

Assisted suicide and the rule of law

by Francis Bennion

Sir,

You report that since the introduction of new guidelines by the Director of Public Prosecutions numerous cases where the evidence was sufficient for conviction have not been prosecuted ('Prosecutors clear way for assisted suicides', 5 September 2011). The new guidelines provide for the first time that 'it is not in the public interest to prosecute individuals [under s. 2(1) of the Suicide Act 1961] who compassionately assist a loved one to die'. These words are not in the Act, yet you quote a Crown Prosecution Service spokesman as saying 'The law has not been changed or weakened. This is simply untrue.

On 3 June 2011 you published a letter from me which said that 'the new guidelines substantially modify the legal meaning of s. 2(1)'. [which contravenes the ruling I quoted in my previous letter published on 31 May 2011 that the DPP cannot dispense with or suspend the operation of s. 2(1) of the 1961 Act, and cannot promulgate a case-specific policy . . . which would, in effect, recognize exceptional defences to this offence which Parliament has not chosen to enact. In the Coroners and Justice Act 2009 Parliament modernized the wording of s. 2(1), keeping the main prohibition on assisting suicide and the penalty of fourteen years imprisonment. If Parliament had wished to introduce the compassionate defence it would surely have done so then.] The DPP is a mere salaried official who has no business to change the law in this way. Section 3(1) of the Prosecution of Offences Act 1985 says that the DPP 'shall discharge his functions under this or any other enactment under the superintendence of the Attorney General'. Why has the Attorney General not carried out his statutory duty and overruled the DPP's unlawful new guidelines? We are supposed to live under the rule of law.

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The Times 6 Sep 2011 (lead letter)

Any footnotes are shown at the bottom of each page

For full version of abbreviations click 'Abbreviations' on FB's website

References:

None