The Church of Scotland
Church and Society Council

Official Response

SUBJECT: **Assisted Suicide (Scotland) Bill**

REQUESTED BY: **Scottish Parliament**

REFERENCE: **OR-2012/007**

DATE: **30 April 2012**

SUBMITTED BY: **Dr Murdo MacDonald for the Church of Scotland, Church and Society Council**

Assisted Suicide (Scotland) Bill: "A proposal for a Bill to enable a competent adult with a terminal illness or condition to request assistance to end their own life, and to decriminalise certain actions taken by others to provide such assistance."
Consultation by Margo MacDonald MSP, Member for the Lothians
Response from the Church and Society Council of the Church of Scotland
April 2012

The Church and Society Council of the Church of Scotland welcomes the opportunity to respond to the current consultation on the Assisted Suicide (Scotland) Bill.

Introduction

The Church of Scotland welcomes all efforts to improve the quality of care available to all of Scotland's citizens. As a national organisation, particularly through its social care arm, Crossreach, the Church of Scotland is at the forefront of providing care to people throughout the country.

We therefore find the contents of this proposed Bill to be deeply concerning, undermining as it does the accepted need to offer care and comfort to all - especially those who are placed in a vulnerable position as a result of age, incapacity or other circumstance.

We believe that any legislation which endorses the deliberate ending of a human life undermines us as a society. We do not accept the underlying assumption which is made, namely that there is a requirement that the law be changed to allow the legal termination of human life.

QUESTIONS

Q1. Do you support the general aim of the proposed Bill (as outlined above)? Please indicate "yes/no/undecided" and explain the reasons for your response.

No.

We affirm the absolute sanctity of all human life and its creation by God as a gift which is in our care. As creatures made in the image and likeness of God we recognise our responsibility for ourselves and to enhance the lives of our fellow human beings, especially in circumstances of suffering, through the exercise of love which is ultimately of God.

We therefore cannot accept the general aim of the proposed Bill. No attempt is made in the document to engage with the fundamental question about whether it is morally right to knowingly assist in the death of another human being, and to frame legislation to facilitate this. We accept that some medical interventions to prolong life may at times be inappropriate, but the withholding or withdrawing of medical treatment differs fundamentally from the deliberate ending of life proposed in this document.

There was much public debate on many of the issues raised by the previous proposed Bill brought by Margo Macdonald MSP to the Scottish Parliament in 2010[1]. That proposed

[1] Proposed End of Life Assistance (Scotland) Bill

Bill was rejected by the Scottish Parliament only a few months ago, and we believe the current proposal to be similarly fundamentally flawed.

Q2. What do you see as the main practical advantages of the legislation proposed? What (if any) would be the disadvantages?

Society prohibits the deliberate taking of another human life. We are opposed to the introduction of any legislation which would alter this, as to do so would remove this prohibition, and would thus alter the way society views the vulnerable, the infirm and those least able to speak up for themselves. The Church of Scotland does not believe that this is the way society should progress.
Healthcare is multidisciplinary and includes the physical, psychological, social and spiritual elements of care each with professionals expert in these fields. This proposed legislation would also impact on nurses who would have responsibility for the practical care of the patient, pharmacists who would knowingly be making up lethal prescriptions, chaplains and social workers who would be responsible for the social, spiritual and religious care of individuals, their families and healthcare staff. In addition, the proposed development of within this legislation of medically unqualified "facilitators", licensed to bring about the death of another human being, is extremely concerning.

Q3. Do you consider that these suggested eligibility requirements are appropriate? If not, please explain which criterion or criteria you would like to see altered, in what ways, and why.

Beyond our fundamental objections to the basis of this legislation, there are very serious problems with all of the proposed eligibility criteria. Not least is the fact that, by putting limits on who is eligible for assisted suicide, the proposed Bill undermines the unfettered interpretation of "autonomy" on which the proposed legislation purportedly rests. There are also difficulties in interpretation of terms such as "terminal illness". For example, spinal cord injuries or motor neurone disease would not normally be considered to be terminal conditions, though people with these conditions have been among those who have undergone assisted suicide in the past. Parents who have lost a child, or those who are clinically depressed, may find life "intolerable" for a time. We are also concerned that the context in which such a "conclusion" is being reached is likely to be one where objective reflection is difficult to achieve: it is known, for example, that assessing depression in those who are terminally ill is often very difficult.

Q4. What is your general view on the merits of pre-registration (as described above)? Do you have any comments on what pre-registration should consist of, and on whether it should be valid for a set period of time?

The proposed safeguards appear to be inadequate in preventing abuse following any legislation. While not accepting the need for such a law, one of our major concerns is that any legislation allowing the deliberate killing of another person must be framed in a manner which prevents any abuse or misuse. The practical difficulties inherent in

achieving this are significant; the evidence from other areas of the law, and from other jurisdictions where assisted suicide laws are already in place, are not encouraging.
The Bill document refers to the purpose of the pre- registration process being to seek to ensure that the person signing is not under any "inappropriate" pressure to do so: does that suggest that there are forms of pressure which may be considered "appropriate"? Pressure to consider such a course of action need not be explicit, and can be very subtle. There is a growing recognition in the literature of what is termed "elder abuse"- a broad term which encompasses neglect as well as emotional, psychological, physical and financial abuse by those placed in a relationship of trust[2]. Many of these findings, including a reluctance of victims to report mistreatment for a variety of reasons, are directly relevant to this debate. While many of those pushing for a change in the law are self- confident, articulate individuals with good support networks, it must be remembered that many in our society have none of these advantages.
The purpose of medicine should be to bring healing and wholeness to other human beings. What is proposed would result in doctors being called upon to be involved in the deliberate termination of life. This would represent a seismic shift in the relationship between the clinician and the patient.

Q5. Do you have any comment on the process proposed for the first and second formal requests (for example in terms of timings and safeguards)?

No comment.

Q6. Do you think a time-limit of 28 days (or some other period) is an appropriate safeguard against any deterioration of capacity?

No comment.

Q7. Do you agree that the presence of a disinterested, trained facilitator should be required at the time the medication is taken? Do you have any comments on the system outlined for training and licensing facilitators?

Our opposition is to the proposed legislation as a whole. However, we would also have significant concern in relation to the anxiety and stress involved for anyone taking the role of facilitator (volunteer or not). There is also a serious question to be considered with regards to the long term implications to the emotional health and well-being of a facilitator.

[2] See Prichard, J.: Euthanasia: a reply to Bartels and Otlowski. Journal of Law and Medicine, 19, 610- 612 (2012)

Q8. What sort of documentation and evidence is likely to be required? In particular, how important is it that the process is filmed?

It requires very little imagination to see the inevitability of filmed material being "leaked" onto the internet. It is proposed that the system be based on the Oregon model: official documentation from Oregon states that in 2011 at least two patients who ingested the "lethal" medication failed to die. Each regained consciousness and died more than a day later, 30 hours and 38 hours. In such a situation, at what point would the filming of this process be required to stop and medical assistance sought? Assisted dying is usually presented as a "dignified" death. This is often not the case: in 18% of reported cases in the Netherlands, the attending clinician felt the need to intervene by giving additional lethal injections because of complications or problems.

Q9. What is your assessment of the likely financial implications of the proposed Bill to your organisation? Do you consider that any other financial implications could arise?

While there are no direct financial implications for the Church of Scotland, it must be remembered that caring for the most vulnerable within our society will always be costly.

Q10. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

One of the risks of such legislation is that the most vulnerable, and those living with impairments and ill-health, are at negative risk from such legislation.

Conclusion

It is a dangerous fallacy to believe that a person can act independently of all others, with their actions having no consequences for anybody else. Interpersonal relationships are important: life is lived and death experienced as part of community. The idea of "burden" is, by its very nature, a comment on relationships and therefore not a statement of autonomy. Death, as a natural process, cannot be avoided: despite the inevitable sadness involved in saying farewell to a loved one, emphasis should be placed on ensuring that all participants in the process experience as fulfilled and comfortable a final journey as possible.

We would emphasise the need for all aspects of care to be improved; there is concern, however, that assisted dying legalisation will undermine, rather than enhance, other aspects of end of life care and the manner in which society values every human being. Clearly it would be a disgrace if vulnerable patients opted for assisted dying because of a lack of resources to give them an acceptable quality of life in their last months.

In common with many Christians, the Church of Scotland would affirm that the worth and dignity of every human life needs to be emphasised and celebrated. Indeed, the Gospel of Jesus Christ which the Church of Scotland seeks to live out emphasises the value and worth of all human life, no matter the circumstances. Legislation to bring about the deliberate ending of a human life would be a matter to be deplored.

The Church of Scotland would strongly oppose the proposals put forward in this consultation document.