

Minutes of the Derby Medical Society, Wednesday 23rd October 2024
Derby Medical School Lecture Theatre

Legalising Assisted Dying: unintended consequences and slippery slopes
Professor Emily Jackson OBE; Professor of Law at LSE Law School

Apologies: None Received

Dr Sally Archer, President, welcomed everyone to the second meeting of the 2024-2025 season.

Minutes of previous meeting and an update on website given by Dr McIntyre

Dr Archer introduced the Prof Emily Jackson who is Professor of Law at LSE. Her research interests are in the field of medical law particularly topics such as reproductive issues, end of life decision-making and the regulation of the pharmaceutical industry. She has served as a member of the British Medical Association Medical Ethics Committee (2005-2022), Deputy Chair of the Human Fertilisation and Embryology Authority (2008-2012) and a Judicial Appointments Commissioner (2014-2017). She is a Fellow of the British Academy, and in 2017 was awarded an OBE for services to higher education.

Prof Jackson started her lecture by noting the important ongoing debate around assisted dying with a vote next week in Parliament on the private members bill introduced by Kim Leadbeater to legalise assisted dying. It is a topic that generates strong opinions on either side of the argument. She pointed out that when new laws are introduced to solve a problem it can however cause another.

Suicide was decriminalised in the 1961 Suicide Act, but assisting suicide remains a criminal offence with up to 14 years imprisonment. However prosecution is uncommon and requires the DPP's consent and since Debbie Purdy's case, a specific CPS policy sets out factors in favour and factors against prosecution. Although Judicial reviews have challenged this 'blanket ban' on assisted dying the considered view on this complicated area is that it should be settled by Parliament. The current proposal before Parliament has safeguards that would require a person to be terminally ill; has a voluntary, clear, settled and informed wish to end his or her own life; is aged 18 or over and has capacity to make the decision to end his or her own life. Many countries have legalised assisted dying and it appears to be appreciated by their populations; although not often taken up it is viewed as 'an insurance policy against future suffering'. Prof Jackson commented on the case in this country of Jo Beecham, who was personally known to her, how having the possibility of ending one's life can for some individuals be a comfort but not necessarily used.

A common area of debate is whether to medicalise or not medicalise assisted dying. It is usual to consider healthcare professionals involvement to be both mandatory and optional. Prof Jackson outlined the arguments for involving doctors such as the requisite skills and the arguments against such as impact of doctor/patient relationship. When doctors professional organisations such as RCP and RCGP have polled members the results have been inconclusive as to whether the law should be changed because although those opposed were the single largest number the combined number of those in favour/neutral was greater.

There is concern about safeguarding vulnerable groups where there may be pressure, real or imagined, to request early death. This is often taken to mean groups such as elderly, lonely or distressed. However Prof Jackson pointed out in counties where it is legal, requests often come from those with no religious affiliation, are well-educated and middle class, live alone, live in urban rather than rural areas, and in more affluent neighbourhoods implying that a vulnerable group is 'rich, educated, white males'. Research has also highlighted that those who support assistance in dying often value control and prioritise self reliance, autonomy and independence. This suggests it is not objectively about inadequate pain control but a subjective judgement and desire for control. Furthermore there is a requirement that a patient requests assisted dying and a doctor must not offer it raising the possibility that underprivileged groups might not know how to access it.

Excluding certain groups eg those with mental illness, disability could be seen as discriminatory. This could then be challenged as unlawful. There is also concern how (in)adequacy of social care services may alter decision making and whether addressing such concerns should influence legalising assisted dying. Prof Jackson expanded on the current law. It is established that patients can lawfully refuse life-prolonging treatment and a doctor can be charged with assault for going against the patient's wishes. This raises the question if we think we can tell whether someone who is refusing life-prolonging medical treatment is able to make that decision, why can't we make the same judgement in the case of assisted dying?

Prof Jackson looked at some of the arguments around 'slippery slopes' and how religious arguments around the sanctity of life are tending to be down played in favour of how things would work in practice. She also highlighted sources of pressure building up in the UK for a change eg must die abroad, can't die at home and when still fit enough to travel; lack of safeguards in other countries (assisted suicide is a crime in Switzerland only if the motive is selfish); UK is increasingly an outlier on assisted dying. There is also possible complications if/when another jurisdiction in the UK or Crown Dependencies introduce assisted dying. A recent report exploring public views on assisted dying in England from the Nuffield Council on Bioethics (2024) found amongst a Citizens Jury, the majority of Jury members voted in favour of a change in the law to permit assisted dying, with 20 out of 28 members either strongly agreeing (16) or tending to agree (4).

Prof Jackson concluded by reflecting on experiences from a 'Review of the Liverpool Care Pathway'. Sadly there is a lack of honest discussions around death and dying in the UK. She emphasised the importance of talking openly about death, dying and the wish to die; dying is (or should be) core NHS business.

There followed a lively question and answer session.

Mr Ian Scott gave a vote of thanks.

41 members and guests signed the register.

