End of Life Assistance (Scotland) Bill

Ian Maxfield

I stand by the objection to the End of Life Assistance bill statement as prepared by the Catholic Parliamentary Office (see below).

I believe all human life, from the moment of conception to the moment of natural death, contain an intrinsic dignity that must be upheld. The cost to both human dignity, society, and the public purse if implemented will be far greater than if care was provided to those in need.

I therefore object to this bill and I request that it be rejected.

Ian Maxfield
7 May 2010

RC Politics news Alert
7 May 2010

Deadline for Submissions on End of Life Assistance (Scotland) Bill

Submissions expressing views on the bill which will introduce assisted suicide and euthanasia must be received by the Parliamentary Committee on or before Wednesday 12 May 2010.

The Catholic Parliamentary Office has prepared a response which is included below. The Committee welcomes any individual or group making known their views on the bill. Some short points which could be raised in opposition to the bill include:

- It proposes a rupture from the legal protection given to all people from being intentionally killed.
- It is fundamentally discriminatory by identify particular groups who can be candidates to have their lives ended.
- Its procedures and safeguards will easily permit many vulnerable people to be killed.
- It will create the impression that some people are right to want to die.
- It will make some people feel a burden for not choosing to die.
- It will permit children of 16 years of age to request to die.
- It has no conscious clause to permit doctors and medical staff to refuse to participate in the procedures.

Responses can be sent by email to:
ELABill.committee@scottish.parliament.uk
Overview
Any form of assisted dying is intrinsically evil and therefore the Catholic Parliamentary Office strongly opposes the End of Life Assistance (Scotland) bill. The proposals in the bill are contrary to the rule of law which requires the uniform protection of all human life. The bill, however, is intrinsically discriminatory by identifying classes of people whose lives are not to be provided full protection under the law. This is aggravated by the frail procedures which will permit many lives to be put at risk through varying degrees of psychological, social or cultural coercion. The proposals therefore strike at the basic principle of human solidarity by abandoning those most likely to be in need of support.

Definitions
There appears to be some confusion as to whether the bill is intended to introduce only assisted suicide or euthanasia and assisted suicide. Assisted suicide involves providing the means or assistance for a person to take his own life. Euthanasia involves a person directly taking the life of another person through an act or omission which is intended to cause death.[1] This should not be confused with withholding or withdrawing futile or over-burdensome treatment which is morally and legally licit. The bill states: “In this Act “end of life assistance” means assistance, including the provision or administration of appropriate means, to enable a person to die with dignity and a minimum of distress.[Emphasis added]” The definition clearly permits a third party[2] to administer lethal means and therefore the bill would permit euthanasia and assisted suicide.

Dignity of all human life
The value of human life is the common foundation for all those who have concern for the wellbeing of every person. Proponents of assisted suicide and euthanasia, frequently claim that they wish to support human dignity. However, fleeing the possibility of suffering or of loss of control is not based on an adequate or objective vision of the dignity of the human person. The Church maintains that every human life, irrespective of the capacities or state of health of the person, has an intrinsic dignity which must be respected and that their life must be protected.

Duty of State to protect every human life
It is a duty of the State to protect the lives of all of its members. This duty arises from the value of human life created in God’s image. It is a duty which is also recognised by those who do not believe in God. Throughout history
and across cultures the inviolability of human life has been upheld, such that the intentional killing or hastening of death is contrary to the law. This is the basis of the right to life which is protected by homicide laws and by article 2 of the European Convention on Human Rights.

The protection provided by Article 2 entails positive obligations such that states bound by the terms of the convention are obliged to take actions to prevent threats against life arising within society.

Permitting an individual to request and receive help to end their life is therefore contrary to this duty of protection. This is affirmed in the comments of the Parliamentary Assembly of the Council of Europe which has stated:

“The Assembly therefore recommends that the Committee of Ministers encourage the member states of the Council of Europe to respect and protect the dignity of terminally ill or dying persons in all respects . . .

(c) by upholding the prohibition against intentionally taking the life of terminally ill or dying persons, while: (i) recognising that the right to life, especially with regard to a terminally ill or dying person, is guaranteed by the member states, in accordance with article 2 of the European Convention on Human Rights which states that 'no one shall be deprived of his life intentionally'; (ii) recognising that a terminally ill or dying person's wish to die never constitutes any legal claim to die at the hand of another person; (iii) recognising that a terminally ill or dying person's wish to die cannot of itself constitute a legal justification to carry out actions intended to bring about death”

Suicide

Since many of the supporters of assisted suicide make reference to suicide being permissible as a logical basis for permitting assisted suicide, we wish to comment briefly on suicide. Suicide is always as morally objectionable as murder. Laws which ostensibly permit suicide are not based on an acceptance of the rightness of choosing to end one’s own life, but typically on compassion for the victim who needs support rather than prosecution. It is therefore more correct to speak of suicide as decriminalised rather than as legal. This is certainly the situation in England and Wales following the Suicide Act 1961. In Scotland it has been stated that suicide is not a criminal offence but attempts at suicide may be prosecuted as a breach of the peace.

It is relevant to note that depression and other mental health problems are factors for a very high proportion of attempted suicides. This underlines the need for compassionate support for those who feel tempted to suicide and to those who suffer from illnesses and conditions which make them prone to feel suicidal. This in fact is the natural response to those who have suicidal feelings as exemplified by organisations such as the Samaritans and the campaigns aimed at avoiding suicide by successive Scottish Governments.
Assisted Suicide
Laws which decriminalise suicide do not therefore undermine the basic requirement of law that human life must be protected. Hence the provision of assistance to permit a person to commit suicide is contrary to this basic protection and is rightly a criminal act to which a severe penalty is attached. The proposal to permit assisted suicide is therefore contrary to the inalienable respect that must be given to every human person.

In addition to the intrinsic evil of assisting a person to end his life, the terrible consequences of the use of this provision more widely than envisaged by the bill’s proposer must be considered. That is, the benefit that a minimal number of people may believe they obtain from assisted dying cannot outweigh the concern for the grave dangers that are thereby raised for the whole of society from the abuse or widening of the practice of assisted killing.

Consent and Verification Process
The bill’s practical arrangements for processing requests to die are not proportionate to the level of power which is to be given to those who would administer the proposed process. If passed the bill would enable the termination of life and therefore, if such a power could be legitimately conferred, it would require the most stringent control of the process. The process therefore would have to be more akin to that used for implementation of the death penalty rather than the meagre consultation requirements proposed by the bill. The proposed two-stage request process gives little confidence that serious and detailed consideration could be given to ensure that applicants were not suffering from depression or mental illness; and were not subject to any undue influences arising from family, carers or general social attitudes. The window within which someone can die from their first request under the bill is between 19 and 60 days. This is a startling fact which raises many concerns about the haste over which a decision may be taken and the level of seriousness that alternative solutions are given in response to a person’s wish to die.

Safeguards
Access to euthanasia/PAS is typically described in the context of a loved one helping a family member to implement their autonomous choice. The cases of assistance motivated by compassion may be one aspect, but another, neglected aspect, is the extent of abuse that takes place against those who are vulnerable. For instance the House of Commons Select Committee on Health has noted that in England estimates propose that 500,000 to 900,000 elderly people are victims of abuse typically by members of their family or other carers and that psychological, financial and physical abuse account for the most common types of such abuse. In Scotland members may be familiar with the local campaigns to highlight the extent of exploitation and abuse that is inflicted on elderly people by family members. These routinely identify that vulnerable people are targeted by family members eager to procure money and property. Similarly, it is pertinent that abuse of disabled people by carers is reported to be extensive. These social concerns provide a context where vulnerable people face grave danger
of being manipulated by those with a financial or emotional interest in their
death.[14]

A further concern is that the nature of the doctor-patient relationships makes it
difficult to ensure absolute probity and competence in assessing the relevant
factors. For example, doctors may not be competent in giving palliative care,
may misdiagnose or give wrong prognosis or may miss depression.[15] The
legalisation of assisted suicide and euthanasia will greatly affect the
relationship of trust between patient and doctor. A change in the law would
also undermine the doctor’s right not to be drawn into activities contrary to
Hippocratic ethics which have guided medicine for centuries. It is a concern
compounded by the absence of a conscience clause in the bill; which
therefore raises the prospect of doctors being compelled to participate in
killing patients.

Cultural change
An important point to consider when examining a proposal to change
important principles in society is the cultural message that it promotes. Once a
particular principle is established as acceptable then it is natural that some
people will seek to build on this principle. It is not difficult to envisage that a
system of ending lives of people may eventually become one that is far
removed from that envisaged by those who believe that only a small number
of people in hopeless positions and in terrible suffering will be provided with
assistance to die.

Making one particular decision, in this case that some should permitted to be
killed, can change the moral or empirical assumptions about further courses
of actions which are presently not acceptable, or people can become
desensitized to such actions.[16]

It is the progression from one activity to another which is important in
assessing the risk of state approving the ending of innocent lives. For
example the Netherlands has witnessed the move from ending the lives of
individuals who are terminally ill, to those who are chronically ill, to those who
are not physically ill at all.[17] Also they have seen a move from acceptance
of physical suffering, to mental suffering, to apathy for life as justifying
euthanasia.[18] The pool of potential candidates has also grown from
competent adults to minors and newly born children.[19] Around a thousand
people a year, without requesting, have their lives ended in the
Netherlands.[20]

There are also changes in the dynamics of the environment in which care is
provided, for example euthanasia or assisted suicide may appear a tempting
solution when there are financial pressures; or the demand for improved
quality of care may be lessened if a means of avoiding providing care by
ending the life of the patient is an option.[21]

Advocates for assisted dying, it is submitted, are too quick to reject the
famous warning of Leo Alexander, commenting on the holocaust, who
observed that “It started with the acceptance of the attitude, basic in the
euthanasia movement, that there is such a thing as a life not worthy to be lived... But it is important to realize that the infinitely small wedged-in lever from which this entire trend of mind received its impetus was the attitude toward the non-rehabilitable sick".\[22] The likelihood of moving to the practise of previously unacceptable behaviour once the principle of killing is accepted is strongly affirmed by the experience of the Netherlands.\[23]

The danger is not lost on those who may be first to be exposed to the inherent eugenic practice of deciding which persons are right to want to die: “In 1939, Hitler authorised Aktion-T4, a programme of mass-murder targeting disabled people. T4, combined with unstructured so-called “wild euthanasia”, killed more than a quarter-of-a-million disabled people, yet this history is largely forgotten”.\[24] In light of the public efforts to promote euthanasia, it is submitted, that it is understandable that there should exist a determined effort to dismiss this history lesson.

**Conclusion**

The bill effectively aims at enabling people to act in a manner incompatible with the basic good of the human individual. It will strike a blow against the fundamental sanctity of human life and against human solidarity. Support of the bill would be a misguided support for those who want to exercise exaggerated control over their own lives and will sacrifice the sanctity of life in general and the protection of vulnerable people in particular. The role of the law in restraining the malicious or those of ill intent cannot be ignored because of the special pleading of those who wish absolute control over their lives. The moral law, upon which the law ultimately finds its source, ensures that the weak are not placed at the mercy of the powerful. The proposals for ‘end of life assistance’ as it is euphemistically called, is truly a path which places the weak at considerable risk to satisfy the distorted wishes of those who are most often socially powerful. It is appropriate to consider that in no way can such a law be described as compassionate. “True compassion leads to sharing another’s pain; it does not kill the person whose suffering we cannot bear”.\[25]

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Catholic National Endowment Trust Charity Number: SCO 16650
The bill does not require the doctor to administer the means of death but merely to be present.

For example c.f. St Augustine, City of God Book I, Chapter 20

ECHR Article 2

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:
   a. in defence of any person from unlawful violence;
   b. in order to effect a lawful arrest or to prevent escape of a person lawfully detained;
   c. in action lawfully taken for the purpose of quelling a riot or insurrection.


Evangelium Vitae 66

See for example, Solicitor General Frank Mullholland in response to Parliamentary Question S3W-31018

See fact sheet at www.chooselife.net/AboutSuicide/SuicideandStigma.asp (last accessed 6 May 2010)

See for example http://www.scotland.gov.uk/Topics/Health/health/mental-health/servicespolicy/DFMH/suicidedeprevention (last accessed 6 May 2010)


For example ‘Uncomfortable Reading’ campaign supported by Renfrewshire Council, Strathclyde Fire and Rescue and Strathclyde Police, see http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/8241488.stm (last accessed 21 April 2010)

For example ‘Open to Abuse’, Disability Now, available at URL http://www.disabilitynow.org.uk/living/features/open-to-abuse/ (last accessed 21 April 2010)

[19] Ibid at 75