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The law is there to protect the dying

ELIZABETH BUTLER-SLOSS



We are seeing a predictable upsurge in the activities of the "assisted dying" lobby in the run-up to the Supreme Court's hearing of three appeals next week. What is being called "assisted dying" is a complex subject and it is very easy, amid all the argument and counter-argument, to lose sight of what the central question is. It is not whether "assisted dying" is compassionate. Compassion is common currency to both sides of the debate. It is whether we should license it by law.

In plain language, "assisted dying" means licensing doctors to supply lethal drugs to terminally ill patients to enable them to commit suicide. Assisting suicide is against the criminal law, and with good reason: the prohibition is there to protect vulnerable people. As a society, we go to considerable lengths to prevent suicide, and doctors have an important role to play in this. Yet some are suggesting that this process should be put into reverse for terminally ill people and that doctors should be licensed to facilitate their suicide.

Campaigners throw up their hands at the word "suicide". Giving lethal drugs to someone who is terminally ill isn't assisting suicide, they say, but assisting dying. Similarly, Lord Falconer's Private Member's Bill, now before the House of Lords, describes the lethal drugs that it wants doctors to be able to supply to terminally ill patients as "medicines". Such euphemisms may make the idea of changing the law more palatable, but they obstruct reasoned debate.

Fundamental to any understanding of the "assisted dying" debate is knowing what the law says and how it is applied. We are told that the law is cruel because it threatens anyone who assists another's suicide with imprisonment. But, in the same breath, we are told the law should be changed because those who break it are not usually prosecuted.

What we have here are two sides of the same coin. The law certainly has a stern face and holds penalties in reserve serious enough to make anyone minded to assist a suicide think hard before proceeding. But the law also recognises that assisting suicide can cover a spectrum of criminality, from malicious assistance given for personal gain to compassionate assistance given after much soul-searching. It explicitly requires the Director of Public Prosecutions to examine the circumstances and decide

if prosecution is needed.

We have a law with the "teeth" to deter and the discretion, where appropriate, to temper justice with mercy. What is the result? Assisting suicide is a rare offence. Less than 20 cases a year throughout England and Wales cross the DPP's desk. That needs to be set alongside the 1,100 or so cases we could expect to see every year if we were to have an assisted suicide law like Oregon's, the model for campaigners here. And, because the law acts as a powerful deterrent, the few cases that occur here are usually those where there has been genuinely compassionate motivation and reluctant assistance.

In place of this we are being urged to create a licensing system, which would dispense with the deterrent of the present law in favour of doubtful "safeguards". That may suit a small number of strong-minded individuals who are resolved to end their lives. But Parliament has to make laws to protect all of us, especially the most vulnerable. It is hard to imagine any group of people more vulnerable than those who are dying. They need our support and protection, not our help to commit suicide.

What has happened in Belgium and Holland since these practices were legalised leaves no doubt that, once they enter the system, it is impossible to prevent them spreading beyond the arbitrary limits envisaged for them. Anyone who doubts this should read the report of Lord Falconer's self-styled "commission on assisted dying", and its conclusion that legalising assisted suicide for people with severe physical impairments was not acceptable "at this point in time".

Laws, like nation states, are more secure when their boundaries rest on natural frontiers. The law that we have rests on just such a frontier. It rests on the principle that we do not involve ourselves in deliberately bringing about the deaths of others. Once we start making exceptions based on arbitrary criteria like terminal illness, that frontier becomes just a line in the sand, easily crossed and hard to defend. The law is there to protect us all. We tinker with it at our peril.

Baroness Butler-Sloss is a former president of the family division of the High Court of Justice

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