End of Life Assistance (Scotland) Bill

John P Gillan

In response to the committee’s invitation to individuals to contribute to the consultation process on the above Bill I should firstly like to thank the committee for making it possible for individuals to contribute to the consultation process. The Bill has such profound implications for us all that it is fitting that the public has the opportunity to submit its views.

For my part I wish to ask the committee to consider in particular the matter of safeguards and restrictions. These are crucial if the Bill is to progress into law. Supporters of the Bill claim they will ensure that patients wishes will be respected, and as one supporter of the Bill has promised, ‘only a few’, indeed, ‘only a handful’ of people will exercise ‘the ultimate choice’ to end their life.

However, in the light of experience, what grounds have we for placing our confidence in the longevity of safeguards and restrictions? We have seen in the past that they can easily be removed. An example of this was seen in the wake of the Abortion Act of 1967. When the Bill was presented to Parliament its passage through the House depended on assurances that abortion be permitted only in very limited circumstances. Yet later, with relative ease, the law was relaxed - an outcome not anticipated or desired by the Bill’s originators.

There is every reason to believe this scenario will be repeated if the End of Life Assistance Bill becomes law; for if a long-held and coherent ethical position is abandoned, a dynamic is created which cannot be halted by mere arbitrary restrictions. As we have witnessed, subsequent legislation will easily change the parameters of such an Act, just as the Abortion Act produced a dynamic that paved the way for further change. It is simplistic to believe that an ethical position that has informed and shaped society’s laws and values for more than a millennia and a half can be deserted without ongoing momentum. We know how restrictions and safeguards carry great weight in gaining support for a Bill but we must be extremely dubious of their value, particularly with the End of Life Bill which shares similarities with the Abortion Bill in regard to the ending of life.

In addition to this potential widening of the laws on assisted death there is also the question of the change that will come about, regardless of putative safeguards, in the relationship between doctor and patient. Once again it is instructive to learn from precedent. In Holland, the first country in the world to legalize euthanasia, in 2002, there has been a severe decline in the quality of care for terminally ill patients. In her book on the history of euthanasia called ‘Redeemer Under God’, Dr. Anne-Marie The reveals that the former health Minister and Deputy PM, Dr. Els Bons, who guided the law through the Dutch parliament, admits that medical care for the terminally ill has declined since the law came into effect. Amsterdam with a population of 1.2 million people is now served by just two tiny hospices. According to Dr. The, many ‘often ask
for euthanasia out of fear’ of dying in agony because of an absence of effective pain relief.

Phyllis Bowman of Right to Life, a British group opposed to euthanasia described the position in Holland: “People can not longer get palliative care when they need it - they just get an injection.” Confirmation of this sad fact was contained in the Remmelink Report (1991) which showed that 1,040 people (an average of three per day) were actively killed by Dutch doctors without the patients’ knowledge or consent. In addition 8,100 patients died as a result of doctors deliberately giving them overdoses of pain medication, not for the primary purpose of controlling pain, but to hasten the patient’s death. Lord Walton in his reported conclusion of the House of Lord’s Select Committee on medical ethics highlighted this denial of patients’ rights: “It would be next to impossible to ensure that all acts of euthanasia were truly voluntary and that liberalisation of the law was not abused.” It is worth noting that this propensity among some doctors was observed in Germany during the 1930s when not a few displayed their willingness to co-operate with the eugenics programme of the government until it was finally halted only after an outcry from the victims’ families.

Lord Walton’s alarming conclusion has recently been supported by William Reichel of the Centre for Clinical Bioethics at Georgetown University, Washington. Dr. Reichel has studied physician-assisted suicide and euthanasia since 1988, especially in the Netherlands. In a letter to the Times (17/06/09) he endorses Lord Walton’s conclusion adding: “In the Netherlands doctors have practised assisted suicide and euthanasia for decades. Although the law calls for performing assisted suicide and euthanasia with the patient’s consent, it is often involuntary. The law also calls for obtaining a second opinion of another physician, but this is often never done.” Dr. Reichel concludes: “This pattern continues in the Netherlands. Early death can save money for healthcare systems and surviving family. Once assisted suicide is accepted abuses are possible. Those who believe legal assisted suicide will assure their ‘choice’ are naïve.”

In light of the above it is difficult to understand why anyone would wish to open this Pandora’s Box, particularly at a time when palliative care has never been better. In the past, even in the face of great suffering, our forebears rejected assisted-suicide, principally in obedience to the Decalogue but conscious too that it would not be contained and that more harmful changes in attitude and behaviour would follow. Wisely they knew that with logical inevitability, with all its immense ethical, legal and social implications, society would ultimately be led to accept the killing of the very aged, the sick, the infirm and those simply deemed to have ‘meaningless’ lives.

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