

Assisted Suicide (Scotland) Bill

The World Federation of Right to Die Societies

May I start by commending late Margo MacDonald and her staff for their perseverance in getting a Bill regulating Assisted Suicide presented and hopefully agreed in your Parliament. After the defeat of her former Bill she has worked with great care and scrutiny to balance the objections presented and the many positive feedback received into the present Bill which in general will achieve what she had in mind when she started: the right to make a choice at the end of life.

I gladly provide my comments and would like to do so in commemoration of her.

As former CEO of the Dutch Right to Die Society NVVE (retired) and now Communications Director for the World Federation of RtD Societies WFRtDS, I consider myself as having extensive experience in the field of legalization of assisted dying. I have been involved in the discussions around the Dutch Euthanasia Bill, right from the moment it was introduced in the Dutch Parliament in 1999, up to its endorsement by the Senate in 2001 and its implementation in 2002 and later evaluations. In my current position I am able to and do follow international developments closely.

In this submission I will follow your questions.

1. Do you agree with the general purpose of the Bill to make it permissible, in the circumstances provided for, to assist another to commit suicide?

Yes

2. Do you have any views on how the provisions in this Bill compare with those from the previous End of Life Assistance (Scotland) Bill?

- a. I consider the inclusion of a Facilitator a large step forward: (s)he takes away a burden from the shoulders of the treating physician, and – because of his/her training – guarantees a safe and careful execution of the (assisted) suicide: safe and careful for both requesting person and to society in general.
- b. Simplifying the criteria for eligibility, both procedural (though see my response on question 4) and as to condition/situation of the concerned person has hopefully taken away a lot of openings for useless discussions on fringes and grey areas.

3. The Bill precludes any criminal and civil liability for those providing assistance, providing the processes and requirements set out in the Bill have been adhered to. Do you wish to make any comment on this?

No comment – it's the main focus of any law in this field

4. The Bill outlines a three stage declaration and request process that would be required to be followed by an individual seeking assisted suicide. Do you have any comment on the process being proposed?

Though the 3-step procedure is clear in itself, the description of this process in the text of the Bill needs intelligent and close reading to understand fully: possible source for misunderstandings and thus non compliances with rightful requests?

A problem could be, when looking at the process in a timeline, the conditions of time elapsed between each of the three steps, the total time for the whole process and the number of people having to endorse and register all the schedules could form all opportunities for delaying requests and implementations which may already be “too late” (because of the nature and progressiveness of the disease or because of the reluctance of both professionals and patient/families to timely address end-of-life issues)

5. Do you have any comment on the provisions requiring that the person seeking assisted suicide must have a terminal or life-shortening illness, or a progressive condition which is either terminal or life-shortening?

Although I generally would prefer to have the unbearable and hopeless suffering (through whatever reason, physically or emotionally) as the main criterion, I understand the reasoning behind the used provisions in this Bill and as such do not have further comments to make.

6. Are you satisfied with the eligibility requirements as regards age, capacity, and connection with Scotland as set out in the Bill?

Eligibility requirement as regard to age: I appreciate the named 16 years, though wonder if this age limit can be traced back to other “patient-rights” issues? Otherwise either 18+ (adult), or no age limit (instead someone capable to assess his/her situation and make sound and well considered decisions; cf Belgium) would have my preference.

The other two eligibility requirements (capacity and connection with Scotland) do satisfy me.

7. Do you have any comment on the roles of medical practitioners and pharmacists as provided for in the Bill?

I do not see a precise description of the role of medical practitioners (except for accepting declarations and requests, making statements and register those in the proper medical files: all administrative!) as to their guiding and prescribing role: nowhere in the Bill a word is spent on the fact that he may prescribe (what?) and give the prescription to the patient? The facilitator?

Likewise the pharmacist is not mentioned in the Bill.

Both are indeed included extensively in the Policy Memorandum and Explanatory Notes, but I do not see why they are not explicitly mentioned in the Bill.

8. Do you have any comment on the means by which a person would be permitted to end his/her life under the Bill?

I understand this to be medication, but I do not see any reference to a protocol defining proper medical care and medication. The explanation in the two guiding documents about leaving this to the medical professionals does not guarantee in my opinion that the medication used will be “up to standard” and comparable with the extensive experiences with substances in all states and countries where assisted suicide is already legal: a missed chance for an assistance of guaranteed quality?

9. Do you have any comment on the role of licensed facilitators as provided for in the Bill?

As commented before, the inclusion of a Facilitator is in my view one of the main merits of the Bill (see my response on question 2), but I completely miss a defined position of this professional in the process: who will make the choice for which Facilitator? When does this person have to make such a choice? Where can someone in need of a Facilitator find a properly registered one?

10. Do you have any comment on the role of the police as provided for in the Bill?

No

11. Do you have any comment to make about the Bill not already covered in your answers to the questions above?

A decision is apparently made to limit the number of criteria explicitly mentioned in the Bill (that will have been an intentional choice), but in this way a number of other – possibly worthy – items are referred to in the ‘side’-documents only, although essential, such as conscious objection, and good medical practice. As stated above I would also like to see explicit referral to the used substances (must be in accordance with good medical practice as defined by the professional group).

In closing I would like to add some general observations, which may be useful in further debates.

One of the ever returning discussion points has been the (deliberate?) misuse of the figures on the end-of-life practice in The Netherlands, presented by The Netherlands self. Since 1995 the Dutch have produced regular scientifically sound (world renowned statistics!) figures about the practice, repeated more or less every five years, in 2012 for the last time. These figures include amongst others also figures on doctors actions at the end of life of persons, which are against our law then and now (the number of euthanasia cases without request, happily misused by opponents as “the slippery slope”); but these figures have decreased by some 50% since the law was implemented.

People in The Netherlands (as in Scotland) rather live than die, but want to have (and in The Netherlands now are lucky to have) the possibility to ask for (medical) support when they find the end of their life is inhumane because of futile suffering. The Dutch have since seen no increase in numbers, no increase in misuse (if at all in substantial numbers), no decrease in trust in doctors and all that despite internationally recognized high level of Dutch palliative care! A human being does not ask easily for help to die; the legal possibility to do so facilitates the asking, facilitates the civilized conversation about this last phase of someone’s life and – in my experience – sooner prolongs life than shortens it; prevents ill-considered decisions from desperate humans and leads to better end-of-life care for all, palliative care included!

The lessons from the Netherlands can be that legalisation of Assisted Suicide (and Euthanasia) turned into a better quality of all end-of-life care, a higher level of Palliative Care and a continued high level of trust between doctors and patients.

Knowing the complexities in this and realizing the limitations of written evidence, I will be happy to give oral evidence on the matter in a discussion with your Committee if

you see the benefits of such evidence.

I wish you wisdom in your considerations, deliberations and future decisions,

Rob Jonquière, MD
Communications Director.
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