Assisted Suicide (Scotland) Bill

Consultation by

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Response from the Free Church of Scotland

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Introduction

We are surprised that the proposal for this Bill is being brought forward just over a year after the End of Life Assistance (Scotland) Bill was decisively defeated in Parliament at Stage 1 after a comprehensive consultation process. Many flaws in the ELA Bill were pointed out during the consultation, but it was on the principle of the Bill that it was defeated at that stage. Despite this the Foreword to the Consultation states:

> However, the volume of correspondence I've received and the continuing public interest, stimulated by some high profile statements in favour of the general principal [*sic*] of the Bill indicates a consistent level of support for individuals suffering a terminal illness or condition for whom life becomes intolerable, to have the legal right to request help to end their life before nature decrees.

And later:

> There was a wide-ranging and also very specific consultation on the last Bill. Many of the moral and philosophical points that emerged during debate are unchanged. I do not intend to consult further on these general issues, but would prefer to use this consultation to investigate expert and lay opinion on the specifics of the process now proposed. But should any person or group feel that their particular interest requires more consideration, they are invited to submit written responses.

This seems to brush aside the important matters of principle that lay behind the rejection of the ELA Bill and to use this consultation merely to examine "the specifics of the process now proposed". This assumes the desirability of the proposed change in the law and the Consultation seems to be merely a means to the end of bringing forward a Bill which will satisfy the strident demands of the small minority campaigning for a change in the law while minimising opposition to it.

We do not intend to answer the specific questions in this Consultation because we consider that most of them are biased in favour of the proposed legalisation of assisted suicide. We shall confine ourselves largely to matters of principle and endeavour to show that this proposed Bill is no more acceptable than the ELA Bill.

Our reasons for opposing this proposed Bill

1. Sanctity of human life

As a Christian church we believe that human beings are made in God's image. This demands that we treat human life with the utmost respect and this prohibits the deliberate ending of a human life, including one's own. Our responsibility is to protect human life, especially at its weakest and most vulnerable, and our humanity is best shown in our mutual care for one another to reduce suffering and to give appropriate support right up to the end of life. This includes making palliative care available to all who would benefit from it. We believe that loss of function leading to increased dependency on others does not diminish inherent human dignity. Our position on this has not changed from our response to the consultation on the ELA Bill.

2. Autonomy of choice is not absolute

We reject the argument based on personal autonomy of choice, which is said to be the "central tenet" of this proposal (Consultation, page 6). As was pointed out during the consultation on the ELA Bill, our personal autonomy is already limited in many significant ways by legislation which is aimed at protecting ourselves and others. It is an abuse of autonomy to claim not only that I have a right to take my own life when I find it intolerable but also that I have a right to get someone else to help me end my life, regardless of the effect this may have on others and on society in general.

3. Rejection of the argument based on public demand for assisted suicide

We question the reliability of evidence of public support for this measure. This appears to be based mainly on:

- Volume of correspondence received by Ms MacDonald. This correspondence is unquantified and anecdotal and can not be regarded as representative of the whole population. Some of these correspondents may have witnessed the terminal sufferings of others and their response may well reflect their own feelings rather than those of the sufferer. Also there is no way of gauging the extent to which palliative care was made available to the sufferer.

- Some polls of public opinion. These are generally small sample polls. They are notoriously difficult to carry out in an unbiased way (House of Lords Select Committee on the Assisted Dying for the Terminally Ill Bill, 2005). If people are given the choice of having a long drawn out and painful death or a quick 'merciful' end with medical help, they are likely to choose the latter. This is without reference to the availability of palliative care and takes no notice of context. It is usually people in good health who are in favour of assisted suicide, while terminally ill people, receiving good palliative care do not persist in requesting help to end their lives once their symptoms are controlled and all-round support is given.

- Public interest, stimulated by some high profile statements. There has been skilful use of the media by pressure groups, such as Dignity in Dying. This, of course, is their right, just as it is the right of those who are opposed to assisted

suicide to argue their case in public. The highlighting of some very distressing cases in the law courts and in the media may sway public opinion, but this should not be the basis for changing the law.

- The report of the Falconer Commission. The membership of the Falconer Commission was heavily biased in favour of the legalisation of assisted suicide before the Commission was appointed and thus their report can not be relied upon to give a balanced view of the matter.

4. Appeal to evidence from Switzerland and Oregon

We reject the appeal to evidence from the assisted suicide legislation in Switzerland and in the State of Oregon as worthy examples to follow. Such evidence as is available gives no confidence that these laws are working satisfactorily.

In Switzerland, the statistics of assisted suicide are incomplete, but even allowing for the inexact method of reporting, there has been an increase from 43 in 1998 to 297 in 2009[1]. These numbers refer only to people who are resident in Switzerland. There appears to be an inexorable rise from year to year.

In Oregon the statistics are incomplete due to an inconsistent reporting system[2], but show a rise from 23 in 1998 to 71 in 2010[3]. There has also been a rise of almost 400% in the prescription of lethal drugs since 1998. Many of these prescriptions are not used and this means that many people may change their minds about ending their lives or perhaps they want the prescription as an 'insurance policy' in the event of intolerable suffering. It is very poor practice of medicine to prescribe powerful drugs which may or may not be used. Furthermore, very few patients are referred for a psychiatric opinion showing the lax state of assessment.

These statistics, such as they are, do not give any encouragement to follow these examples of assisted suicide legislation. It must also be remembered that we in Scotland have a very different context, historical, social and legal, from these legislatures.

5. Rejection of claims that this proposed Bill would be an improvement on the ELA Bill

Quite apart from our principled objection to legalising assisted suicide, we can detect many unsatisfactory aspects of these proposals, which could only be properly critiqued if set out in legislative form. For example, two of the eligibility criteria for a qualifying person, namely "… must have either a terminal illness or a terminal condition" and "find their lives intolerable" are very difficult to define with any measure

[1] http://issuu.com/sfso/docs/1260-0900?mode=embed&layout=http%3A%2F%2Fskin.issuu.com%2Fv%2Flight%2Flayout.xml&showFlipBtn=true

[2] http://public.health.oregon.gov/DiseasesConditions/CommunicableDisease/CDSummaryNewsletter/Documents/1999/ohd4806.pdf

[3] http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Documents/year14-tbl-1.pdf

of certainty. The introduction of “licensed facilitators” into the proposed process fills us with foreboding. To introduce a class of people who are ‘licensed to kill’, albeit by proxy, is unacceptable in a civilised society.

6. Dangers of the legislation

As with the ELA Bill, the dangers for society of legislation enabling assisted suicide remain. Some of these are:

6.1 Danger of decrease of respect for human life at its most vulnerable

Once assisted suicide is seen as a valid option for the terminally ill, there would be pressure to extend this still further to others who may find their lives intolerable, or who are deemed by others to face intolerable suffering.

6.2 Danger of reducing society’s concern to lower the suicide rate

Once suicide is seen as a valid answer to one intolerable situation, there is the danger that suicide would be seen as a valid way out of other difficult situations, especially by people with mental illness such as depression. This would undermine the Government’s laudable efforts to reduce the suicide rate in Scotland.

6.3 Danger for the medical and allied professions

Since the time of Hippocrates, the medical profession has been committed to care and to heal and not to do harm. The majority of medical practitioners are opposed to the legalisation of euthanasia and assisted suicide. Although there is an attempt in this proposal to distance doctors from the ‘sharp end’ of the process outlined in the Consultation paper, a doctor must still prescribe a lethal drug and a pharmacist must dispense it. Despite promises of a ‘conscience clause’, this is a perversion of the role of health professionals and must be resisted.

We are grateful for the opportunity to respond to this Consultation.

Rev Dr Donald M. MacDonald
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