

Ep 56: The Assisted Dying Bill 2021

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"The states just took it for granted that it was the individual himself or herself who was the sole

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arbiter of what that decision should be and that

I think is the point of principle that underlies

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the idea that nobody has the right to stop somebody from taking their life if they want to."

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In the House of Lords a Private Member's Bill to legalise assisted dying to some extent

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was introduced on the 26th of May this year and is likely to have its second reading

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in the present session of Parliament. Much of the opposition to the legalisation of assisted

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dying is due to religious groups. The NSS is keen to ensure however that decisions about

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assisted dying are made on the basis of medical ethics and the principle of patient autonomy.

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This podcast will explore different views on how and why the law and

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assisted dying might be reformed and the opposition which such reform has faced.

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I will be joined by two guests with particular insight into this topic.

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My first guest is Molly Meacher. Baroness Meacher is a crossbencher in the House of Lords, President

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of the Hemophilia Society and Co-chair of the All Party Parliamentary Group for Drug Policy Reform.

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It was Molly who introduced The Assisted Dying Bill into the Lords. She is Chair for the campaign

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group "Dignity in Dying" which supports assisted dying for terminally ill, mentally competent

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adults with six months or fewer to live. This time restriction forms a crucial part of her Bill.

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My second guest is Professor Anthony Grayling or AC Grayling as he's usually known.

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Anthony Grayling is a philosopher, the

Master of the New College of the Humanities

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and a former professor of philosophy at Birkbeck College, University of London.

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He is a patron of "Dignity in Dying" as well as of

another campaign group: "My Death, My Decision".

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"My Death, My Decision" wants to extend the right to assisted dying to those who are,

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to quote their website, "either terminally ill, suffering from a severe and incurable condition

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or suffering from a severe degenerative condition". Anthony himself,

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as an independent-minded philosopher, has argued that the right to assisted dying should

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potentially be extended far beyond the six-month

limit advocated by "Dignity". (Emma Park (EP)):

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Molly Meacher, welcome to the podcast.

(MM): It's

a pleasure. (EP): You were the one who introduced

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the present Assisted Dying Bill into the House of Lords in May and it's now hopefully going to

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have its second reading soon. Is there any update

on when the second reading will be? (MM): Well I

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haven't actually asked because I wanted it deferred from September to October and I

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feel as soon as we go back next Monday I'll ask

them and I'm sure they'll give me the date so

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that's when we'll know. (EP): Great, so on to the Bill itself. What is the

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purpose of this Bill? (MM): Its purpose is to prevent terrible suffering of dying people

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in those last weeks leading up to their death. We're talking about a small minority of people.

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Most of us can have a reasonable or let's say acceptable death if we have really high quality

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palliative care and of course we are passionate believers in high quality

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palliative care. Our total concern is the reduction or ideally elimination of severe and

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unbearable suffering. (EP): And you're speaking

here as the Chair of Dignity in Dying? (MM):

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Absolutely yes. That's where we stand. (EP):
Great
and so what is the story behind how this Bill
in

0:03:32.720,0:03:38.800
its current form came to be drafted? (MM):
Well to
be straightforward about it, this is very,
almost

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identical text of a Bill which was introduced
by
Lord Charlie Faulkner about six years ago. I
think

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and we felt that there had been major
changes in attitudes to assisted dying

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over these recent years with a huge shift for
example on the part of doctors, who you
know

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six, seven, eight years ago were quite clearly
against legalising assisted dying. Now we
have

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a majority of doctors broadly supporting

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their Royal Colleges, ending their opposition
to assisted dying and about 50% of doctors

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themselves would like it, would like to see it
legalised. So that is a massive shift and
there's

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also been a very considerable shift towards
favouring assisted dying on the part of MPs

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from really quite a low level 15 years ago to
something like parity now. So it seemed the
right

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time to raise this issue again in Parliament.
Therefore I put it in for a Private Member's
bill

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and it was drawn number seven and therefore
here
we are; this is a private member's bill and I

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should be introducing it hopefully in October.
(EP): Why do you think there's been such a
big

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shift in recent years, in very recent years
in fact? (MM): Well there are probably
several

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reasons. Personally I think that the campaign
by
Dignity in Dying, the organisation that I
happen

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to share, and I don't take any credit for
myself
but i do think Sarah Wooton, the Director of

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Dignity in Dying and her team, are
outstanding.
And we've had just one horrible case of

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people suffering before they die after
another. And the team have tried to clarify

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what that suffering is like through the media.
The media have been a huge huge help in this.
We

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had some someone called Noel Conway who suffered with motor neurone disease and he took his case

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to the High Court, supported by Dignity in Dying, asking for the right to an assisted death on the

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basis that denying him that right was a breach of his human rights. And this went all the way

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to the Supreme Court who decided that this was a matter for Parliament, that the Court shouldn't

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decide a matter of this kind. I would question that actually. In Canada it was the courts that

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decided that this was a human right and asked the Parliament to put through the law, which they did,

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in fact a broader law than we want. But you know the basic principle was that the courts did drive

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it in fact. (EP): Why do you think the percentage of doctors in favour is lower than that of the

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general population? Are they worried about being sued? (MM) It is interesting isn't it? I think

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they're probably a little bit paternalistic. A lot of them, particularly people in palliative care,

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they want to take the decisions for their dying people and the idea that you hand that decision

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to the patient, and it's the patient who decides: "Is my suffering unbearable?"

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Do I want an assisted death?", you know that transfer of power from the doctor to the patient,

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that transfer has gone a long way actually in medicine over the past 20 years I would say.

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But this is very much a sort of total transfer of power if you like. You know the patient

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really does decide for themselves if they want this medication to end their lives. It's quite

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quite radical for doctors probably. (EP): Right so this Bill is really about patient autonomy

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then? (MM): Absolutely about patient autonomy, that patient autonomy and reducing or eliminating

0:07:43.280,0:07:49.920
unbearable suffering. It's a Bill of compassion in my view. That's what it's about. (EP): Okay,

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let's look at some of the provisions of the Bill, specifically. The preamble says and the

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Bill is to enable adults who are terminally ill to be provided at their request with specified

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assistance to end their own life. And then in Clause 1, subsection 2, we've got well first

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of all in subsection 1 we've got the idea that the High Court has got to consent, then the person has

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to have a voluntary clear settled and informed wish to end their life, then they've got to be

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18 or over and they've got to have capacity and be resident of England and Wales presumably for

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legal reasons. But why these particular High Court voluntary clear settled informed wish capacity.

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Why are all these three safeguards? What's the idea behind them? (MM): I think

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that for some people this is a bit of a radical departure from what they're used to and therefore

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people want to be absolutely assured that there

won't be any abuse of any kind. And that is in

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particular why we say somebody must have capacity to make this decision for themselves. Because of

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course there are countries where assisted dying is available to people, for example, with dementia

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but I think for this country that's a little bit too radical. I think people will feel much

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more secure knowing that if we pass this law the patients involved must have capacity and to have a

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settled opinion. I think it's just very important you know, if people are dying they've got a

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horrible illness there are bound to be moments when they think, "Oh my gosh I just want this all

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over", but you know you don't want somebody to say, "Oh right fine here's some medication.

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Take it." You know, no, no, no, no because they might regret ending their lives when they

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did and they won't be able to tell us that. (EP):

But it's an error once it's made which is an

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irrevocable decision. (MM): Exactly and therefore

you really do want to be sure this person

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really really is finding their life unbearable over a bit of time and seriously wants to bring it

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to an end and the High Court that was introduced at the time this Bill was introduced and the Bill

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was debated those years ago and again it's just another safeguard. I'm not sure that we need it

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personally and it would be a matter for Parliament whether they wanted to pull that out, or keep it

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or whatever but for me that's not so important. I would prefer not to have that additional

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safeguard along with all the others, I mean there are all sorts of safeguards: that the patient must

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be interviewed by two doctors to determine their prognosis, the expected length of life, the rest

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of it, the nearest relatives must be interviewed

to make sure that they're not in some way hostile

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and might be encouraging the person to take their own life. You know there's so many safeguards,

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you know you can overdo it and make the thing pretty unusable so I think that's something

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we will discuss in Parliament - the issue of capacity. (EP): And presumably that's a concept

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which has been developed in the case law in other areas? (MM): Yes, oh very much so. I mean

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this Bill very closely allies with the Bill or Act of Parliament in Oregon that has been in

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place for more than 20 years. (EP): How has that worked so far, the one in Oregon? (MM): Well,

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very very well. There's been no abuse. The hospice movement for example who were against the

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Bill before it became an Act of Parliament are now supportive of it. The quality of palliative care

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is I think the best in the US in Oregon. So you

know assisted dying must in our view go hand in

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hand with the best possible palliative care and that is certainly something that has happened in

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Oregon. That's important. (EP): And so they also have the six month limit as well? (MM): Yes they

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do they do it's very very similar and it's worked very well and that's why we want to you know

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replicate it really here as closely as possible. (EP): I mean the idea of a voluntary clear settled

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and informed wish, that sounds like quite a complicated legal test potentially. (MM): I don't

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think it is actually. I think if somebody says on a particular day "You know I can't cope with this

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anymore. I don't. I can't." A lot of people use the term "I can't enjoy anything anymore."

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You know whether it's because they've got terrible pain but very often actually pain is not the

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number one issue. It can be terrible relentless

nausea, feeling sick all the time and vomiting a

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lot, repeatedly day after day, week after week.

So you know there are other experiences that

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account for the fact that very often people say "I want to die because I no longer, I know I can no

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longer enjoy anything and I'm not going to be able to now.". If they say that, week after week that's

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abundantly clear. It's not complicated actually at all. It's just a wish, "I want to die.". (EP): Now

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onto the Clause 2 this side the definition of terminal illness first of all they've got to have

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an inevitably progressive condition which cannot be reversed and as a consequence of that terminal

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illness they've got to be reasonably expected to die within six months. Why this very very,

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you some might say very restrictive limit on the people who may be allowed to use assisted dying to

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only people who have no more than six months left.

(MM): Yes it's a very interesting and important

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question and issue I would say. Again I think it's to reassure people who are concerned that there

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might be some sort of abuse of some sort you know this is very clear. Obviously doctors may get it

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wrong. They may say somebody's only got six months to live and they may have longer. But in response

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to that issue and that's an important issue actually because our opponents do raise it. All

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doctors don't know how long people are going to live. The important point about Oregon actually,

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the experience of that of that Bill or the Act there, is that people actually take the medicine,

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if they do, when their doctors would be saying "Oh they may live for another week, 10 days,

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they don't take the medicine sort of four, five,

six months ahead of their death. So by the time

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people actually ask for the prescription and take the medicine doctors really have a very

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clear idea when they're going to die. The six months period is the period at the beginning

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of which people might start to think about it and start having discussions and so on. But certainly

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it is a safeguard that I think reassures a lot of people and therefore that's why we have

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it . (EP): What about I mean, as people like AC Grayling have argued, what about people who have

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very very long term illnesses which are never going to get any better which caused them some

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huge suffering but they're not expected to die anytime soon because this Bill doesn't

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deal with that does it? (MM) No, it doesn't. It is a very narrow Bill, it's a very conservative

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bill in my view and I very well understand the arguments made by many many people that

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it should be much broader, it should apply to people who have long term unbearable

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illnesses and disabilities of various sorts. But you know the disability lobby, well some of the

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people who take on the role, of speaking on behalf of disabled people, even though

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the great majority of disabled people support this Bill, but they do have a few vocal people

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who are against even this Bill. And they would be passionately against anything broader

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where they themselves, these severely disabled people - we have two or three couple in the Lords

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who are against this Bill - severely disabled that you know they would say "Well that applies to me,

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you're telling me my life isn't worth living", you know. So it's a very very difficult

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issue for severely disabled people if one thinks in terms of a much broader bill.

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So we keep it very narrow because then these the disabled people simply don't have to worry

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that we're somehow saying their lives are not

worth living. We're not talking about them at all.

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We're talking about dying people. So it is very very important in terms of getting this through

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Parliament. It will not, it shouldn't affect or upset anybody and it will

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reduce suffering and eliminate suffering obviously at the end of the day for a small number of people

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who whose suffering is intolerable unbearable.
(EP): What do you think is likely to be your

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biggest hurdle in getting your Bill passed?
(MM): Well as a Private Member's Bill the

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biggest issue is actually time. Because of course private members bills are debated on a Friday

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and there aren't unlimited Fridays so what we need really is for the Government to say

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"We accept that this Bill should pass and adopt it and then have it debated you know during other

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parts of the week, Monday to Thursday not just Friday. And you know that's

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a matter for the Government and we'll see whether we can make progress on that. (EP):

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In terms of opposition, active opposition who are your greatest opponents to this Bill?

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(MM) There are one or two medics who oppose it in the House of Lords. There are one or two disabled

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people who opposed in the Lords/ (EP): Are your biggest opponent then really at the end of the

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day the religious lobbies? (MM): I was going to say I missed out the religious, the bishops.

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They, the Archbishop, I had a conversation with and I said " But surely Archbishop this is about

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the autonomy of the patient", and he just said "Well I don't know that I believe in autonomies",

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and I thought "Oh well end of conversation.". (EP): Finally what can listeners do or what can

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members of the public do if they want to show their support for this Bill and help to ensure

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that it gets the time it needs? (MM): Please, please, please everybody write to your MPs.

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That's the most important thing anybody can do I think. The Lordsm probably we've got a majority

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to support this Bill but if anybody knows a peer in that area

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do write to a Peer and say how very very important it is for this Bill to pass.

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So direct communication with parliamentarians is, would be just wonderful if anybody has the

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energy to do that. (EP): Molly Meacher, thank you very much. (MM): Great pleasure thank you.

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(EP): Anthony Grayling (AG), welcome to the podcast. (AG): It's my pleasure, nice to be

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on. (EP): First of all, you were involved in drafting an earlier bill on assisted dying which

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was introduced into the House of Lords in 2003 by Lord Joffe. How similar was was Lord Joffe's

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Bill to Lady Meacher's and why do you think it failed in the first decade of the 2000?. (AG):

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It's rather different from Baroness Meacher's

Bill, much more extensive in its provisions than

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Baroness Meacher's Bill which is very restrictive.

And it fell because the anxieties that people feel

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about permitting assisted dying are ones that almost any attempt to decriminalise it or

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legalise it, positively, are going to fall foul of those kinds of objections. Which is why Baroness

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Meacher's Bill is so sort of heavily padded about with defences against arguments that

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you know the right to to die could be abused by people who force people to accept as, you know,

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suicide and unfortunately every successive attempt made since Lord Joffe's Bill has

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retreated and retreated and given up more and more territory to the objectives until we now have

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a Bill, Baroness Meacher's Bill, which by the way I welcome of course because anything

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that's done in this line is welcome. It's a step in the right direction. But it is

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so you know fortified about with bureaucratic protections that it gives an extremely limited

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right to people to be helped if they are in absolutely unsupportable suffering and

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that seems to me to be a great pity. This Bill, Baroness Meacher's Bill, unlike Lord Joffe's Bill

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is directed at people at the very very end of a terminal illness which is irremediable.

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It's going to end in death anyway. And so the thought is that you would just

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limit the amount of suffering that the person is going to undergo and that is the restricted

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objective, allowing this shortening of suffering to happen. But it doesn't take account at all

0:21:50.960,0:21:57.840

of something that was behind Lord Joffe's general approach, even though Lord Joffe's

0:21:57.840,0:22:03.360

Bill itself was pretty restrictive. And that is that there is an aspect of autonomy of choice

0:22:04.160,0:22:12.560

in people's lives about whether they continue with their life. So for example the great objection

0:22:12.560,0:22:20.240

that was urged at that time was against allowing anything that could evolve into for example

0:22:21.440,0:22:28.000

allowing a quadriplegic rugby player, age 20 you know, who was absolutely in despair

0:22:28.000,0:22:32.320
because they'd had a terrible accident on the rugby pitch and they wanted to kill themselves.

0:22:32.320,0:22:36.480
And the thought was, "Oh no we shouldn't, we shouldn't allow such a person to be helped

0:22:36.480,0:22:43.520
to die.". And so there's quite a lot of, actually it's just slightly more complicated in the way;

0:22:43.520,0:22:47.600
it might be helpful to approach this from the following direction.

0:22:48.720,0:22:56.400
Back in 1961 suicide, which used to be a crime. If you tried to commit suicide and failed you could

0:22:56.400,0:23:00.960
be held criminally liable for doing it. (EP): And that was for religious reasons. (AG): Indeed,

0:23:00.960,0:23:05.680
indeed. And in fact of course those same reasons lie behind the arguments that we're

0:23:05.680,0:23:12.080
talking about now too. But when suicide was decriminalised - so it wasn't legalised but it

0:23:12.080,0:23:19.520
was decriminalised - what was left in place was a clause, Section 2 of the 1961 Act which which

0:23:21.120,0:23:27.680
keeps it a crime to help anybody to commit

suicide so that has been a target of debate

0:23:28.400,0:23:33.600
ever since then. And efforts that have been made by the Voluntary Euthanasia Society and

0:23:33.600,0:23:40.160
its successive organisation Dignity in Dying and you know My Choice. All this has been aimed at

0:23:40.160,0:23:46.960
asserting, getting a recognition of the autonomy of the individual to make a decision about whether

0:23:46.960,0:23:53.680
or not they want to die and behind the the arguments against this, the abuse argument,

0:23:53.680,0:23:59.920
is also well sometimes what I call it anyway "the 'but' argument": but what happens if

0:23:59.920,0:24:04.160
the person's lived on for a bit, they might change their mind and then they might find it even

0:24:04.160,0:24:08.000
you know if they were disabled or something they would still find a lot of value in life

0:24:08.000,0:24:16.000
so we shouldn't allow them to take their own lives now in the hope that later on they won't want to

0:24:16.000,0:24:20.240
that kind of argument. So I call that "the 'but' argument" okay. (EP): Or the second chance

0:24:20.240,0:24:23.760

argument perhaps if you like? (AG): Yes, they're all the second chance argument. Indeed perhaps

0:24:23.760,0:24:33.120
that's a better name for it. So now the idea is that somehow or other society has an interest in

0:24:33.120,0:24:39.520
what an individual seeks to do. And indeed society does have an interest. The great question arises:

0:24:40.080,0:24:47.840
where does the autonomy of the individual end and society's interest become overriding with

0:24:47.840,0:24:53.440
respect to the individual's autonomy? Obviously if an individual decided to kill some other

0:24:53.440,0:24:59.600
individual then society has an overriding power and right to stop the individual from doing it.

0:24:59.600,0:25:04.800
But the question is does society have the right to stop an individual from taking their own lives

0:25:04.800,0:25:11.600
on whatever grounds because it's not a criminal offence to do it. And that means that functionally

0:25:11.600,0:25:17.360
speaking you have a right to do it and so that right is recognised by the 1961 Act in

0:25:17.360,0:25:27.040
fact. And yet the really odd thing is that the whole debate about assisted dying was targeted

0:25:27.040,0:25:31.600
on people who want to end their lives but can't, because they're paralysed for example.

0:25:32.400,0:25:36.400
This Bill, the Baroness Meacher's Bill doesn't address that at all. In fact on the contrary.

0:25:37.120,0:25:42.160
If you look at the details of the Bill where it talks about the actual,

0:25:42.160,0:25:48.240
you know administering of the help to end the life which is in Section 4.6. of the Bill

0:25:48.800,0:25:55.840
it talks about self-medication, self-administering of the suicide medication

0:25:56.800,0:26:03.440
and therefore doesn't address specifically the question of somebody who is completely paralysed

0:26:03.440,0:26:09.360
and unable to do it for themselves. Which is of course the key issue with assisted dying. (EP): So

0:26:09.360,0:26:16.640
there is a very strict limit in that case on what the doctor can actually do to help someone? (EP):

0:26:16.640,0:26:23.040
Yes so all that this Bill does is it allows the doctor to prescribe and to take to the patient

0:26:23.040,0:26:29.520
their medication in question. But it doesn't give a licence to administer it, to inject it,

0:26:29.520,0:26:35.120

or to pour it down the individual's throat, let's say. And so that misses the point about

0:26:36.080,0:26:42.880

the Section 2. of the 1961 Act because implicitly it seems to leave in place the possibility that

0:26:42.880,0:26:49.600

somebody could be held liable for you know under the terms of the 1961 Act. And even more

0:26:49.600,0:26:56.720

worryingly several sections in the Meacher's Bill when i can cite them but the whole of Section 8

0:26:56.720,0:27:03.360

has this effect so it was 3.8, 4.9 gives so much discretion to the Secretary of State of the day

0:27:04.080,0:27:10.320

about the interpretation of the Act and about what at that time can be regarded as

0:27:11.200,0:27:17.280

the applicable code of conduct for the doctors in the case, and for the patients in the case

0:27:17.280,0:27:22.880

and so on, that it leaves open wide open the possibility that the effect of the Act could be

0:27:22.880,0:27:30.640

negated. And because the Secretary of State might decide and has discretionary power to do this- to

0:27:31.760,0:27:38.080

you know place further limits on how this can

proceed and what the High Court must decide.

0:27:38.880,0:27:42.080

But none of this addresses the great question of principle which is

0:27:42.080,0:27:49.680

that the autonomy. So now we have a a very odd situation. After the 1961 Act

0:27:50.320,0:27:56.240

it became no longer a criminal act to attempt or to commit suicide. Fine.

0:27:57.360,0:28:01.840

So this means that you can commit suicide. Okay. Now we have the medical means

0:28:02.560,0:28:10.480

to make ending life easy and quick and painless but at the moment the situation is you can commit

0:28:10.480,0:28:15.840

suicide but nobody's going to help you to do it. So there's always the risk of a botched suicide.

0:28:17.680,0:28:22.400

And you could end up in a worse situation than you were in before you attempted suicide

0:28:23.200,0:28:30.000

if you botch it. And if you are disabled and you cannot administer a means of suicide then

0:28:30.000,0:28:34.000

you can't get help at all. That's the current situation of the law - you either botch it or

0:28:34.000,0:28:38.880

you don't get any help at all. In fact the most

vulnerable people, the people most in need are

0:28:38.880,0:28:44.480

those who are most distressed by being unable to exercise any kind of autonomy. And they're the

0:28:44.480,0:28:50.480

ones who are precisely denied at the moment. And you know this Bill, the Baroness Meacher's Bill,

0:28:50.480,0:28:55.440

given the problem with the clause that I've mentioned, about you know self-administering

0:28:55.440,0:29:01.600

the medication, doesn't address that. What happens with this Bill of of Baroness Meacher's is that

0:29:01.600,0:29:08.560

on the one hand it introduces, in order to try to block all the objections that are going come from

0:29:09.280,0:29:14.400

the 'nay' lobby, the religious lobby, it introduces a very very heavy bureaucratic

0:29:14.400,0:29:20.720

apparatus: the High Court; and two doctors; and 14 days; and settled intention; and what have you;

0:29:20.720,0:29:25.840

and of course the settled intention and the time gap are good and an independent,

0:29:26.560,0:29:31.280

you know eye on this from an independent doctor is

good. All that kind of thing is good but it seems

0:29:31.280,0:29:35.520

to me that getting permission from the High Court, it makes this far too cumbersome,

0:29:35.520,0:29:42.000

expensive and time consuming, especially given that it's meant to be a six-month window

0:29:42.000,0:29:48.160

and with the High Court, and then with the 14

days, and etc etc, it so closes that window as

0:29:48.160,0:29:55.120

to make it kind of pointless. So in all those ways that the Bill is a very rickety edifice.

0:29:55.120,0:30:02.240

And I understand why it is because it's trying to block all the objections. But the objections,

0:30:02.240,0:30:10.720

you know, should be counted firmly by insisting on the autonomy of the individual. (EP): : Let's

0:30:10.720,0:30:16.560

pause there and actually consider these. So as a philosopher maybe you could start off by playing

0:30:16.560,0:30:22.480

devil's advocate for a minute. What are the main arguments against assisted dying that are being

0:30:22.480,0:30:28.320

advocated at the moment by the religious lobby

and others? (AG): That people could be persuaded

0:30:28.320,0:30:36.400

by their relatives to end their lives. That medical professionals could want to free up beds

0:30:37.040,0:30:43.440

in overcrowded wards. That people would be put under pressure to choose a assisted dying and

0:30:44.880,0:30:52.240

because it suits somebody else. So that's the abuse argument. Then there's also the 'but'

0:30:52.240,0:30:56.400

argument or the second chance arguments that: if only that you know we could help them properly;

0:30:56.400,0:31:02.800

we've got lovely hospice care; we've got medical miracles; we've got you know new treatments;

0:31:02.800,0:31:07.360

if only people would wait then maybe that they could have a second chance of life or

0:31:07.360,0:31:10.960

suffering would be alleviated some other way. So there's that argument.

0:31:11.840,0:31:15.440

And then you know lying right in the background of all these arguments is:

0:31:16.560,0:31:21.680

no individual owns his or her own life; it's given by God; you have no right to take it away;

0:31:21.680,0:31:25.760

you've got to put up with the condition. (EP): The sort of sanctity of life argument I think

0:31:25.760,0:31:29.920

as you put it. (AG): Yes. (EP): So those, the arguments going to.. are they primarily being

0:31:29.920,0:31:35.600

advocated by religious people at this stage? (AG):

I would suspect that most of the people who are

0:31:35.600,0:31:41.280

looking for arguments against assisted dying have a religious motivation, but not necessarily, not

0:31:41.280,0:31:47.440

all. Because the second chance arguments and the abuse arguments could be offered by anybody who

0:31:47.440,0:31:53.520

was genuinely worried about these things. And what it bangs up against of course is something that

0:31:54.240,0:31:58.080

you and I would appreciate from particularly from the Stoic tradition,

0:31:58.080,0:32:03.200

the point that I'm going to develop about the autonomy of the individual, is that the Romans,

0:32:03.200,0:32:08.880

certainly in the Republican period, regarded suicide as being the ultimate act of freedom,

0:32:08.880,0:32:14.400

the ultimate palliation against all kinds of ills, not just the illness and pain and suffering,

0:32:14.400,0:32:21.440
but against humiliation or defeat or being
desperate about the collapse of the Republic

0:32:21.440,0:32:28.000
because the Empire is taking over, whatever.
Okay
so it was regarded as a right of an individual
to

0:32:28.000,0:32:34.000
decide because it is the individual's life and
the individual has disposal of it. (EP): Perhaps

0:32:34.000,0:32:38.160
Seneca or someone like that would have said
you know life is a form of slavery anyway.

0:32:39.360,0:32:46.560
What then in your opinion is: you said that
people
who are in favour of assisted dying should
really,

0:32:46.560,0:32:51.040
the Bill should take a stronger approach. How
would you do that? (AG): I think any Bill
should

0:32:51.040,0:32:58.000
introduce very clear and strong safeguards
against abuse. So it should be absolutely

0:32:58.000,0:33:05.920
clear that it is the person's rational settled
desire. It's not just of the moment or out of
you

0:33:05.920,0:33:12.400
know despair over a divorce or something
like
that. So we do need safeguards of that kind.

0:33:13.440,0:33:21.440
But once those safeguards have been met
there is
no ground for restricting the kind of suffering

0:33:21.440,0:33:29.360
that society is going to allow people to
escape.
And let other kinds of suffering be
obligatory.

0:33:29.360,0:33:34.000
That society says, "Well tough you know
you've got
to suffer it. You've got to suffer mental
anguish.

0:33:34.000,0:33:39.040
You've got to suffer despair. You've got to
suffer
heartbreak because we're not going to allow
you

0:33:39.040,0:33:43.680
to be helped to die. You can kill yourself if
you like but you take the risk of botching it

0:33:43.680,0:33:47.760
but we're not going to help you to die.". And
that seems, that seems sort of deeply unfair

0:33:47.760,0:33:53.280
and also inconsistent because if as an act
of compassion you wanted to help
somebody

0:33:53.920,0:34:01.200
escape suffering, then why only in the last
six months of eternal illness? Why not for

0:34:01.200,0:34:08.480
somebody who simply cannot come to terms
with
being wheelchair bound let us say? Or who is

0:34:08.480,0:34:12.720
clinically depressed and is never you know
going
to be independent of medications for the rest
of

0:34:12.720,0:34:19.160

their lives and so on and so on. I mean there are all sorts of existential conditions which

0:34:19.840,0:34:25.440

bring huge amounts of suffering to individuals.

Which is why you know I mean how many tens of

0:34:25.440,0:34:31.360

thousands of people commit suicide every year? And

what proportion of those just make things worse

0:34:31.360,0:34:37.520

for everybody and for their families? And you know society. Because it isn't done in a clean,

0:34:38.880,0:34:45.360

quiet, helpful, sympathetic way. (EP): From that perspective, I mean, would the idea

0:34:45.360,0:34:52.800

be then in Clause 1.2. we have this idea that the

person who is able to get help to commit suicide

0:34:52.800,0:34:57.040

has a voluntary, clear, settled and informed wish to end their own life; so would you

0:34:57.040,0:35:01.680

keep that but I mean just say that they may do

this for any reason that they wish? (AG): Yes,

0:35:01.680,0:35:07.920

yes, So I would keep Section 2.a. I would certainly keep that and b. and c. I mean all

0:35:07.920,0:35:14.320

those things are very good. And I would keep the provisions where some independent verification

0:35:14.320,0:35:20.640

that it is genuinely the person's voluntary choice. Okay so those are the ones in Section 3,

0:35:20.640,0:35:27.680

the suitably qualified practitioners. So you know

those are good because they provide safeguards.

0:35:27.680,0:35:33.760

But when you get to: they must be terminally ill; that they only have six months to live;

0:35:33.760,0:35:39.840

you know, those sorts of restrictions, exclude so many people and so many kinds of suffering

0:35:40.400,0:35:47.040

that the whole point of respecting the autonomy

of people to make decisions about their lives

0:35:47.040,0:35:53.360

and their death is associated with what should

really be compassion on our part, about the nature

0:35:53.360,0:35:58.720

of suffering. We're more compassionate to our

animals than we are to our fellow human beings in

0:35:58.720,0:36:03.760

this respect. I mean I know that's a very familiar

thing to say but it has the unfortunate merit of

0:36:03.760,0:36:09.440

being true. (EP): The idea is that then suffering

can take many forms and this should be recognised

0:36:10.160,0:36:17.360

is one issue. There is one potential problem, not necessarily from say a humanistic or from

0:36:17.360,0:36:22.800

an individualistic point of view but from the State's point of view. Is it almost embarrassing

0:36:22.800,0:36:29.040

that individuals might feel that they're suffering so much; I don't know say for non-illness related

0:36:29.040,0:36:34.320

reasons, that they want to commit suicide. Do you think that's perhaps a reason why the State

0:36:34.320,0:36:40.560

is unlikely to allow people to just commit suicide if they want to under any circumstances. (AG): No

0:36:40.560,0:36:46.240

I don't think so. I don't think that that's the reason because after all people do commit suicide

0:36:47.520,0:36:51.760

and so the State doesn't think, "Oh Gosh you know well we've really slipped up there because

0:36:51.760,0:36:56.720

we should have done whatever it takes to have made that person's life happier." and so on. So

0:36:56.720,0:37:00.240

no I don't think that that's the case although there's an interesting

0:37:02.000,0:37:09.520

sort of side bar issue to what you just said there which is this: if you think about social policy

0:37:10.320,0:37:20.880

on assisted dying, sex work and drugs so if you think of those three areas of debate in society we

0:37:20.880,0:37:27.840

find that that repeatedly, despite the fact that majorities of people are in favour of liberalising

0:37:27.840,0:37:35.440

the drug laws and in favour of assisted dying that politicians are incredibly afraid. It's a sort of

0:37:35.440,0:37:42.400

tabloid allergy anxiety about being seen to be too liberal on those issues somehow.

0:37:42.400,0:37:48.400

Our political culture just doesn't allow us to do the sensible thing like our European partners do.

0:37:48.400,0:37:53.280

If you think about how they deal with those sorts of social issues they have a much more pragmatic

0:37:53.280,0:37:58.720

and open-minded approach to them. Something in our political culture which militates against that

0:37:58.720,0:38:05.120

and it spills over into this debate about assisted dying because everybody's too nervous to be

0:38:05.120,0:38:11.200
pilloried by the Daily Mail on the grounds of you know wanting to be liberal towards people who have

0:38:11.200,0:38:19.440
a desire to die. (EP): Is there a parallel at all between the attitude towards assisted dying and

0:38:19.440,0:38:23.440
perhaps slightly earlier attitudes towards abortion, I mean which was,

0:38:24.080,0:38:30.560
which is not legal in some western countries and which was, perhaps carried a lot of stigma

0:38:30.560,0:38:36.000
until fairly recently. (AG): Yes I think that's a very good point and of course we'll have the very

0:38:36.640,0:38:42.720
similar route. Again religious objections to abortion you know people make the point again,

0:38:42.720,0:38:48.160
it's a an often made a certain knee-jerk kind of point, about the United States

0:38:48.160,0:38:55.440
where people who are very much against abortion are in favour of executing criminals and and

0:38:55.440,0:39:01.520
people having guns. You know so the kind of you know contradictions that exist in those respects

0:39:01.520,0:39:07.360
in attitudes towards the value of life. In the abortion and indeed this is a very important

0:39:07.360,0:39:15.040
point, because in the abortion debate the competition is between the unborn and the

0:39:16.400,0:39:22.320
mother. And so when questions of quality of life, I mean if you think for example of a young woman

0:39:22.320,0:39:27.760
who has plans and projects and she's in the middle of her studies or the early part of her career

0:39:27.760,0:39:33.280
or other children already or whatever it might be, you know ongoing commitments of a variety

0:39:33.280,0:39:38.880
of kinds, and then something happens which would be hugely disruptive of that and wasn't chosen by

0:39:38.880,0:39:44.080
her and so she decides to you know put off having children or not to have this child or something.

0:39:45.040,0:39:52.480
There is a direct conflict of interest between the unborn and the living adult and

0:39:52.480,0:39:57.840
it's you know it's a difficult choice but when you weight the matter you should surely weight

0:39:57.840,0:40:04.000
it in favour of (the 'surely' there's always the

weak point in any argument) but there is a case

0:40:04.000,0:40:10.000

for weighting it in favour of the adult human being with current commitments and so on okay.

0:40:10.960,0:40:17.520

Now by the same token, the same kind of logic applies to the case of a person who wants to die.

0:40:18.160,0:40:25.360

You know whose life is it which is crucially at stake for the person who has to make the decision,

0:40:25.360,0:40:31.760

either decision about abortion or decision to die? Whose life is crucially at stake?

0:40:32.800,0:40:40.400

What is the perspective from the inner point of view of that individual which is determining

0:40:40.400,0:40:45.440

about the course of action that should follow?

Well we mentioned the Stoics. The Stoics just

0:40:45.440,0:40:50.560

took it for granted that it was the individual himself or herself who was the sole arbiter

0:40:51.360,0:40:57.600

of what that decision should be. And that I think is the point of principle that underlies the idea

0:40:57.600,0:41:02.800

that nobody has the right to stop somebody from taking their life if they want to. So

0:41:02.800,0:41:08.720

we've acknowledged that in the 1961 Act but now we still play dog in the manger

0:41:09.440,0:41:15.920

for people who want to be able to do it safely and securely in a way that can't be botched or

0:41:15.920,0:41:20.000

for people who can't do it for themselves. And we're still not allowing them to do it so it's

0:41:20.000,0:41:27.120

a very you know inconsistent and paradoxical situation. (EP): Is there sort of again a fear

0:41:28.480,0:41:33.600

of being perhaps inhumane by allowing people to be assisted to kill themselves but is that

0:41:33.600,0:41:39.440

leading then to a greater inhumanity of not allowing people who have made the decision

0:41:39.440,0:41:46.400

to do it. (AG): Yes I think that that's right. It does lead to a greater inhumanity. You know

0:41:46.400,0:41:51.920

people tend to think don't they that there's life and there's death and there's the right

0:41:51.920,0:41:59.120

thing to do and then there's the wrong thing to do and the dilemmas, moral dilemmas are typically

0:42:00.640,0:42:05.200

present whenever that there are two rights in competition with one another, when there are

0:42:05.200,0:42:09.920

equally you know strong arguments or compelling reasons on both sides and you are forced

0:42:09.920,0:42:16.080

to make some kind of decision. There's a big argument for encouraging somebody to

0:42:16.960,0:42:20.960

take whatever help they can to live on. I mean

the vast majority of people don't want to die

0:42:20.960,0:42:26.400

they want to live on and there's no reason why you shouldn't in the face of somebody wants to commit

0:42:26.400,0:42:32.320

suicide try to dissuade them from it, on the grounds that it would hurt people who care about

0:42:32.320,0:42:37.200

them, or that there might be an opportunity for you know a cure in future or something like that.

0:42:38.320,0:42:43.840

But persuading, trying to persuade somebody and making it illegal you have two different things.

0:42:45.200,0:42:51.040

And that's what's at stake here. (EP): I mean I guess perhaps the contrary position might be that

0:42:51.760,0:42:56.800

with other decisions people perhaps should have more autonomy because their decisions are less

0:42:57.680,0:43:02.800

final. Whereas this decision you might might feel very strongly that you wanted to commit suicide at

0:43:02.800,0:43:08.000

one point but then perhaps a year later you might change your mind but if you'd done it already then

0:43:08.000,0:43:13.440

it would be too late in a way that no other decision is so irrevocable. Is that perhaps

0:43:13.440,0:43:20.000

a reason. (AG): Well this is certainly the most emphatically and invariably irrevocable

0:43:20.000,0:43:24.160

but there are lots of other kinds of irrevocable decisions that people make all the time.

0:43:24.960,0:43:31.200

And very very often you know the the problem in hospitals the problem with people who are ill is

0:43:31.200,0:43:35.680

that it's their families who don't want them to die, and you keep them alive and they persuade

0:43:35.680,0:43:41.120

doctors to keep them alive and to prolong life and to prolong suffering and we could change

0:43:41.120,0:43:48.960

the culture on this by getting people to be more rational and more perceptive about suffering and

0:43:48.960,0:43:55.600

about death and about the place of death in life.

About the fact that dying is an act of living

0:43:56.240,0:44:02.160

which can be incredibly unpleasant for people who

are experiencing it. And also the the sorts of

0:44:02.160,0:44:08.080

distress that are associated with certain kinds of conditions either terminal or long standing.

0:44:08.800,0:44:13.040

You know being doubly incontinent, having to be

cleaned up by other people all the time and so

0:44:13.040,0:44:18.560

on they you know the humiliation of it . And the awful you know plight that people are in

0:44:18.560,0:44:24.080

when that's the case. All these things need to be

understood on the grounds of compassion and on the

0:44:24.080,0:44:28.320

grounds of the individual's right to say whether

or not they are prepared to put up with it.

0:44:29.440,0:44:34.640

You see most people I think when you ask people

in this country and you do polling and we see

0:44:35.280,0:44:41.280

80% and more people think that it should be a

legal entitlement to ask for help to die. Not

0:44:41.280,0:44:45.920

because they want to die, not because they're

going to ask for help to die, but because they

0:44:45.920,0:44:53.600

think IF I were in a really horrendous situation

I would like to know that I could be you know

0:44:53.600,0:44:59.520

eased out of it that people want it as a kind of backstop. And that's the real importance of

0:44:59.520,0:45:06.240

it. It's an assurance. (EP): Anthony one final question. Now we've talked about precedence for

0:45:07.040,0:45:12.720

sort of making suicide acceptable in certain circumstances that go right back to classical

0:45:12.720,0:45:19.760

antiquity, but what about specifically in our own time in 2021 in the UK now we've gone through

0:45:19.760,0:45:25.200

a pandemic and we're still going through one. Is it time for us as a society to rethink our

0:45:25.200,0:45:32.880

attitude towards death altogether? (AG): Yes I think so. We need I think, we do need to have a

0:45:33.840,0:45:40.720

a proper conversation and a proper re-evaluation

and self-education about death. Because

0:45:41.360,0:45:50.160

it has become a kind of reflex, a sort of trope in all advanced Western democracies to act and

0:45:51.120,0:45:56.960

almost believe as if death doesn't exist and it

can be postponed. And everything to do with it,

0:45:56.960,0:46:03.280

like aging and illness, can be treated and even cured. You know a cure for aging, think of that.

0:46:04.560,0:46:08.880

In the same ways we hope to be able to conquer cardiovascular disease and

0:46:09.600,0:46:16.400

you know cancers and so forth. To postpone death, to hide it away. When you think of these Victorian

0:46:16.400,0:46:20.800

experiences, therefore, indeed the experience of death in any society, in any period of history,

0:46:20.800,0:46:26.720

other than our own it was right there, it is in the bedroom in your house happened often. Children

0:46:26.720,0:46:32.400

died all the time. Infant mortality was very high.

You witnessed your parents and your grandparents

0:46:32.400,0:46:38.720

dying in your own home. Now it's all kind of sequestered away and and it's all sanitised

0:46:38.720,0:46:46.080

and it's all you know dusted under the carpet and as a result we don't face up to it in our

0:46:46.080,0:46:50.480

own lives either. (EP): Anthony Grayling, thank

you very much. (AG): Thanks, it's a pleasure.

0:46:55.440,0:46:59.920

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0:46:59.920,0:47:03.760

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0:47:04.480,0:47:08.960

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