

Assisted Dying: Legislation

Question for Short Debate

2 pm

Asked by The Earl of Glasgow

To ask Her Majesty's Government whether they intend to legislate to provide terminally ill patients with the legal right to decide when, where and how they should die, if necessary with the assistance of others.

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The Earl of Glasgow (LD): My Lords, I thank very much all noble Lords who have decided to take part in this debate, although I know that they have been given only one minute in which to speak. Many noble Lords may be very opposed to what I am going to say but I thank them anyway for taking part.

I have long believed that we should all have some choice in the manner of our deaths. There is no point in fearing death itself, because there is nothing that we can do about it, but we do have reason to fear the manner of our death, particularly our physical state in the closing days of our lives. Assuming that we are terminally ill but still in our right minds, probably suffering from physical or psychological pain, why should so many people object to us having the right to decide how we die?

The problem is, of course, that if you wish to die painlessly, peacefully and with dignity, you are almost certainly going to need assistance from others, particularly a doctor or medical practitioner. It is not easy to kill yourself cleanly on your own when you are old and infirm but, as the law stands today, anyone assisting you to die is committing a criminal offence and risks anything up to 14 years' imprisonment.

However, in a significant minority of cases, assisting someone to die is necessary, sensible and humane. Therefore, I, and millions like me, want the law changed so that terminally ill patients who are in their right mind can choose how, when and where they die. In most cases, I suspect that it will be in their own home with their family and loved ones around them. They certainly would not choose to travel to an impersonal clinic in Switzerland to die prematurely and at considerable expense to their family, yet that is what our present law is forcing about one British citizen a week to do.

Of course, if the law is to be changed, there must be safeguards. We cannot allow a cruel or selfish family to pressurise their troublesome old granny into taking her own life. We cannot even allow granny to be put in a position in which she feels she has become such a burden on the family she loves that she believes she has a "duty to die". Of course there must be very robust and foolproof safeguards, and that is exactly what is to be found in the Bill of the noble and learned Lord, Lord Falconer, on assisted dying, which will be coming to this House some time early next year.

Yet, in spite of all the assurances on safeguards, we know that there is still going to be strong opposition to that Bill—not, I am pleased to say, as strong as it was when the noble Lord, Lord Joffe, introduced a similar Bill to this House some seven years ago, but it will still be formidable. To me, the legalisation of assisted dying in specific and clearly identifiable circumstances seems so sensible and humane that I am finding it more and more difficult to understand why some groups and individuals are so adamantly opposed to it.

I am glad to say that many in the medical profession who were once so opposed are now coming round. Professor Raymond Tallis, chair of Healthcare Professionals for Assisted Dying, says:

"For a small but significant group of terminally ill patients, the dying process results in suffering which cannot be alleviated by even the very best palliative care. We believe that the present law, which does not give patients the option to control the timing of their death, is cruel".

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Even some of our religious leaders are beginning to see the light. For instance, Rabbi Jonathan Romain says:

"Despite once being opposed to a change in the law, I support this Bill. As a rabbi, my pastoral experience convinces me that we should enable dying patients who consider their suffering unbearable to control the time and place of their death".

I feel that, initially anyway, many people never really understood what those of us who support assisted dying are really all about. They do not understand our purpose and the strict limitations of what we are proposing. The measure applies only to adults who are certified as being in their right minds and not suffering from medical depressions or any other mental illness which might affect their ability to decide. It applies only to patients who have been diagnosed as being terminally ill and certain to die within six months. It applies only to people who have consistently declared a wish to die before their natural end. The will to live, and to continue living, is very strong in most of us, so we are talking about only a small minority of people. However, they are a significant minority whose plight cannot be ignored any longer.

I do not think that our case has been helped by linking us—sometimes done deliberately by opponents—with words such as “voluntary euthanasia”. “Euthanasia” implies putting other people to death—presumably, not oneself—for compassionate reasons. This issue has nothing to do with euthanasia. It is sometimes referred to as “assisted suicide”. “Assisted suicide”? I would not vote for anything called “assisted suicide”, and I am sure that most noble Lords would not.

I do not much like the term “assisted death”, as our cause is presently labelled. It implies that the assisters are taking part willingly in something that will almost certainly be very traumatic and painful for them too. Even the word “assisted” implies that you are party to some criminal act, which, as the law now stands, is exactly what you would be guilty of.

Therefore, we must redefine what this debate is about. “Assisted” anything is only a necessary and vital adjunct to the real issue. It is really about choice: personal, individual choice. “Choice at the end of life” is my preference—omitting even the emotive word “death”. The law must allow terminally ill patients in their right mind to choose how, when and where they wish to die. If they wish to continue to live right up to their last natural breath, that is their choice. If they wish to avail themselves of palliative care, that is their choice. If they believe that their god wants them to suffer to the bitter end, that, too, is their choice. However, if they prefer to die when they feel ready, and wish to avoid the inevitable suffering and indignity which are likely to face them in their final months, then the law must make this possible too.

The forthcoming Bill tabled by the noble and learned Lord, Lord Falconer, is all about choice, freely taken. It has nothing to do with euthanasia and is in no way linked to the problems of those many elderly people who are no longer capable of making decisions for themselves. I am saddened that so many disabled people feel threatened by this Bill. It is intended to

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give each of them a crucial say in their own destiny—they themselves, not the doctors or their relatives. Surely it should be a comfort to them, not a cause for alarm.

When the Bill tabled by the noble and learned Lord, Lord Falconer, comes before this House next year, I hope that, by then, the Government will have come off the fence on this issue, and will be prepared to support it. Are the Government not ashamed that so many British citizens feel compelled to travel to Switzerland because their own country refuses them a dignified death? I like to think that they do feel a little shame because they turn a blind eye to a public prosecutor who is not prepared to prosecute those family members assisting their ill relations to get to Dignitas, and thus blatantly flouting the law. The law badly needs to be changed to allow choice at the end of life and immunity to those who assist in this regard. It is surely time that the Government faced up to this very important issue.

2.08 pm

Baroness Hollins (CB): My Lords, is it not extraordinary that when we discuss death in this Chamber, it is to propose something as dramatic as state-supported suicide, while at home we are bombarded with emotive leaflets portraying death as the final assault on our dignity?

I am comfortable talking about death and decision-making at the end of life, but the subject arouses very strong emotions; fear seems to predominate. Death needs to be talked about and planned for. Death education at school and end of life preparation classes would be as useful as parenting preparation and retirement classes. How many of us, so determined to retain autonomy and agency at the end of life, have actually made lasting powers of attorney and advance directives? These are powerful legal safeguards, if and when we are no longer able to make and communicate decisions for ourselves. However, they are still infrequently used. What need is there for more legislation when the robust legislation we already have is not being used?

2.09 pm

The Lord Bishop of Derby: My Lords, two quotations. John Donne:

“No man is an island”.

and the Book of Job:

“The Lord gives and the Lord takes away”.

Life is a gift. None of us decided to be born; we came from a relationship between two people, from a culture, from a context, from a spiritual hinterland, and any life is part of that flow. As it flows on, it seeks for more and more. Modern economics, and the market, encourage us to see ourselves as autonomous individuals. The noble Earl just talked about making an individual choice. None of us is an individual in that sense: we are part of a web of relationships, and that web holds us in suffering as well as in the imminence of death. T. S. Eliot said, “In our endings are our beginnings”.

I think we need to approach death by affirming life, being willing to face suffering and having a communal aspect with those around us. As Jesus said on the cross—his final decision, surrounded by others:

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“Father, into your hands I commit my spirit”.

Death is not just about the end of a heartbeat in a physical body, it is about a transition within a life that flows into eternity. We must be very careful about isolating an individual, pulling them out of that stream and implying that they can survive on their own.

2.11 pm

Baroness O’Cathain (Con): My Lords, in all the millions of words that will be spoken today, next week and next year on this subject, I just want to make sure that we do not lose sight of one fact. The relationship between a doctor and a patient is not simply a commercial relationship such as that which exists between a customer and a supplier. It is a relationship of trust, involving a duty of care and protection. To suggest that a doctor should knowingly and deliberately aid and abet a patient’s suicide—I will use that word—takes clinical practice into a place where it has no business to be, and could signify the breakdown of that trust.

2.12 pm

Baroness Grey-Thompson (CB): My Lords, what for many is seen as a “right to die” can too easily become a “duty to die”. That is how assisted dying is viewed by many disabled people. All too often the assumption is made by those who are in robust health that terminal illness is unbearable and that you would be better off dead. I have been told many times, “I would not want to live if I was like you”. The commission chaired by the noble and learned Lord, Lord Falconer, whose Assisted Dying Bill is in front of us, said in its report:

“We ... do not consider that it would be acceptable to society at this point in time to recommend that a non-terminally ill person with significant physical impairments should be made eligible under any future legislation to request assistance in ending his or her life”.

The words,

“at this point in time”,

send a chill down my spine. While we may not be eligible now, we are surely in the waiting room. I sincerely hope that Her Majesty’s Government will stay well clear of any legislation to license assisted suicide.

2.13 pm

Lord Judge (CB): My Lords, the short question is whether this criminal offence should continue on the statute book. The issue has been up and down the courts of the land, in the Divisional Court, the Court of Appeal, the House of Lords and the European Court of Human Rights, back down and back up again. I have been told that I am right and that I am wrong. Last month I dissented. The issue is far too important to be resolved by judges and the Director of Public Prosecutions. Legislation is the only way to deal with this issue, and there should be a free vote in both Houses on this very difficult and delicate moral, social and personal problem.

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2.13 pm

Lord Dubs (Lab): My Lords, when the Bill of the noble Lord, Lord Joffe, was being debated here, I thought, “I cannot vote to oppose something which I would want for myself”. How can I deny that to other people? To me, that seems to be the guiding principle. I believe that public opinion is so overwhelmingly on the side of the Bill

of the noble and learned Lord, Lord Falconer, that it will happen sooner or later. I think that we are trying to hold back something that is inevitable. Of course there must be safeguards. Today, there are none. If you can afford a flight to Switzerland, there are no safeguards at all.

Some years ago, a friend of mine was dying of motor neurone disease and was tapping out his messages on a little keyboard. He raised this issue and said, "Please, please, please, vote for a change in the legislation". On that basis, that is what I will do when the Bill comes forward.

2.14 pm

Lord Kerr of Kinlochard (CB): My Lords, the polls tell us that four out of every five people in the population want the reform for which the noble Earl has asked; that four out of five of the disabled people in the country want that reform; that four out of five of the people professing a religious belief want that reform; and that two-thirds of general practitioners would like that reform. Parliament has a proud tradition of getting ahead of public opinion; in this case, we are lagging far, far behind. Noble Lords should think of Wilberforce, slavery, child labour and capital punishment; they should think of the creation of the National Health Service, which was opposed at the time by the medical profession. It really is time that the House of Lords and the House of Commons resumed their traditional role as the conscience of the country and that we pass the reform called for by the noble Earl, Lord Glasgow.

2.15 pm

Baroness Nicholson of Winterbourne (LD): My Lords, the noble Earl has given us the "good intentions" speech. The slippery slope he outlined was paved with comforting phrases, but were they justified by facts? One of his phrases was "death clearly inevitable"; another was "certain to die within six months". However, in a survey taken last October of 156 patients whose prognosis was death within 14 days, 12% lived longer. These patients had advanced, incurable cancer and were referred for palliative care services. Further research following that showed that 10% of MDs made inaccurate prognoses for two-week survival, and in a survey of 1,018 patients with advanced cancer, only 56.3% were able to be accurate with medical predictions. I think that the base of the case is not proven.

2.16 pm

Baroness Murphy (CB): My Lords, I support the stance of the noble Earl, Lord Glasgow, and the introduction of a very limited Bill to enable those with terminal illness to have help to die at a time of their choosing. For me, it is a moral issue and a

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matter of simple humanity that we should respect the diversity of patients' wishes in the last months of life, just as we are beholden by law to respect their wishes at other times. It seems to me that we can talk endlessly about safeguards; next week, in another, similar debate, we will be able to explore mental capacity, mental illness, the prediction of six months' duration and undue pressures. I will be happy to talk about all those things in the future. We should base our decisions on research evidence of outcomes from other jurisdictions that have already bitten this bullet and have 16 years' worth of good information about what happens when you take a chance. All those predictions of cataclysm and slippery slope have proved to be completely false. I hope very much that we will support the wish of the noble Earl, Lord Glasgow.

2.18 pm

Lord Dobbs (Con): My Lords, the present position is untenable. Decisions as to what is right and what is wrong at the end of life cannot be left to an unelected official such as the DPP. That is unfair on the DPP; it is grossly unfair on those who are terminally ill and their loved ones. It is our duty as parliamentarians to take responsibility for those decisions, not to pass off that responsibility to others.

I am in favour of the Bill introduced by the noble and learned Lord, Lord Falconer, with its rights and safeguards. I will fight for it, even as I will listen carefully to the ethical and practical arguments of those—many of whom are dear and respected friends—who are not convinced by it. The quality of our lives is often measured by the manner of our leaving. May we seek to make that moment as dignified as possible.

2.19 pm

Viscount Craigavon (CB): My Lords, in supporting the noble Earl, Lord Glasgow, on this subject, my sole point today is that almost every time we have a debate on this subject, some other countries or states change their laws to allow assisted dying. That is the direction in which we are inexorably moving, supported by the

generally agreed figure of 80% of our population. We all know about Switzerland, and Luxembourg joined the Netherlands and Belgium in this some time ago. We have learnt that the French Government—not a French Back-Bencher—are likely to try to introduce a law next year. We know that the practice has settled down in Oregon and Washington state, which have been joined by Montana; and in May this year Vermont passed but has not yet implemented a similar law. Massachusetts was denied a change in the law in 2012 by a majority of only 1%—that is, 51% voted against a change. The Parliament of Quebec is currently considering a law which would include assistance to die; and in Australia, a recent debate in the Tasmanian Senate was lost by only two votes. I believe that, with the safeguards proposed, we have a duty to follow these enlightened democracies and give a lead to others without delay.

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2.20 pm

Lord Blair of Boughton (CB): My Lords, I declare an interest as one of the commissioners of the noble and learned Lord, Lord Falconer. I want to reflect briefly on the experience of being a commissioner.

First, I want to emphasise that whatever is being proposed is voluntary—voluntary for the person involved as a patient and voluntary for the medical practitioner. Secondly, as others have said, research on the jurisdictions that have allowed assisted dying shows no evidence of a slippery slope. Thirdly, even though I was a police officer for 35 years, the testimony that we were given of some of these dreadful deaths is among the most shocking things that I have ever encountered.

Finally, speaking as a former police officer, even if the DPP's current guidelines make prosecution unlikely, they do not make the search, questioning and possible arrest of the people involved unnecessary. At the moment that has to happen. However good the police are, someone is left not only with a death but with precious objects removed from their house, and with the decision hanging over them about whether to prosecute.

2.21 pm

The Lord Bishop of Wakefield: My Lords, I imagine that after clinicians, clergy—of a variety of faiths—are those who have the most frequent experience of being alongside those who are terminally ill and dying. That gives clergy no privilege in our opinions, but it does offer us a unique set of experiences in the care and support of the dying.

Part of that support, from all concerned in such caring, is reassurance to those who are terminally ill. The framing of the present law is integral to such reassurance. Fears of being a family burden, uncertainty about one's own self-worth or society's pressures on limited resources can undermine the feelings of the terminally ill. That calls out of us compassion. Choice is a two-edged sword.

Some have the inner strength to respond and act decisively in the face of possible imminent death—that word “possible” is crucial because predictions are never certain—but such inner strength is probably not there within the majority of us. My concern is not just for those who might opt for assisted dying, but for those who do not. If the law were to be changed, those people would be presented with an unenviable and perhaps impossible choice. We should approach arguments for assisted dying with great caution.

2.22 pm

Baroness Masham of Ilton (CB): My Lords, this is a very dangerous question. If the law is changed, it will put ill, frail and disabled people who are vulnerable in an even more vulnerable position. We are living in the shadows of the late GP, Dr Harold Shipman, who visited elderly people in their own homes and killed them, and the neglect and bad treatment that killed many people in Mid Staffordshire Hospital as it put the importance of foundation status in place of good nursing and compassion. We now have many people who are fearful that hospitals may kill them rather

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than cure them. Patients in pain need it to be controlled. They need nourishment and liquid if they want it and to trust, not fear, those who care for them.

2.23 pm

Baroness Greengross (CB): My Lords, I agree with the noble Earl, Lord Glasgow, and support his view. I support it after working with older people for about the past 40 years and listening to what they want at the end of their lives. People want to have their wishes for care and the end of life respected. I agree with the right reverend Prelate that life is a gift, and we must recognise that at the end of life, the last few weeks, days and

hours of our lives are very important. We must avoid all possible risks of ill treatment and the wrong sort of persuasion—all the dangers that people have spoken about. Such treatment is impossible: we cannot tolerate it. However, I believe that we can control and avoid it. We should therefore allow people to stand by the phrase “nothing about us without us” and listen to what they want. The majority of people—80% in this country—want to have control over when they die. We must not ignore that.

2.25 pm

Baroness Hayter of Kentish Town (Lab): My Lords, when I was growing up, women largely fell pregnant when nature determined it and without access to safe, legal abortion. Today, science and humanity have combined to allow us to choose when to get pregnant and to plan our families. Sadly, we seem reluctant to allow that humanity and science to make our departure from this world as painless and as planned as our arrival. Colin Marriage, a man with terminal cancer, had excellent care in hospital but when he was told he had a week to live, he cried, not because it was so short but because it was so long. He did not want that last week of sickness, inability to sleep and pain. Why inflict such cruelty at that point on a man who is competent to choose? Surely that is the reason that the majority of GPs now feel that their college should abandon its opposition to assisted dying. I share that view.

2.26 pm

Baroness Flather (CB): My Lords, I am old enough to remember when it was said that pneumonia is the best friend of old people. We have long since passed that stage. Pneumonia is no longer a friend to anybody. Everybody survives it, whatever age they are. My gynaecologist told me, “Don’t go to the hospital to die. You will be put on machines and so on and be kept alive”. These are things that I remember from my youth. We are doing that. Medical advance has made it quite impossible for us to die naturally at the time we should die. That is a big problem.

I say to the right reverend Prelate that life is a gift only when it feels like a gift. It stops being a gift when you are suffering and do not wish to go on. As a man of faith, he cannot possibly advocate that we should stop life at any point, but we cannot all follow the example of the Son of God.

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2.27 pm

Baroness Howe of Idlicote (CB): My Lords, those who specialise in palliative care, a discipline in which this country leads the world, every day assist people as they die. The noble Earl referred to assisted dying, which is a euphemism for allowing doctors by law to give lethal drugs to terminally ill patients to enable them to commit suicide. I draw the noble Earl’s attention to the view of the Royal College of Physicians, that a doctor’s duty of care for patients,

“does not include being in any way part of their suicide”.

That view is endorsed by the majority of practising doctors. Doctors have a duty to treat illness or mitigate its effects. That does not extend to killing their patients or giving them the means to kill themselves. It is all very well to talk about choice and control at the end of life. The stereotype of the clearheaded and self-confident person intent on ending his or her life is the exception rather than the rule. Most people who are facing death are struggling to come to terms with their mortality and are vulnerable. They need our care and our protection, not encouragement to end it all.

2.28 pm

The Earl of Arran (Con): My Lords, in supporting the noble Earl, Lord Glasgow, I shall talk about the Oregon Death with Dignity Act 1997. I was privileged to travel to Oregon in 2004 with the Select Committee on the Assisted Dying for the Terminally Ill Bill and saw compelling evidence that that law works. The then chief executive of the Oregon Hospice Association told the committee that the Act had not adversely affected the hospice movement. It has improved in Oregon since the passing of the Act. Ninety-seven per cent of those who had an assisted death in Oregon in 2012 had been enrolled in hospice care. Assisted dying is complementary to excellent hospice and palliative care. They are not mutually exclusive. We also know that the main reasons for seeking assistance to die centre on loss of autonomy and dignity as opposed to inadequate pain relief. We know that the Oregon system works well—so well in fact that, as has already been said, the states of Washington, Montana and Vermont have subsequently legalised assisted dying.

2.30 pm

Baroness Meacher (CB): My Lords, this debate is about the autonomy of the individual—a fundamental principle in modern medicine. All most people are asking for is the right to choose to avoid the fear of unbearable suffering at the end of life, and then the intolerable suffering itself. This may not principally be physical pain. I humbly suggest that none of us has the right to deny others the choice about how much suffering they want to, or can, bear.

The other key word in this debate is compassion—compassion for people who will die within six months, a very short period. We must legislate to permit people a dignified death.

2.31 pm

Baroness Wheeler (Lab): My Lords, I thank the noble Lord for securing this debate. This important issue deserves time and deliberation by us. I hope that

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this will lead to further attention being given in this House to the importance of continuing discussion and dialogue on the current situation, the legal uncertainties, ambiguities and suffering of people in the appalling situation endured by Tony Nicklinson and others. We all acknowledge that suffering, no matter what our views are on how the issues should be addressed or taken forward.

Had I more time I would have spoken more fully about the end of life care discussions under the Care Bill and stressed the importance of recognising the overall progress that has been made. Today's focus on the legal right for terminally ill patients to decide when and how they should die is outside the scope of that Bill but we should acknowledge the substantial changes in care and support at the end of life made since the End of Life Care Strategy's 2008 launch. We should also acknowledge the changes in attitudes and approach to the cared-for, carers and staff, resulting from end of life care plans, better communication and openness and understanding with patients and their families. There is cross-party support both for people to have the right to record their preferred place of death—the “where” part of today's question—and to work towards free end of life social care for the terminally ill. Both are very important developments.

On the legal issues before us, I want to stress Labour's continuing commitment to the neutral stance that we have always adopted when Parliament has discussed changing the law to provide support for terminally ill patients to choose when and how they should die. We have always made it clear that this is a matter for Parliament to decide. It is an individual matter of conscience and would be the subject of a free vote. Today's debate shows the strong and opposing views on the issue. People's views are strongly and sincerely held. However, we must all acknowledge that high-profile court cases and the impact of key interventions, such as the Director of Public Prosecutions' guidance, mean that public awareness, concern and confusion is increasing. I am sorry that I have no more time. I look forward to the Minister's response.

2.33 pm

Lord Ahmad of Wimbledon (Con): My Lords, I congratulate my noble friend Lord Glasgow on securing this debate. I listened carefully to each and every contribution. I hope that noble Lords will allow me to break with normal convention and not refer to every speech that was made, as important as they were. It is a matter for the *Hansard* record and, as has been said, there is another, more lengthy debate next week on a similar issue. As one of my noble friends said, this is a subject that we will return to not just next week but next year as well.

This House has debated the particularly sensitive issue of assisted dying on a number of occasions, sometimes at great length and sometimes, as on this occasion, with admirable succinctness. The noble Lord, Lord Popat, indicated to me that I need not worry about the clock striking three. I believe that this is the first debate specifically about this law in the current Parliament. It is therefore a welcome opportunity to

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address a matter that arouses, as we have seen today, high public interest, understandable emotion and at times, of course, controversy.

I sought to keep a tally, as noble Lords made their contributions, of who was for and who was against. It is interesting to do a tally, and I think that it was reasonably even. I can assure noble Lords that my maths is not that far off. Those who believed that there should be a change were certainly in the majority in this case. However, this debate invites different views not just in this House but in the country generally.

Both Houses have debated the Director of Public Prosecutions' policy for prosecutors in cases of encouraging or assisting suicide in the last Session. The House of Commons passed, without a vote, a Motion welcoming the policy on 27 March 2012, but widely differing views were expressed on the desirability of legislative change. It

is evident from this afternoon's debate that there are strong and deeply differing views on both sides of this issue.

It would be disingenuous not to mention, as other noble Lords have done, the Assisted Dying Bill. I note that the noble and learned Lord, Lord Falconer of Thoroton, is in listening mode this afternoon. It was introduced in May this year and seeks to legalise, in England and Wales, assisted suicide for terminally ill, mentally competent adults who are reasonably expected to die within six months. The Government will take a collective view on the noble and learned Lord's Bill in order to respond to the debate on specific provisions, but not before Second Reading. As things stand, however, no date has been set for Second Reading, and today's debate is not about specific proposals. Rather, the question before us today is one of principle—whether there are any circumstances in which it should be legal to assist another person to die.

It is worth taking a moment to consider what we mean by “assisted dying”. As several noble Lords have said, it is not a term that exists in law per se. Rather, at times, it is a catch-all term and, wherever you stand on the matter, it is sometimes used for either assisted suicide or euthanasia or both. Both these areas of law raise very difficult moral issues and they often form part of the same debate. But there is an important distinction. Euthanasia, killing someone for compassionate reasons and possibly on the request of that person, constitutes murder in common law and carries a mandatory sentence of life imprisonment. Helping another person to take his or her own life is contrary to the statutory offence of encouraging or assisting suicide and carries a maximum penalty of 14 years' imprisonment. There is no offence, or defence, of mercy killing, nor is there any exception to the offence under Section 2(1) of the Suicide Act 1961. As noble Lords will know, the Suicide Act was amended by Section 59 of the Coroners and Justice Act 2009, but the purpose was to clarify rather than change the law. By doing so, Parliament confirmed that it should remain an offence to encourage or assist suicide.

The Government's view is that any change to the law in this area, whether in relation to euthanasia or assisted suicide, is a matter of individual conscience. It is, rightly, a matter for Parliament to decide rather than for government policy. However one interprets

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the term, assisted dying is a highly emotive issue which polarises opinion among the public, in the media and across the political spectrum. It raises the most profound ethical, moral, social and religious issues. As I am sure all noble Lords will agree, there are no easy answers. I am, of course, acutely aware of opinion polls suggesting that there is strong public support for a change in the law. But even if one accepts that the law should change, there is no consensus, in Parliament or elsewhere, on where a line should be drawn, what safeguards should be put in place and for whom. We should not underestimate the magnitude of any change that says that we can help people to kill themselves rather than helping them to withstand their suffering. Even the most limited step in this respect would represent a fundamental shift in the line that we have held to so far on the ethics of helping people to die.

As noble Lords have mentioned, much of the debate in recent months has centred on individual, high-profile cases, such as those of Nicklinson and Lamb v Ministry of Justice and AM v Director of Public Prosecutions, in which the Court of Appeal gave judgment on 31 July. It would be a hard person indeed who is not deeply moved by the terrible plight of those such as the late Tony Nicklinson, who sought to challenge the legal ban on voluntary euthanasia, and Paul Lamb, who took up that challenge. They were, and are, faced with the sort of difficult choices that none of us would ever want to make. As an appeal to the Supreme Court is currently pending, noble Lords will understand that it would not be appropriate for me to comment on that case or the related one of AM, where the challenge is to prosecution policy.

On the other hand, as some noble Lords have mentioned, we cannot lightly dismiss the fears of some of the most vulnerable members of our society—sick and disabled people who fear that a right to die could become almost a duty to die. Whatever the arguments for and against change, I am sure all noble Lords agree that sick and disabled people are entitled to the same protection in law as everyone else. It is important that the ongoing debate should not lead those whose lives are affected in this way to feel less valued.

My noble friend contends, as do others, that the law should be changed to reflect what is regarded as prosecution practice. Other people believe that the deterrent effect of the present law, combined with the compassionate exercise of prosecutorial discretion, offers the best of both worlds. The guidelines published in February 2010 by the former DPP set out the factors that prosecutors in England and Wales will consider when deciding whether it is in the public interest to prosecute in cases of encouraging or assisting suicide.

Among the public interest factors tending against prosecution are that,

“the victim had reached a voluntary, clear, settled and informed decision to commit suicide”,

and that the suspect was “wholly motivated by compassion”. This has been interpreted by some as meaning that the CPS will not prosecute those who help terminally ill relatives to die. One of the public interest factors tending in favour of prosecution is that,

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“the suspect was acting in his or her capacity as a medical doctor, nurse, other healthcare professional”.

This has been alleged to cause difficulties for healthcare professionals because it is not clear what constitutes assistance.

Particularly in view of the litigation currently before the courts, it is not appropriate for me to comment on the merits or otherwise of prosecution policy. What I can say, unequivocally, is that the DPP’s policy has not changed the law. Only Parliament can do that. Nor does the policy mean that cases of encouraging or assisting a suicide will not be prosecuted in England and Wales. Assisted suicide remains a criminal offence. As with all criminal offences, allegations of encouraging or assisting suicide will be reviewed individually on the basis of their particular facts and circumstances and against the criteria of the offence-specific policy and of the general Code for Crown Prosecutors, with its two-part test of sufficient evidence and public interest.

The legal, administrative, practical and resource implications of any change to the law in this highly controversial and emotional area are considerable. As noble Lords have indicated, in the very limited time available this afternoon we cannot do justice to them. I have no doubt that the debate will continue in one form or another in Parliament and in other forums. In closing, I once again thank all noble Lords for their contributions, and I am reminded of Kipling:

“If you can fill the unforgiving minute
With sixty seconds’ worth of distance run”.

I also congratulate noble Lords on achieving that aim.

2.43 pm

Sitting suspended.