Should assisted dying be lawful?

Charles Olubokun, Mr
Should assisted dying be lawful?

Written By: Charles OLUBOKUN.

GDL Brunel University (West London).

London
**Should Assisted Dying be lawful?**

This is a complex ethical and legal question, a delicate, emotive issue, turning the traffic light from red to green on state prohibited assisted dying would be a difficult task. The subject of assisted dying is highly controversial and opinions to legalise it are split.


On one hand are arguments about the sanctity of life\(^1\) and the need to protect against potential abuse, by ensuring that vulnerable people are not pressurised into taking decisions to end their lives prematurely. Other arguments are that the risk to society exceeds the benefit. If this amendment were to succeed it is believed it will place a new and invidious pressure on disabled and terminally ill people to think they are closer to the end of their lives. Some will consider death is preferable to fighting for the support to live with dignity, older people who are anxious not to cause their family distress could think it is the cheapest, quickest and simplest option or that elderly people in care homes will be pushed towards death.\(^2\)

---


2. Prof. Clive Seale of Queen Mary, University of London said. In his research, “But the paper is fairly reassuring on that.”
On the other hand is the argument that a person of sound mind who is terminally ill or suffers an extreme personal injury and may be in a great deal of pain should be allowed the right to choose whether he or she lives or dies.

Unbearable suffering, prolonged by medical care inflicted on a dying patient who wishes to die, is unequivocally a bad thing, respect for individual autonomy, the right to have one’s choices supported by others, to determine one’s own best interest, when one is of sound mind is a sovereign principle. Nobody else’s personal views should override this.³

Death from dehydration and starvation in patients, who have no means of securing an end to their suffering other than by refusing food and fluids, reflect the unspeakable cruelty of the present law.

The 1961 Suicide Act criminalises anyone who aids, abets, counsels or procures someone else’s suicide⁴. Though, suicide isn't illegal, but as it were, if you attempted and failed, the state will legally assist you, why is it now illegal to assist a loved one to achieve his aim?

In spite of this, the law in the UK as applied under the Suicide Act 1961 is currently very sympathetic to cases of assisted suicide, where individuals have travelled abroad to a country where it is lawful to end their life, people assisting them and thus committing an offence have not been prosecuted.

Furthermore, the law does not frown at people’s competence to take decisions before their death when they are of sound mind about making body parts (spare parts) available while lifeless under the notion of organ donation to better the lives of other people, should the same

³ Secretary of State for the Home Department v. MB (FC), the overriding right guaranteed by article 6(1) was a fundamental right which did not admit of any balancing exercise, and that the public interest could never be invoked to deny that right to anybody in any circumstances.

⁴ The suicide Act 1961 s 2, (as amended by s.59 Coroners and Justice Act 2009).
law refuse such an individual to take decisions that would better his own life after establishing beyond reasonable doubts that the end is truly here.

In the Pretty judgment in Strasbourg, the European Court indicated that art 8(1) was engaged relating to personal autonomy and physical integrity, in which reliance can now be placed. Likewise, people now have the right to make advanced decisions to refuse medical treatment\textsuperscript{5}

Doctors in charge of the last hours find decisions always have to be made on whether to give drugs to relieve pain that could shorten life or whether to continue resuscitation and artificial feeding. One in 10 patients asked their doctor to help them die faster. Around a third of doctors say they have given drugs to terminally ill patients or withdrawn treatment, knowing or intending that it would shorten their life\textsuperscript{6}.

The Royal College of Nursing recently changed its position on assisted suicide from one of opposition to neutrality.

Death is inevitable for us all. For some it is sudden and unexpected but for others the loss of one or more vital functions can extend over days, weeks or months and can involve suffering, for some the dying process is not so gentle and its relief defies the expertise of palliative care. Hence, there comes a time when, the prospect of death is welcome, more welcome than the prospect of life. Should we leave this minority of the terminally ill to suffer in silence because the prospect of assisting others to die voluntarily is counterintuitive, distasteful,

\textsuperscript{5} Mental Capacity Act 2005, s 24 which came into force on 1st of April 2007 noting s 25(5) and s 25(6).

\textsuperscript{6} Prof. Seale, op. cit. “But, he said, there was no evidence of a “slippery slope” that deaths of the most vulnerable, such as the elderly, the disabled and those with dementia, are being hastened more than others”. 
contrary to moral principle? Can we argue that to legalise assisted dying is certain to create a risk that the vulnerable, the elderly or the disabled will thereby be disadvantaged?

Assisted dying is permitted in a number of other jurisdictions and experience from the State of Oregon is the most useful comparator because the Death with Dignity Act introduced there in 1997 is the nearest in concept and application to Lord Joffe’s Assisted Dying for the terminally ill Bill (ADTIB) which did not see the light of the day.

Those availing themselves of the option were often determined personalities for whom autonomy and independence were of paramount importance. The ADTIB proposed by Lord Joffe contains even more precautions and safeguards than the corresponding legislation in Oregon. The Parliamentary Joint Committee on Human Rights considered the proposals and concluded the bill incorporates sufficient safeguards to protect the interests and rights of the vulnerable. National opinion polls show a rising proportion of the public is in favour of legalising assisted dying. Representatives of the medical profession submitting evidence to the House of Lords Select Committee have adopted an entirely neutral stance.

The Oregon Death with Dignity Act has worked successfully for over 10 years. The ADTIB would have provided greater choice for terminally ill adults whilst fully protecting vulnerable people.

The ADTIB allowed for assisted dying, but not voluntary euthanasia. This means doctors at the request of a terminally ill adult could prescribe life-ending medication, but they would not be able to administer it directly. Patients would have to take the medication themselves.

The amendment is rather making sure that the law reflects the sensible position adopted to date by courts and the Director of Public prosecution, while protecting people from abuse.

7 The Bible, John 8: 1-11.(the woman who committed adultery was not after all condemned).
Conclusively, better palliative care is not going to prevent increasing number of people wanting to go abroad to die. This could be similar to the recent call for the goal line technology, as the society evolves so does the law, law we also know is a living thing. In as much as the slippery slope argument is a cause for concern, it is believed also that if the rules are followed then the lesser evil rule\(^8\) will be another cause of triumph.

The voice of the people is the voice of God.

\(^8\) Re A (children) (conjoined twins: surgical separation) [2000] 4 All ER 961.