

2012

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Recommended Citation

Emily Hardy, *The London Paralympis Games 'Inspire a Generation' and Spark Abortion Controversy*, 18 Pub. Interest L. Rptr. 42 (2012).
Available at: <http://lawcommons.luc.edu/pilr/vol18/iss1/8>

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THE LONDON PARALYMPIC GAMES 'INSPIRE A GENERATION' AND SPARK ABORTION CONTROVERSY

by EMILY HARDY

The Stoke Mandeville Games was the first athletic competition held for wheelchair athletes.¹ Held in London in 1948, the games were used to help rehabilitate veterans of World War II.² While the first official Paralympics was held twelve years later in Rome, the Stoke Mandeville Games in London signaled the growth of athletic competitions for disabled members of the community.³ The Paralympics of today hosts over 20 sports and 500 events;⁴ and during the summer of 2012, the Paralympics returned to London and was one of the most successful games to date.⁵

This year's games have brought an unprecedented level of attention and focus to the abilities of people with disabilities, with 204 countries and territories attending the Olympic and Paralympic games.⁶ London Organizing Committee of the Olympic and Paralympic Games ("LOGOC") Chair, Sebastian Coe, spoke to the impact of the games on the people viewing around the world.⁷ He indicated that the games showed that it was "possible to triumph over adversity, to challenge and then change circumstances and to achieve great things."⁸ The theme of the game was to 'inspire a generation,' and the unprecedented viewership and commitment to the games helped achieve this goal.⁹

As the Paralympic athletes astonished their audience with their abilities and accomplishments, questions were raised by pro-life groups over the 'contradiction' of the United Kingdom's late-term disability abortion law when viewed against the accomplishments of the many athletes.¹⁰ The Catholic Coordinator of the games, James Parker, stated "any society that wishes to be healthy needs to increasingly value disability and non-disability equally."¹¹

ABORTION LAWS IN THE UNITED KINGDOM

In the United Kingdom, with the agreement of two registered medical practitioners, a pregnancy may be terminated at any point if 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."¹² As such, the Abortion Act of 1967 did not legalize abortions but created a legal defense for carrying them out.¹³ As Dr. Garwood-Gowers stated it is a "case of the general practitioner meeting. . . the legal criteria for a [defense] to the relevant offenses. . ."¹⁴ Evidence of severe fetal abnormalities allow a legal defense to abortions after the 24 week cutoff that limits most other abortions.¹⁵

There is no specification by law of what level of disability can be grounds for abortion after the 24-week cut off; rather the disability merely needs to be considered severe by two doctors and the operation is deemed warranted.¹⁶ This includes both physical and mental disabilities.¹⁷ In addition, they consider the totality of the circumstances of each case.¹⁸ Medical decisions such as these are difficult to challenge, because it is hard to show a deviation from the good faith standard.¹⁹

Nevertheless, in 2011 there were only 146 late term abortions after the 24-week limit occurred out of almost 190,000 total.²⁰ This means that 90% of abortions are carried out under provision (a) of the Act, which covers pregnancies within the first 24-weeks where the continuance would risk the physical or mental health of the pregnant woman or her children.²¹ But most tests that identify disabilities in the fetus happen well before the 24-week period.²²

DISABILITY DISCRIMINATION?

Although the total number of late terms abortions in the U.K. is smaller than one-percent of the total yearly abortions, groups such as Life and Pro-Life Alliance argue that the current law creates a “form of disability discrimination.”²³ They view methods that lead women to seek abortions, like screenings for Down’s syndrome as forms of eugenics used to weed out undesirable characteristics such as disabilities.²⁴

The Disability Rights Commission (“DRC”) views abortion law as “not inconsistent with the [Act] since [they] are concerned with the rights of the living person;” however, they do view the disability portion as offensive to many people and “incompatible with valuing disability and non-disability equally.”²⁵ The DRC would prefer that the disability not be part of the discussion.²⁶ Although pro-life organizations and the DRC do not consider abortion in the same way, they both find the focus on a child’s physical disability as against equality and human rights.²⁷

OTHER FACTORS TO CONSIDER

Notwithstanding the moral and social concerns surrounding disability related abortion, one must also remember the substantial financial and personal concerns of the parents. Jill Dressner of the Special Education Advocacy Center Non-Profit in Chicago, finds that many of the families that have children with disabilities suffer hardships including separation of families, a need for Medicaid and food stamps to offset education and medical costs, and an inability to interact with their children in social situations.²⁸

These same financial concerns apply to children in the U.K., where the cost of raising a child with disabilities can be three times greater than the amount for a

child without a disability.²⁹ The burden of raising a child with disabilities often prohibits parents from working full time; moreover, a recent study has shown that one-in-six parents cannot afford to heat their homes.³⁰ Where parents were unable to work due to their responsibilities, almost a third were unable to pay heating bills and around a quarter admitted to going without food occasionally.³¹

These concerns about housing and feeding kids are compounded by any medical services not provided for by government assistance.³² Free healthcare and educational needs are met by the State in the U.K.; however, health services will not cover every treatment that might be useful.³³ In the U.K. some disability benefits are restricted by age, including the mobility component of the Disability Living Allowance which is only available after the age of five.³⁴ In these cases, the parents can suffer financial hardships where they cannot receive the benefit even if the child may need it; instead, the parents must finance it out of pocket.³⁵

The Paralympics highlighted the ability of people who have disabilities to overcome enormous obstacles, but the decision to have an abortion based on a child's disability can often be based on financial or family concerns that face a reality not shown in those competitions. Raising a child with a disability causes financial and personal struggles that have long lasting effect. There is no easy answer, and the question moving forward is how this heightened awareness, financial constraints, and laws that separate based on disability can coexist in a world that is becoming more and more aware of the abilities of those who are disabled.

NOTES

1 *History of the Movement*, OFFICIAL WEBSITE OF THE PARALYMPIC MOVEMENT, available at <http://www.paralympic.org/TheIPC/HWA/HistoryoftheMovement> (last visited Oct. 25, 2012).

2 *Id.*

3 *Id.*

4 *About Us*, OFFICIAL WEBSITE OF THE PARALYMPIC MOVEMENT, <http://www.paralympic.org/Events/London2012/AboutUs> (last visited Nov. 16, 2012).

5 *History of the Movement*, *supra* note 1.

6 *Seb Coe Thanks Athletes for Inspiring a Generation*, LONDON PARALYMPIC GAMES PRESS RELEASE (Sept. 9, 2012) available at <http://www.london2012.com/paralympics/news/articles/london-2012-chair-seb-coe-thanks-superhuman-athletes-for-inspiring-generation.html>.

7 *Id.*

8 *Id.*

9 *Id.*

10 John Bingham, *Call for Ban on Disability Abortions after Paralympics*, THE TELEGRAPH (Sept. 19, 2012), <http://www.telegraph.co.uk/health/healthnews/9551305/Call-for-ban-on-disability-abortions-after-Paralympics.html>.

11 *UK Abortion Law Criticized as Paralympics Come to an End*, ZENIT (Sept. 4, 2012), <http://www.zenit.org/article-35463?l=english>.

12 Abortion Act, 1967, 87 § 1(d) (U.K.); Human Fertilization and Embryology Act, 1990, 37 § 1(d) (U.K.).

13 *Q & A: Abortion Law*, BBC NEWS, May 21, 2008, http://news.bbc.co.uk/2/hi/uk_news/4350259.stm.

14 Email interview with Dr. Austen Garwood-Gowers a Reader in Health Law and Ethics at the Nottingham Trent Law School (U.K.) (Oct. 26, 2012).

15 ZENIT, *supra* note 11.

16 Education for Choice, *UK Abortion Law*, available at http://www.efc.org.uk/young_people/facts_about_abortion/uk_abortion_law.html (last visited Oct. 25, 2012).

17 Garwood-Gowers, *supra* note 14.

18 Bingham, *supra* note 10.

19 Garwood-Gowers, *supra* note 14 (the good faith standard requires that the operation be carried out with regards to general medical law criteria in the areas of consent, appropriate justification, and sufficient care).

20 Bingham, *supra* note 10.

21 Abortion Act, 1967, 87 § 1(a) (U.K.); Human Fertilization and Embryology Act, 1990, 37 § 1(a) (U.K.).

22 Garwood-Gowers, *supra* note 14.

23 Bingham, *supra* note 10.

24 *Id.*

25 Garwood-Gowers, *supra* note 14.

26 *Id.*

27 *Reasons for Abortion*, BBC ETHICS GUIDE, http://www.bbc.co.uk/ethics/abortion/legal/when_1.shtml#h2 (last visited Oct. 25, 2012).

28 Email Interview with Jill Dressner Esq. of Special Educ. Advocacy Ctr. NFP. (Oct. 22, 2012).

29 Barbara Dobson and Sue Middleton, *Paying to Care: the Cost of Childhood Disability*, JOSEPH ROWNTREE FOUND., (July 10, 1998), <http://www.jrf.org.uk/publications/paying-care-cost-childhood-disability>.

30 Amelia Gentleman, *A Third of Parents of Disabled Children Took Out Loans to Buy Basics Last Year*, THE GUARDIAN (May 24, 2012), <http://www.guardian.co.uk/society/2012/may/24/families-disabled-children-loans-basics>.

31 *Id.*

32 Dressner, *supra* note 28.

33 Garwood-Gowers, *supra* note 14.

34 Dobson, *supra* note 29.

35 *Id.*