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Clear thinking on the end-of-life debate

Assisted Suicide and The Law

*There is a need for “a clear understanding of what
the rule of law does not mean.*

*“It does not mean that every human problem and
every moral dilemma calls for a legal solution”*

Lord Sumption, Reith Lectures 2019

Living and Dying Well is a public policy research organisation established in 2010 to promote clear thinking on the end-of life debate and to explore the complexities surrounding ‘assisted dying’ and other end-of-life issues.

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THE 2019 REITH LECTURES - LORD SUMPTION ON ASSISTING SUICIDE

In the first of his Reith Lectures this year former Justice of the Supreme Court Lord Jonathan Sumption reflected on the role and limits of the law and on its relationship with politics. In response to a question from a member of the audience he addressed the respective roles of the law and Parliament in regard to the controversial issue of whether assisted suicide should be legalised for terminally ill people

Lord Sumption's response has been quoted selectively by campaigners for legalisation. It is instructive to see (below) his response as a whole:

"I entirely understand the concern that you have but I think that what I would not accept is that it necessarily means that decisions on these matters have to be made by judges.

"The problem is that this is a major moral issue and it is an issue on which, though you say that the public is overwhelmingly in favour, a lot of polling suggests that rather depends on the degree of detail that goes into the asking of the question. But on any view this is a subject on which people have strong moral views and on which they disagree.

"There is a large number of people who feel - I am not expressing my own opinion, I am simply pointing out that there are many people who feel - that changing the law so as to allow assisted suicide would render large numbers of people vulnerable to unseen pressures from relatives and so on. There are others who feel that the intervention of somebody in the life of another so as to end it is morally objectionable.

"Now the question that one has to ask is: how do we resolve a disagreement like that? It seems to me that, where there is a difference of opinion within a democratic community, we need a political process in order to resolve it"

Invited by presenter Anita Anand to reveal his own view of whether the law should be changed to permit assisted suicide, Lord Sumption replied:

"I'll tell you exactly what I think about this. I think that the law should continue to criminalise assisted suicide and I think that the law should

be broken. I think that it should be broken from time to time. We need to have a law against it in order to prevent abuse but it has always been the case that this has been criminal and it has always been the case that courageous relatives and friends have helped people to die. And I think that is an untidy compromise of the sort that very few lawyers would adopt, but I don't believe that there is necessarily a moral obligation to obey the law. And ultimately it is something that each person has to decide within his own conscience".

Predictably, the assisted suicide lobby has taken Lord Sumption's words out of context and misrepresented their meaning. In a letter to Members of Parliament, the campaign group Dignity in Dying has focused on the former judge's words that "the law should continue to criminalise assisted suicide" and that it "should be broken from time to time". It suggests these words are "undermining the law"; that they appear to "expect - perhaps even encourage" those hearing them to break the law; and that "for one of our most senior judges to say it is preferable for the law to be repeatedly broken than for it to be reformed cannot inspire confidence in our legal system".

Lord Sumption said nothing of the sort, as will be clear to anyone who has taken the trouble to read his comments as a whole. He has done no more than state a fundamental principle of the criminal law. The law is there to protect society by prohibiting acts regarded as unacceptable. One such act is encouraging or assisting suicide. It is accepted that, as with other criminal laws, there could be exceptional circumstances where a person breaks the law for altruistic reasons. Such an act, while illegal, may not be of sufficient criminality to warrant prosecution and the law already provides in such cases for all the circumstances to be investigated and taken into account. But there is world of difference between not prosecuting in such situations and licensing such acts in advance and on the basis of apparent motivations.

Those who advocate for such licensing laws might reflect on another statement by Lord Sumption which goes to the heart of his Reith Lecture. There is a need, he observed, for "a clear understanding of what the rule of law does not mean. It does not mean that every human problem and every moral dilemma calls for a legal solution". The subject of assisting suicide formed only a small part of Lord Sumption's excellent Reith Lecture. His words are not a call to change the law.

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