather, it recognises that suffering and the value of existence are categorically different concepts that are bound by the need for supporting relationships.

Support for selection procedures often derives from a desire to act beneficently for possible future children, and without a doubt this motivation is laudable. But at the same time, the pursuit of beneficence for future children may simultaneously offend, if not harm, the disability community. Concerns about discrimination are also associated with the risk of a slippery slope that may develop in the future if society adopts selection procedures as a regular part of human reproduction. If some procedures for deselecting disability were accepted, it may be very difficult to draw a line between treatment and enhancement. With this difficulty comes the risk that the people viewed as less significant and worthy—those with traits that society has deemed undesirable—will be trampled in the rush to a eugenic future.

### **Positive selection and Discrimination**

A further development to the objection against selection based on possible discrimination focuses on the practice of choosing possible future children for positive traits, not just for the absence of disability. As technology improves, parents may eventually have the option of selecting the kind of children they want on the basis of superior characteristics, such as athletic ability or musical prodigy. If this practice became widespread it would likely polarise the societal perspectives on disability as well as ability. A person with a so-called normal ability could then be considered mediocre and a greater number of individuals may, as a result, be subject to discrimination simply for lacking superior abilities. Admittedly, selecting for positive qualities is very different from actively discriminating against people with disabilities. After all, nearly every person alive has some degree of ability and disability. Allowing positive selection for capabilities does not, in itself, constitute an unacceptable level of discrimination, though there is a risk that allowing enhancements to take place may eventually lead to preferring these enhancements and finally to requiring them.<sup>32</sup>

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<sup>28</sup> C. MacKellar. 2011. 'Is Preconception Genetic Testing and Screening Eugenic?' *BioNews*, 18 April. Retrieved 2 June 2011, from [http://www.bionews.org.uk/page\\_93163.asp](http://www.bionews.org.uk/page_93163.asp).

<sup>29</sup> Cases of euthanasia with children, however, do exist. A recent case involved an Australian couple suspected of euthanizing their daughter because they were reportedly unable to handle the condition. A. Dale. 2011. 'Rett Syndrome Girl's Dad "Asked about Euthanasia" before She Drowned', *Herald Sun*, 10 January. Retrieved 11 August 2011 from <http://tinyurl.com/MelbourneHeraldSun>.

<sup>30</sup> Human Genetics Commission, *Choosing the Future*, 23.

<sup>31</sup> Glover, *Choosing Children*, 9.

<sup>32</sup> Nuffield Council, *Genetics and Human Behaviour*, 153.

## **Compassionate Society**

In embarking on a program of reproductive selection society may enter a vicious circle with respect to the way it considers disabled persons. This is because the manner in which society views the disabled community directly influences the way society views itself. Encouraged by a selective ideal, society may see people with disabilities as pitiful and worthy of stigmatisation or discrimination, rather than as valuable and full participants. Society may then become more rigorous, rugged and rigid, rather than compassionate and caring. The widespread use of selective procedures may diminish tolerance and compassion for the 'imperfect', especially for those born with disorders that could have been selected-out. With a diminished tolerance, both those born with a disorder as well as those who supported their existence may gradually be seen in a negative light. For example, parents who have a child with Down's syndrome are already being asked why they did not have a termination or whether they had received sufficient ante-natal counselling concerning the challenges of raising a disabled child. The overarching message in such a scenario would be that a disabled child is an undesired one in society. Questions may then be asked about the manner in which such a society will be considered in the future when it seeks to select-out its weakest members instead of caring for them in a spirit of compassion.

## **Changing the Law**

Because abortions taking place on the grounds of a disability have been shown by the above arguments to have clear discriminatory elements towards those affected by such a disability, these practices should not be taking place. It is difficult to understand the justification in maintaining such procedures when the *Equality Act 2010* prohibits discrimination on the grounds of disability. Legislation has developed significantly since the 1990's and abortion law should reflect this. Otherwise, equality protection becomes meaningless as society slowly eradicates the disable.