INTERNATIONAL PERSPECTIVES ON END-OF-LIFE LAW REFORM: POLITICS, PERSUASION AND PERSISTENCE, EDITED BY BEN P. WHITE AND LINDSAY WILMOTT (CAMBRIDGE UNIVERSITY PRESS, 2021)

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I should start this review with a declaration of interest: I was somewhat surprised to discover that one of the chapters (by Celia and Jenny Kitzinger, on Challenging Mandatory Court Hearings for People in Vegetative and Minimally Conscious States) appeared to feature me in quite such a starring role.[1] Even without knowing that I might make an appearance in the book, however, I was immediately attracted by its premise, which is to take (most of a) step back from arguments about whether and how the law relating to the end of life should change, and to examine why the law has (or has not) changed in different places at different times. Further, picking the book up, three other things became immediately obvious.

The first is that the book really does follow through on the international aspect promised by the title, with ten case studies drawn from England & Wales,[2] the United States, Canada, the Netherlands, Belgium and Australia. The choice of the case studies means that, even if not its primary purpose, the book serves as a useful snapshot of the state of the debate around assisted dying in the major jurisdictions where it is legal.

The second is that it is not solely focused on questions relating to assisted dying[3] (the subject of seven of the case studies), but also includes three case studies relating to issues around withholding and withdrawing life-sustaining treatment, primarily in relation to those lacking capacity/competence to make the relevant decisions. One small regret in this regard is that the editors, in their elegant and concise overview of the terrain identify a third major zone of law's interest – issues around palliation – there is no case study directly relating to this. It would have been very interesting, for instance, to learn more about the process of law reform in this area in France leading to the express legalisation of 'continuous sedation until death' (la sédation profonde et continue maintenue jusqu'au décès') in the so-called Claeys-Leonetti law (2016).

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[1] I was also involved in the *Conway* case concerning the compatibility of s.2(1) Suicide Act 1961 with the European Convention on Human Rights, which is also considered in the book: *Conway, R (on the application of) v The Secretary of State for Justice & Ors* [2018] EWCA Civ 1431, see also *Conway, R (On the Application Of) v The Secretary of State for Justice* [2017] EWHC 2447 (Admin).

[2] A small point: the editors refer to the United Kingdom, but the three relevant case studies relate to the position in England & Wales. Different issues might well have arisen in relation to case studies relating to Northern Ireland or Scotland given their different legal frameworks: a further edition of the work may well include a case study looking at assisted dying and devolution.

[3] As ever, and as the editors acknowledge, it is necessary to be clear about the language being used: the editors use the term (see p.5) to encompass both voluntary euthanasia and assisted suicide.

The third feature of the book is that it contains a co-authored chapter at the end, involving contributors from each of the previous chapters (alongside the editors) reflecting both on the processes of law reform emerging from the individual case studies and on future directions of travel for both reforms and research. It would have been very interesting to be in on the drafting process of this chapter (and of the workshop held in 2017 at which the papers giving rise to the case study chapters) were discussed, but the significant amount of work that it must have involved has paid off in a chapter, and a work, which has a coherence sometimes missing in edited collections.

That coherence does, perhaps, come at something of a price, recognised in the concluding chapter.[4] The focus is primarily upon instances where law reform occurred, and hence 'more often on the reasons why the law changed – that is the facilitators for reform and the individuals or groups who were influential in fostering change – rather than on the reasons why the reform was challenging.'[5] This means also that there is only relatively modest discussion of opposition from certain groups to the reforms identified, in particular in those chapters written by those most directly involved in the reforms described. One interesting (sort of) exception to this is the chapter written by Penney Lewis on whether assisted dying should require the consent of a High Court judge, a particular focus of debates in England & Wales, and a proposal contained within the most recent legislative reform put forward.[6] Lewis is a proponent of a change in the law in England & Wales, but her chapter sets out a detailed analysis of why she considers to be misplaced the potential reliance upon approval by a High Court judge. Her chapter is therefore a fascinating insight into a live debate **within** a campaign movement; for wider debates, it will be necessary to look elsewhere.

As a final price which is paid by the coherence of the book, and not least because it is something that I have repeatedly grappled with both academically[7] and as a practitioner, I would also have wished there to be more discussion of the complexities of representation and disability rights within the law reform process: it is perhaps striking that the UN Convention on the Rights of Persons with Disabilities receives only one mention within the book,[8] despite what might be thought obvious relevance to both aspects of end-of-life law reform discussed here. That might, of course, reflect its lack of prominence in the debates in the different jurisdictions considered, but that, in and of itself, would be an important data point.

However, keeping the focus clearly upon law reform, but taking a broad approach to the concept of such reform, means that the volume is able to dig into some

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[4] See the section on 'limits on a case study approach: what is missing?' at pp.271-273.

[5] Page 272.

[6] The Assisted Dying Bill introduced by Baroness Meacher in 2021. It is a Private Members' Bill, i.e. not one introduced by the Government. Without Governmental support, its prospects of reaching the statute books are very slim.

[7] Some of my thoughts can be found my chapter 'Contesting death rights: Reflections from the courtroom,' in S Westwood (ed), 'Regulating the End of Life: Death Rights' (Routledge, 2021).

[8] In Emily Jackson's chapter on the changing relevance of patient's wishes in relation to withdrawing and withholding life-prolonging treatment under the Mental Capacity Act 2005 in England & Wales.

significant socio-legal questions. In particular, it is possible to mine the case studies to ask questions both as to the comparative effectiveness – and comparative legitimacy – of strategies based upon litigation as opposed to strategies based upon legislative campaigning. And the stimulating chapter by Thaddeus Mason Pope on the Texas Advance Directives Act examines in detail (in effect) the collapse of a coalition of interests behind a legislative reform and the consequences for the partial unwinding of the reform.

Overall, the book is essential for those grappling with end-of-life law, and will certainly form core reading on the course on the subject I teach at King's College London: even the caveats noted above will provide useful starting points for discussion. All I will have to do is to ask students to take references to me with a grain of salt…