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## ASSISTING SUICIDE IS STILL A CRIME

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An attempt by Lord Falconer to legalise assisted suicide in certain cases was defeated in the House of Lords on 7 July 2009 by 194-141 votes. Lord Falconer's amendment was an attempt to remove the risk of prosecution from the relatives of those who help so-called 'suicide tourists' who travel to Switzerland to take their lives at the Dignitas suicide 'clinic' in Zurich.

In a letter to *The Times* in June 2009, Dr Peter Saunders, director of the Care Not Killing Alliance and general secretary of the Christian Medical Fellowship, warned that the Dignitas 'clinic' is 'no clinic at all,' but 'an apartment in which visitors are handed poison to drink – nothing more, nothing less.'

His letter added: 'It is dangerously naïve to suppose that people who are helped to commit suicide are always "loved ones." At the moment, with the Crown Prosecution Service able to review cases after the event, there is a deterrent that makes people with sinister motives stop and think before pressuring inconvenient relatives into removing themselves in this way.'

Since the vote in the Lords, the Royal College of Nursing has decided to adopt a neutral stance on assisted suicide, rather than opposing it. This follows a survey of members, to which only a small fraction of the membership responded, which showed 49% of respondents in favour of assisted suicide, and 40% against.

More recently, the House of Lords has ruled that the Director of Public Prosecutions must publish guidance in relation to the circumstances in which he would bring a prosecution against those who assist someone to commit suicide. Overturning the decisions of lower courts, the law lords granted an appeal by Debbie Purdy, a multiple sclerosis sufferer, for the 1961 Suicide Act to be clarified. In their ruling, the law lords said: 'At present there is simply not sufficiently clear or relevant guidance available as to how the discretion given to the Director is to be exercised. In a highly unusual and extremely sensitive case of this kind, the Code for Crown Prosecutors offers almost no guidance at all. A custom-built policy statement is required.'

The immediate context of this case is Miss Purdy's wish to know whether her husband would be prosecuted if he helped her to travel to Switzerland to commit suicide at the Dignitas 'clinic.' However, the guidance which the DPP publishes will have wider implications, as it is bound to have to refer to the position of those who may assist their relatives to end their lives in this country, without

going to Switzerland, or to any special 'clinic.' It is in the wider context that the application of the law becomes much murkier.

Although the law lords made clear that any changes in the law on assisted suicide would have to be decided upon by Parliament, they worryingly expressed the view that the present law interfered with Miss Purdy's right to respect for her private life.

'Everyone has the right to respect for their private life and the way that Miss Purdy determines to spend the closing moments of her life is part of the act of living.'

*Statement by law lords in the Purdy 'assisted suicide' case*

In a pivotal statement, the law lords said: 'Everyone has the right to respect for their private life and the way that Miss Purdy determines to spend the closing moments of her life is part of the act of living.' This is a hugely controversial statement for two reasons:

In the first place, taken literally it is a disingenuous pronouncement, since this case is not about what Miss Purdy determines to do in the closing moments of her life and no-one has suggested that it is. It is not a criminal offence to attempt to commit suicide, and the law puts no limits on Miss Purdy's rights in this respect. What is at stake is the legality of the involvement of others, and currently this is clearly an offence under the 1961 Suicide Act, which unequivocally outlaws the 'aiding and abetting' of suicide.

Secondly, the law lords are effectively saying that dying is an ordinary part of living, and that the issues surrounding it do not require any different treatment or protection. Because of what it implies, rather than what it actually says, such a statement is bound to excite and encourage the pro-euthanasia and assisted suicide lobby. The implication of the statement is that if it makes it more difficult for a person to do what they would be free to do if entirely able-bodied, then the Suicide Act 1961 is too rigid, and ought to be relaxed.

Those opposed to assisted suicide quite naturally take the view that once the involvement of others becomes legal, there is no end to the possible pressures, influences and abuses which could occur. They also believe that legalising assisted suicide would bring about a climate of fear, severely undermine public trust in the ethos, policies and practices of the care services provided for the elderly, and gradually create an expectation of the normality of deliberately ending life.

There is bound to be a review of the legislation by Parliament, probably after the 2010 General Election. In the meantime the DPP will produce his interim guidance as soon as practicable, the final version, due next year, being subject to a public consultation.

Rod Badams

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