Jeremy Purvis MSP
The Scottish Parliament
Edinburgh EH99 1SP

4th April 2005

Dear Mr Purvis

Dying with dignity

Thank you for the opportunity to respond to the above consultation paper. I attended the Scottish Council on Human Bioethics' conference on euthanasia on 15th January 2005 and thought that you spoke well.

I am responding to your consultation paper as a Scot, a medical doctor and a Christian.

My response is in 3 parts (enclosed):

1. Concise personal response
2. Response to consultation paper's questions
3. Selective critique of the consultation paper

Thank you for your interest in this matter.

Yours sincerely

Dr T Everett Julyan
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cc *Bill Butler MSP, Bill Aitken MSP, Robert Brown MSP, Patrick Harvie MSP, Rosie Kane MSP, Tommy Sheridan MSP, Nicola Sturgeon MSP, Sandra White MSP*

1. Concise personal response

I am deeply concerned about assisted suicide being legalised in Scotland. As I understand it, the main reasons given in support of legalising assisted suicide are that (a) individuals have a right to it (and we must respect their autonomy), (b) the majority want it, (c) we need it and (d) we can supervise it safely. I believe that these are flawed arguments.

(a) Autonomy – individuals have a "right to die"

- The consultation paper simply assumes that we all have a "right to die" with no justification
- The terminology is misleading as the consultation is really about the "right to kill oneself" and the "right to be helped to kill oneself", not the "right to die"
- The "right to refuse life-saving/sustaining/prolonging treatment" is distinct from the "right to kill oneself" (suicide)
- The "right to kill oneself" (suicide) is distinct from the "right to be helped to kill oneself" (assisted suicide)
- The "right to be helped to kill oneself" (assisted suicide) is distinct from the "right to be killed on request" (euthanasia)
- There are no such rights as the "right to be helped to kill oneself" or the "right to be killed on request" [see Article 9.c. of the Council of Europe Parliamentary Assembly Recommendation 1418 (1999)]
- Individuals' rights and self-determination (autonomy) cannot be absolute within society
- Absolute individual autonomy leads to anarchy, not liberty
- For example, in the UK we do not support the autonomy of individuals to drive on whichever side of the road they please, nor do we respect the autonomy of individuals to practice paedophilia
- Individuals who wish to die do not have the right to demand that other individuals must help them
- Respect for individual autonomy does not justify legalising assisted suicide in Scotland
- Rather, requiring doctors to help their patients kill themselves fails to respect the autonomy of the doctors

(b) Consensus – the majority want it

- The majority are not always right
- For example, even after Semmelweis showed otherwise, the majority of his medical colleagues believed that hand-washing was unnecessary – and new mothers continued to die.
- The majority of Nazis believed that killing Jews and the disabled was right – and millions died in correcting their mistake in World War II
- Majority opinion is an insufficient basis for legalising assisted suicide, especially in such a serious and specialised matter with far-reaching consequences for all

(c) Necessity – we need it

- A major underlying assumption is that death is a necessary part of the relief of suffering, with no justification for this belief being given
- Individuals who are suffering unbearably want relief from their suffering
- It may be assumed by the individual (and/or their carers) that death is the only way to achieve that relief and therefore death may be requested
- However, this does not necessarily mean that the individual wants to die – rather, they do "not want to go on living <u>like this</u>" (consultation paper, page 2, <u>underlining mine</u>)
- It is their suffering they want to end, not their life
- It is their suffering we need to deal with, not their life we need to end
- They need adequate palliative care, not assisted suicide
- Assisted suicide robs individuals of dignity rather than preserving it
- Assisted suicide means that, rather than dealing with suffering, we judge that their death is worth more than their life
- Human life is the most precious thing known to us – ending it deliberately and prematurely tramples on human dignity rather than respecting it
- We cannot know that death ends all suffering
- Death may end physical and/or psychological (emotional) suffering but suffering can also be spiritual
- Jesus Christ taught that death is not the ultimate end but that we will all stand before God to give an account of our lives
- He taught that for those who fall short of God's perfect standards, death leads to suffering in hell
- Death, therefore, may not relieve suffering, but rather increase it
- Doctors and Christians oppose assisted dying because they care, not because they don't
- Assisted suicide is not necessary to deal with suffering – indeed, it ignores the real problem, robs individuals of dignity and may actually increase suffering

(d) Safety – we can supervise it adequately

- A powerful argument against the legalisation of assisted suicide is that it will inevitably lead to abuses and the deaths of some who did not request it
- Assisted suicide legislation based on the establishment of a "right to be helped to kill oneself" will lead to the establishment of a "right to be killed on request", i.e. euthanasia
- This is because individuals who lack the physical ability to kill themselves with help under the terms of assisted suicide legislation will argue that the law discriminates against them by denying them the "right to die"
- If there is a "right to die", then individuals who lack the physical ability to kill themselves even with assistance should have whatever help they require from a third party
- This will establish the "right to be killed on request", i.e. euthanasia
- Experience of euthanasia in the Netherlands reveals that legalising euthanasia leads to nonvoluntary and even involuntary euthanasia, where patients are killed without consent or even against their wishes
- Experience with abortion legislation in the UK reveals that the apparently restrictive terms of the 1967 Abortion Act are interpreted to allow abortion practically on demand
- 200,000 human lives are ended by doctors every year in the UK through abortion – over 6 million since 1967
- How many people will be killed in the next 40 years in Scotland if assisted dying is legalised?
- A conscience clause will not protect doctors or other healthcare professionals from employment discrimination
- The conscience clause in the 1967 Abortion Act has resulted in discrimination against doctors such that those who are unwilling to participate in abortion find it difficult to pursue a career in obstetrics & gynaecology – I have personal experience of this (**http://news.bbc.co.uk/1/hi/health/961169.stm**)
- It is clear that assisted dying legislation with a conscience clause will mean that specialities such as geriatrics, oncology and palliative care as well as general practice will become increasingly closed to doctors who want to help their patients but are not willing to kill them
- Legally requiring doctors to help their patients to kill themselves changes the core philosophy of medicine and contradicts historical codes of medical ethics
- Legalising physician-assisted suicide would make doctors the most dangerous individuals in the country, the only ones who could kill with the law on their sides
- This would destroy the most important aspect of the doctor-patient relationship, trust

As a qualified GP and current trainee in psychiatry, I meet patients who do "not want to go on living like this" on an almost daily basis. A doctor's response always must be to listen and to care by dealing with the underlying suffering and not simply by ending the sufferer's life.

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2. Response to consultation paper's questions

1. Please specify any concerns that you have with the proposal and how these could be addressed.

See my concise personal response (above)

2. What are your views on using the definitions of adult and incapable as set out in the Adults with Incapacity (Scotland Act) 2000.

Acceptable

3. By whom should reporting mechanisms be administered?

Irrelevant - assisted dying should not be legalised in Scotland

4. What period, within which death is diagnosed should a patient be entitled to request assistance to die?

Irrelevant - assisted dying should not be legalised in Scotland

5. What would the financial burdens on the NHS, public sector, and medical organisations or private organisations arising from this Bill be?

Irrelevant - assisted dying should not be legalised in Scotland

6. Do you have any further comments to make?

See my selective critique of the consultation paper (below}

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3. Selective critique of the consultation paper

(a) Page 1
Dying with dignity
The title "Dying with dignity" is ambiguous and misleading. The desire to die with dignity and to seek the same for others is natural. Healthcare professionals recognise this and dedicate their lives to helping their patients die with dignity when this natural process occurs.
However, the title is ambiguous and misleading because the consultation paper largely equates "dying with dignity" with assisted suicide. As argued in my concise personal response (above), assisting a suicide is to judge that death is preferable to life, thus robbing the individual of the innate and inherent dignity of human life.

(b) Page 2
John Close said that he "did not want to go on living like this"
A superficial reading of this statement assumes that Mr Close simply meant that he wanted to be dead. Many patients, including those with non-terminal illnesses and even apparently trivial social problems, say that they do not want to go on living "like this". This does not necessarily mean that death is the best or only solution. These kinds of statements indicate suffering which requires skilled intervention to identify and deal with the underlying problems. For example, an expressed wish to die while suffering from a terminal illness may be made on the basis of a belief that there is no relief possible and therefore no reason to go on living. This may represent a loss of hope which can be more effectively dealt with by increased analgesia, an antidepressant, a chaplain or a counsellor rather than by a doctor with a lethal medication.
However, I do agree with one doctor's observation that a doctor who has never felt like providing euthanasia lacks compassion.

(c) Page 4, paragraph 2
I do not know the circumstances of your relatives' deaths but the emotive, subjective and undefined phrase "unbearable pain" does not help to inform the consultation. The law is portrayed as an uncaring dictator, forcing your relatives to suffer. In fact the law protects vulnerable patients like your relatives from being killed by doctors or others. The law recognises the right to life and the right to be treated for illness and suffering. The law correctly does not recognise the "right" of one human being to require that another should kill them.
The pronouncement that the current law represents a "limitation on our rights" is misleading, unhelpful, biassed and simply wrong. What rights? There is no "right to be killed on request" nor a "right to be helped to kill oneself".

(d) Page 4, paragraph 4
See above regarding the loss of dignity.

(e) Page 8, paragraph 3
"For some a stigma still exists in taking one's own life". Should suicide ever be regarded as normal or desirable?
"There is a need to clarify the law . . ". Is there? Is it not clear that it is illegal to assist suicide or to kill someone?

(f) Page 9, paragraph 8
"Arguably, this situation is discriminatory as well as logically inconsistent".
The law is discriminatory in these matters and rightly so. Discrimination is foundational to the law, the discrimination between right and wrong.
The right to commit suicide and the right to refuse treatment are different from the "right" to be helped to kill oneself or to be killed on request. Letting nature take its course by withholding or withdrawing ineffective treatment is also vastly different from acting with the intention of causing death. I can see no logical inconsistency in the current legislation as described. The consultation paper creates logical inconsistency by failing to define the issues it purports deals with and by failing to discriminate between them.

(g) Page 10
Perhaps there is a need to clarify the law. But this **is** a need to clarify the current law, not to fundamentally change it.

(h) Page 11, paragraph 6

Belgium

It appears that doctors in Belgium were breaking the law and breaching human rights by killing people who trusted them. This was murder, albeit with the best of motives - doctors abusing their position by killing vulnerable patients who had entrusted their lives to them. The way to deal with murder is not to decriminalise it or make it legal so that it can be regulated.

Moreover, it is not the case that legislation has eradicated nonvoluntary or involuntary medical killing in the Netherlands. In fact, it may have increased it.

(i) Pages 13-15

Capacity through to proposals

It is significant and concerning that there is no specific mention of depression or other mental health issues in the proposals. Patients with depression may be "capable" but this hardly makes assisted suicide appropriate. Capacity and mental health are not the same.

(j) Page 14

Diagnosis and prognosis

It is important to distinguish between predicting the time-scale and certainty of death and judging the appropriateness of treatment. Doctors are trained to judge whether or not a treatment is likely to benefit their patient. Therefore, decisions about withholding or withdrawing treatment are important medical decisions.

However, deciding when and how patients should die are not a medical decisions and doctors are not trained to make them. Even if it was possible to train doctors in this, this would not mean that they should be making these decisions.

Conscience

See my concise personal response (above).

A conscience clause will only provide protection for healthcare professionals in the early years. As with abortion, once assisted suicide becomes a "right", those who are not prepared to participate in interventions to which the patient is considered to have a right will slowly but surely be squeezed out of clinical areas where this happens. I know. I've been there.

Reporting

We should not legalise assisted suicide so that we can keep accurate records or remove underground euthanasia. Should we legalise child prostitution or paedophilia for similar reasons? Just because something undesirable happens, it does not follow that we should legalise it to facilitate its regulation, e.g. murder.

(k) Page 15

Predicting death within 6 months from a terminal illness is not a robust or scientific enough criterion on which to legislate for assisted suicide.

There is no mention of diagnosing or treating mental health problems. Incapacity is not the same as mental illness.

What if the patient can't write? The proposals would discriminate against the illiterate, the blind and those without motor ability in their upper limbs.

If the proposed legislation is based on "rights", why should health care authorities be allowed to opt out?

What will happen about life insurance?

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