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## I made a bad law – we should help the ill to die

**Mary Warnock, who once sat on a Lords committee that rejected legalising euthanasia, has since watched her husband die and now says the law should be changed**

A House of Lords select committee is about to be set up to consider the issue of assisted suicide. Ten years ago I sat on a committee that was concerned with the more general concept of euthanasia. At that time we concluded that the law should not be changed and that assisted death should remain a criminal offence unless a decision should be made in court making it permissible for the patient to die in very particular circumstances, such as when someone is in a persistent vegetative state and needs a life-support machine to be turned off.

A great deal was made at that time of the distinction between killing and allowing to die, neither doctors nor nurses being prepared to contemplate killing when the whole ethos of their professions demanded that they attempt to keep people alive.

This seemed to me a wholly bogus distinction. The committee also considered the case of terminally ill patients. It was alleged that a doctor could never be sure that a patient was in fact terminally ill nor that an extra dose of morphine, for example, would hasten death. This seemed an odd argument for doctors to use.

I was a member of that committee and I went along with its conclusions, conscious nevertheless that the arguments leading to the conclusions were suspect and therefore that the conclusions were not to be regarded as written in stone.

I believed that at some time or other the medical and nursing professions would have to face the fact that being alive was, in certain circumstances, contrary both to a person's wishes and his interests, and that palliative care, even if available, would not render his suffering endurable.

The establishment of the new euthanasia committee is the outcome of a private member's bill, introduced into the House of Lords by Lord Joffe, a highly intelligent, sensitive and humane man.

It is a bill of extremely limited scope. It proposes that those who are terminally ill and within sight of death and who are suffering severely, but who are of sound mind and who have expressed a wish to die before their condition becomes yet more unbearable, may be assisted to die, without the risk that whoever assisted them should be charged with murder.

There has been one recent case, that of Diane Pretty, that caused widespread pity and partly motivated these proposals.

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She was an intelligent person who knew exactly how her paralysis from motor neurone disease would progress until in the end she would die of suffocation. She was physically incapable of committing suicide herself, but she knew that if her doctor or her husband helped her they would be liable to a charge of murder. Her appeal for assisted death was turned down by courts in Britain and by the European Court of Human Rights and in the end she died of suffocation, just as she had feared.

Like many others I was moved by Diane Pretty's case. In a less traumatic way my husband suffered similarly. He had a progressive and incurable lung disease called fibrosing alveolitis. Like Diane Pretty, he had a horror of suffocation and knew this would be the manner of his death. After the consultant at the Brompton hospital could do no more for him he was in the hands of our GP, a trusted friend.

When my husband confessed to him his terror of suffocating, the doctor said: "We will not let it happen, I promise," and after that, I suppose, increased the dose of morphine.

Death came and not too horribly. But this doctor was putting himself at risk. I am certain that what he did was right. He was acting from compassion, surely the deep motive of the medical profession at its best. I support Lord Joffe's bill because I cannot believe that what happened to Diane Pretty was justifiable.

We are told that hard cases make bad law. But if cases are very hard then I believe it is time to look at the law again. The new bill seeks to legitimise assisted suicide only for the perhaps smallish category of people who are known to be near death, who are suffering and who are mentally competent and of course who have expressed a wish to die.

It is essential to recognise these limits. It would provide, too, that more than one doctor would have to agree that the conditions were all satisfied.

There are those who would oppose the bill on absolute grounds, generally derived from the religious belief that deliberately to end a life at whatever stage is contrary to God's commands.

For such believers, arguments turning on the patient's suffering or his wishes will carry no weight. They will never regard assisted suicide as acceptable, whatever the law permits.

I think I understand this dogmatic belief though I do not share it. But the law cannot be determined by a particular religious belief. There must exist moral considerations behind the law separate from religion (even if influenced by it) deriving their authority from an idea of the common good.

I am therefore more interested in the arguments against the bill put forward by those of no dogmatic faith. These often take the form of the so-called slippery slope argument.

If the admittedly small group targeted in Joffe's bill are allowed to be helped to their death, who will be next? Won't there be a gradual erosion of our abhorrence of murder, until in the end we think it's all right to kill off anyone who expresses a wish to die or anyone who is incurably ill or in pain or who is terminally ill but mentally incompetent to express a wish? Is that the sort of society we wish to live in?

Many of those who deploy such arguments add that palliative medicine can ease the suffering of the dying and that if we

concentrate on improving such care and ensuring that it is accessible, then the bill will be unnecessary. On this point there is evidence that some suffering cannot be alleviated by medicine, however skilled the treatment.

As for the slippery slope, the whole point of legislation is to place an immovable barrier to prevent our slipping further down it. On one side of the barrier is assisted suicide for those who genuinely want it and who anyway are on the verge of death, imposed by one person on another who has expressed a wish to die.

If Joffe's bill proposed a new category of such death called mercy killing then I could see the force of the slippery slope argument and would oppose the bill. But it does not do this. Assisted suicide is a different thing. We should trust the medical profession to observe the criteria laid down in the bill. If they did not they could be prosecuted.

There are other objections based on the difficulty of ensuring that the criteria are indeed satisfied. What is the definition of terminal illness, for example? How do we ascertain that someone is really competent to make a decision to die? In some cases it might be difficult to determine such matters. But this difficulty should not be used to prevent relief for the clear-cut cases, for Diane Pretty and others like her.

I am not arguing that anyone has a right to assisted suicide: I am arguing rather that sometimes compassion demands that they be allowed it. Doctors, unless their religion forbids it, should come to accept this as part of their duty.

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The States are asked to decide:-

Whether, after consideration of the Report dated 13<sup>th</sup> August, 2004, of the Policy Council, they are of the opinion:-

1. That there shall be no change to the present legal position in order to support euthanasia in any form.
2. To direct the Health and Social Services Department to report back to the States on
  - (a) the provision of palliative care;
  - (b) the position on advance directives; and
  - (c) the position on the proper use of double effect medication.