End of Life Assistance (Scotland) Bill
Synod of Scotland of the United Reformed Church

[Extract from Margo MacDonald’s Policy Memorandum pp1-2]

This document relates to the End of Life Assistance (Scotland) Bill (SP Bill 38-PM) as introduced in the Scottish Parliament on 20 January 2010

END OF LIFE ASSISTANCE (SCOTLAND) BILL

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POLICY MEMORANDUM
INTRODUCTION
1. This document relates to the End of Life Assistance (Scotland) Bill introduced in the Scottish Parliament on 20 January 2010. It has been prepared by the Non Executive Bills Unit on behalf of Margo Macdonald, the member in charge of the Bill to satisfy Rule 9.3.3(A) of the Parliament's Standing Orders. The contents are entirely the responsibility of the Member and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 38-EN.

POLICY OBJECTIVES OF THE BILL
"There is no right way to die, and there should be no schism between advocates for better palliative care and advocates for making it possible to hasten death with a physician's help. Good palliative care and the right to make this choice are no more mutually exclusive than good cardiologic care and the availability of heart transplantation. To require dying patients to endure unbelievable suffering, regardless of their wishes is callous and unseemly. Death is hard enough without being bullied. Like the relief of pain, this too is a matter of mercy.-"'

2. The purpose of the Bill is to enable persons whose life has become intolerable and who meet the conditions prescribed in the Bill to legally access assistance to end their life.

3. The Bill is concerned with providing persons with a choice at the end of life. It is about ensuring that persons who find their lives intolerable can have the dignified death they desire.

4. The Bill details those persons eligible to apply and specifies the criteria to be met

5. For most people nearing the end of life, good quality palliative care ensures a dignified and peaceful death, but for a small minority, this is not so. It is the needs of these persons the Bill seeks to meet.

6. For some people, death is not only painful, but entails loss of dignity. To avoid this experience at the end of life, some resort to methods of suicide that
can be violent, or unsuccessful or both. Some others refuse food or water in an effort to control the time and manner of their death.

7. The Bill recognises that autonomy and the right of the person to seek assistance to die. It will not be a criminal offence or a delict for another person to give assistance if it is requested and there is adherence to the requirements and provisions of the Bill.

8. At present the only way for a person seeking end of life assistance to receive such assistance is to travel abroad to a jurisdiction in which assisted dying is legal, such as Dignitas in Switzerland.

9. The Member believes this to be unsatisfactory in every respect. The person concerned may have to end their life before it becomes intolerable, to comply with Swiss law. The ability of a person to access the Dignitas facilities in Switzerland depends on financial means rather than personal or medical considerations.

10. The quality of a person's death is indivisible from their quality of life, as death is simply the last part of life. It therefore follows that the person concerned should have the same right to attempt to ensure for themselves a peaceful and dignified death.

1 Marcia Angell. MD. Senior Lecturer in the Department of Social Medicine at Harvard Medical School. "The Quality of Mercy " published in the Willits News July 11. :006

SP Bill 38-PM (2010) Session 3

Working Group Remit:

The Working Group understands its remit to be Part 1 to consider Margo Macdonald's End of Life Assistance (Scotland) Bill currently before the Scottish Parliament and, if possible, to make a response (via the Church &Society Committee) by 12th May.

Part 2 to consider the URC General Assembly 2007 resolution 51, and especially clause 4, on Assisted Dying and associated report and make a response to September’s Synod meeting (with an interim report to the joint Programme Committees' meeting on 11/12 June).

It is recognised that Parts 1 and 2 are closely connected. We have concentrated initially on Part 1, giving the Margo MacDonald Bill priority for two reasons:

(i) Scottish Parliamentary Bills come within the direct remit and interest of the Synod’s Church and Society Committee (C&S), particularly through our membership of the Scottish Churches Parliamentary Office Advisory Committee (SCPOAC).

(ii) We wish to take the opportunity of contributing to the consultation period of the Bill which expires on 12th May 2010.
Approach to Margo Macdonald’s End of Life Assistance (Scotland) Bill

Part 1 of the Working Group’s report has been prefaced (page 1) by an extract from SP Bill 38-PM the Policy Memorandum accompanying the Bill. This gives both the context and intention of the Bill. The Bill is now used as shorthand for the Margo Macdonald Bill. Inevitably some comments made in Part 1 will also apply to our consideration of Part 2.

Consultation Questions:
Q1: What are your views on applicability requirements? (p.3)
Q2: From what minimum age should a person be able to specify an end of life choice? Please give reasons for your answer. (p.4)
Q3: Do you feel a waiting period of 15 days is enough? If not, what would be a sufficient waiting period and why? (p.5)
Q4: Do you have a view on what constitutes a “valid and documented request”? (p.5)
Q5: Are there any other responsibilities you would add to the responsibilities of the attending physician? (p.5)
Q6: Are there any other responsibilities you would add to the responsibilities of the consulting health professional? (p.6)
Q7: If the proposed Bill did not specify a review committee, do you have any views on alternative arrangements or safeguards? (p.13)

Responses to the consultation questions issues accompanying the Bill
1 Q1 applicability requirements: agreed
2 Q2 minimum age: Whilst recognising that 16 years is relatively easy for legal purposes, what about a mature 13 year old? Netherlands allows for 12 years and over. More research and reflection needed.
3 Q3 waiting period: agreed
4 Q4 valid and documented request: suggest involvement of solicitor especially if requesting person is incapable of writing but perhaps for all requests
5 Q5 & Q6 other responsibilities: (a) suggest requesting person has to agree, perhaps by signing a document, that the designated practitioner has fulfilled the requirements of 7(1). (b) whilst recognising the ultimate right of the requesting person to autonomy in their decision, we agreed that any family should be informed, at the latest, once the decision has been made/after the first formal request has been approved. (c) In addition, one of the duties of both the designated practitioner in 7(1), and followed up by the psychiatrist, should be to ensure the requesting person has thought about the impact on family where there is one but with no pressure on the requesting person to talk to the family if he/she refuses to do so. But it’s important that the family situation is known by the medical practitioner who may have to tell them him/her-self just before or after death.
6 Q7 alternative arrangements or safeguards: agreed that none are needed.

Other points raised:
7 A medical practitioner is allowed to opt out on conscience (the Policy Memorandum pp17 -18 at Objections 113, 114.and 115) However it is
desirable that this is made explicit in the Bill itself, including the current GMC guidelines which require a practitioner opting out to arrange for another doctor to participate in his/her place.

8 It is noted that the Bill allows for either doctor or patient or someone else to administer the medication (thus clouding an agreed understanding that in voluntary euthanasia the doctor administers medication leading to death, whilst in assisted dying the doctor provides medication, responsibility for taking it is left to patient. (per Paul Badham’s book ‘Is there a Christian case for Assisted Dying’? pp xi-xii).

Conclusion on consultation document
The Group accepts the validity of assisted dying in principle; we have no ‘in principle’ objections to the Bill as written. Our concerns are that the safeguards are adequate.

However, we recognise that the above ‘technical’ comments on the Bill do not address either social or religious matters adequately. It is because the Working Group’s own Christian theological perspectives are implicit within their comments that we now need to make that theology more explicit. We agree we cannot, with integrity, make even a technical submission without a stated theological framework even if that is not part of the submission.

Theological assumptions
1. It is possible to admit exceptions to apparently absolutist rules. The prohibition on killing contained in the Decalogue’s 6th commandment ‘You shall not kill’ is a general rule which is breached on a number of occasions within a number of contexts e.g. the slaying of enemies (1 Samuel 15.3), the penalties for blasphemy (Leviticus 24:23) and adultery (Leviticus 20:10; Deuteronomy 22:22), without destroying the general rule. In practice the focus of ethical concern seems to have been to prohibit murder, as legally defined. The End of Life Assistance Bill can be viewed as such an exception to the general rule.

2. This is a permissive Bill – allowing assisted dying (a form of voluntary euthanasia) as a legal option for the terminally ill under strictly controlled conditions – which does not promote the cause of euthanasia as a generally acceptable procedure. This is a prime concern of those espousing the ‘slippery slope’ argument. The evidence, so far, from countries permitting assisted dying, does not show a tendency to push for relaxation of the permitted conditions. It is admitted that careful monitoring of the Bill’s effect is prudent. This is built into the Bill.

3. Loving concern for humankind, including the relief of suffering, is one of the facets of God’s nature as revealed in Jesus Christ. This is well attested in the gospels. If we assert that this cannot include ‘assisted dying’ fundamental difficulties about God’s loving nature are raised e.g. Why should God wish to perpetuate unbearable suffering? Why should God wish to end our free will at this point? Why should God insist that the gift of life is non negotiable? The nature of God as revealed in Christ is not uncaring or capricious or ungenerous; rather it is compassionate, consistently loving, and generous. Assisted dying as
conceived by this Bill is consistent with the belief that God’s nature is essentially loving. Assisted dying, as conceived in the terms of the Bill, can thus be viewed as a loving act.

4. Medical practitioners are required by the Bill (and on a number of occasions) to discuss appropriate palliative care with any applicant for assisted dying. In the documents accompanying the Bill it is made clear that good palliative care should be the norm for all suffering from terminal illness. This approach is entirely in keeping with the gospel ‘golden rule’ ‘In everything do to others as you would have them do to you; for this is the law and the prophets’ (Matthew 7:12, NRSV). The ‘golden rule’ is not confined to Christian thinking, but expresses a very basic understanding of the best of human action towards others. It is significant for churches that the research undertaken for the Bill reveals that the majority of respondents find no inherent contradiction between the need for good palliative care and the notion of assisted dying as proposed in the Bill. The root of this ‘secular’ judgement is surely based on the ‘golden rule’.

5. The Policy Memorandum (see extract printed on p1) makes it clear that the Bill is concerned to protect the ‘dignity’ of those who suffer intolerably during their terminal illness. Human ‘dignity’ from a Christian viewpoint is based on the belief that we are made in the image of God, and that God is the final guarantor of our identities. The tendency of some to dismiss ‘dignity’ as a set of secular values promoted at the Enlightenment is a misreading of the origins of a doctrine which is deeply ingrained in the Christian tradition of the sacredness of life. Human dignity is well founded in Christian theology, with biblical roots in both the Old and New Testaments. The promotion of human dignity sought in this Bill is consistent with human dignity from a Christian viewpoint.

6. The Working Group, while holding strongly to the ecumenical vision which is part of the United Reformed Church’s core beliefs (both inter church working and the shalom of the whole inhabited earth) asserts that the church’s public stances should be able to accommodate a variety of Christian opinion rather than insisting on one voice. We recognise and respect the responses of Scottish churches and individuals who oppose the Margo MacDonald Bill on Assisted Dying. The Working Group, however, has chosen to take a different view which we trust will receive a similar recognition and respect.

John A Young
Convener Church & Society Working Group on End of Life Assistance
7 May 2010

The above comment of the Working Group has been accepted by the Church & Society Committee of the Synod of Scotland, of the United Reformed Church. Whilst we endorse the work of the Working Group, end of life assistance in general and the substance of this Bill in particular have not been discussed within the Synod of Scotland. The response of the Working Group would not necessarily be the view of everyone in the Synod. The overall position of the United Reformed Church, within the United Kingdom, was last
revealed in the URC General Assembly 2007 Resolution 51, and especially Clause 4, on Assisted Dying, and the associated Report. This opposed assisted dying.

Ian Wilkie
Convener Church & Society Committee
Synod of Scotland of the United Reformed Church
11 May 2010