Legalising assisted suicide

British Courts and Parliaments remain firmly opposed

Assisting or encouraging suicide remains a crime in Britain under the Suicide Act 1961.[1] But over the last 15 years there has been relentless pressure to change this from well-resourced lobby groups backed by powerful celebrity voices and sections of the British media.

More than ten attempts to legalise assisted suicide (AS) were made through British parliaments between 2003 and 2015 – three each by Lord Joffe and Lord Falconer in the House of Lords, two in the Scottish parliament by Margo Macdonald and Patrick Harvie, one by Robert Marris via the House of Commons and one in each of Wales and the Isle of Man. These measures all failed and the most recent – the Marris bill – was defeated in the House of Commons by the huge margin of 330-118 on 11 September 2015.[2]

This is because there are also powerful forces defending the status quo – principally doctors, disabled people, faith groups and parliamentarians – all of whom share a concern about the consequences for public safety of licensing doctors to dispense lethal drugs.

Because of this failure to change the law through the legislature, lobbyists have now turned their attention to the courts. So far these court cases have also failed – Diane Pretty, Debbie Purdy, Tony Nicklinson, 'Martin' and Paul Lamb. But in 2018 we have seen two further serious attacks on the law – on the island of Guernsey and at the Court of Appeal.

Gavin St Pier and six other Guernsey parliamentary deputies filed a requête[3] on 26 April calling for a change in the law; but it came under strong criticism for its broad scope – allowing not just assisted suicide but also euthanasia, and seemingly leaving the door open for minors, non-residents, and those with mental illness. A conscience clause was also not guaranteed.

The proposal was subsequently revised several times to make it more acceptable but was eventually defeated by a 24-14 majority. Instead, deputies voted 37-1 in favour of a review of palliative and end of life care.[4]

Meanwhile the Court of Appeal has dismissed the Conway case. Noel Conway is a 68-year-old Shropshire man who had argued that the current blanket ban on assisted suicide under the Suicide Act was incompatible with his right to privacy under Article 8 of the European Convention on Human Rights.

The Divisional Court last year dismissed his case, arguing that it was legitimate for the legislature 'to lay down clear and defensible standards to provide guidance for society, to avoid distressing and difficult disputes at the end of life and to avoid creating a slippery slope leading to incremental expansion over time of the categories of people to whom similar assistance for suicide might have to [be] provided'.[5]

The Court of Appeal has now fully upheld this earlier judgement. Sir Terence Etherton (Master of the Rolls), Sir Brian Leveson (President of the Queen's Bench Division) and Lady Justice King heard the appeal in May this year and said that the conclusions of the Divisional Court could not be faulted.

Counsel for Mr Conway had secured permission to appeal on several grounds,[6] but the Court of Appeal delivered a clear repudiation of these, stating that the objectives of the ban on assisted suicide are not limited to the protection of the weak and vulnerable, but also include respect for the sanctity of life and the promotion of trust between patient and doctor in the care relationship.

The Appeal Court judgement[7] is well worth reading in its entirety as it provides a comprehensive summary of previous parliamentary debates and court cases on assisted suicide and summarises the position of all the major medical groups opposed to the practice, including the BMA, Royal Colleges of Physicians and General Practitioners, British Geriatric Society and Association for Palliative Medicine. It also stipulates that there is a 'clear objective line' morally and legally between withdrawal of treatment (meaning that the patient dies of his or her underlying illness) and assisting someone actively to end their own life.

The Care Not Killing Alliance, in which CMF plays a leading role, intervened in the case along with the disability rights group Not Dead Yet. Its evidence was referred to several times in the judgement. This sensible decision by the Court of Appeal yet again recognises that the safest law is the one we already have – a complete ban on assisted suicide and euthanasia based ultimately on the biblical principle of the sanctity of life.[8] Our current laws deter the exploitation, abuse and coercion of vulnerable people who, as we have seen in the US States of Oregon and Washington, often cite feeling they are a burden on others as the reason for ending their lives.

One would hope that those who have been campaigning to remove these important and universal protections from disabled and sick people would accept this ruling and focus their attention on securing equality of access to palliative care and mental health support, but Conway has already appealed to the Supreme Court and so we now await the outcome there.

***Peter Saunders** is CMF Chief Executive*

references

1. Suicide Act 1961 *bit.ly/2u64nje*
2. Saunders P. Defeat of the Marris Assisted Dying Bill. *Christian Medical Comment*, 12 September 2015. *bit.ly/1084Q91*
3. The states of deliberation of the island of Guernsey requête: assisted dying *bit.ly/2KTO5Dv*
4. Guernsey rejects assisted suicide. *Care Not Killing*, 18 May 2018. *bit.ly/2rRneND*
5. High Court rules on Conway. *Care Not Killing*, 5 October 2017. *bit.ly/2znVZQT*
6. [2017] EWCA Civ 16 *bit.ly/2NB1kr2*
7. [2018] EWCA Civ 1431 *bit.ly/2u8mggY*
8. Genesis 9:6; Exodus 20:13