

Dying with Dignity

Response of the Scottish Council of Jewish Communities

We have grave concerns about this consultation, not least with its title, 'Dying with Dignity'. Judaism certainly believes that all people, including the dying, should be invested with dignity, and the dying should be treated with the greatest respect. Judaism therefore disagrees absolutely with the suggestion that a dignified death is one that is 'assisted' to take place before its natural time.

Question 1: Concerns with the proposal

Halachah (Jewish Law) regards human life as being sacrosanct. Its value is absolute, not relative to a person's age or health, and it is certainly not something that can be ended at will. Quite to the contrary, the commandment of Pikuach Nefesh (saving life) is so central to Halachah that the Talmud states that 'one who saves a single life is regarded as if he had saved the whole world' and other religious obligations must, if necessary, be set aside in order to do so.

Jewish religious tradition gives clear guidance to those caring for terminally ill patients and for the patients themselves. Expressed simply, the principle is that it is forbidden to do anything that will hasten death, and consultation with doctors and a competent religious authority may be required to establish what is necessary for each individual patient.

An eminent authority on Jewish law and ethics, Rabbi J.D. Bleich, has stated, in summarising the Jewish view on euthanasia: "Any positive act designed to hasten the death of the patient is equated with murder in Jewish law, even if the death is hastened only by a matter of moments. No matter how laudable the intentions of the person performing an act of mercy-killing may be, his deed constitutes an act of homicide." (Judaism and Healing, Ktav Books, 1981).

Jewish Law is therefore opposed to euthanasia whether carried out by a doctor or by any other person and whether or not that person acts with the patient's permission.

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

We do not have a view on this question.

Questions 3: By whom should reporting mechanisms be administered?

The form of this question presupposes that the Bill will become law, which we would regard as a highly undesirable outcome. Euthanasia raises extremely difficult ethical questions for everyone, not only those with a religious belief, and were it to become legal we would urge that the Bill should be worded in such terms as prohibit pressure being put on anyone to assist in any way with euthanasia against their religious or other beliefs. In our view not to do so would breach Article 9 of the European Convention of Human Rights¹ and therefore section 29 of the Scotland Act 1998².

Question 4: what period, within which death is diagnosed should a patient be entitled to request assistance to die?

The question as stated is unintelligible, but its apparent meaning once again begs the question that there should be such an entitlement. There should not. A patient should not be entitled to request assistance to die.

Experience shows that doctors are not always able to anticipate the course of an illness so as to predict accurately when death might occur, so setting a time period of this nature would be entirely inappropriate. We have grave concerns that stipulating such a time period would exert considerable psychological pressure on patients causing them to feel a burden on family and friends if they do not request euthanasia and we believe it to be intrinsically wrong that anyone should be placed in this position.

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

None if it is not enacted; once again this begs the question.

We are concerned that some people may feel pressured to request assistance to end their life because they believe that otherwise they will be a financial burden to their family or to the NHS. No-one should be forced into a position where they feel obliged to evaluate their life in such terms and it is our view that this Bill will tend to devalue life and relegate it to being a commodity.

We recognise that financial choices have to be made when selecting amongst appropriate treatment for patients, but we believe it to be unacceptable that the deliberate ending of life should be regarded as one of a range of healthcare provisions.

Question 6: Do you have any further comments to make?

Judaism is clearly opposed to both euthanasia and suicide, and sets great store by the dedicated care given to patients in their final illness by members of the medical and nursing professions. This approach avoids the possibility of undue influence being exerted whether by health professionals, relatives or other interested party, protecting the patient from feeling they should ask for assistance to die in order not to be a trouble to other people.

Adequate pain relief supplied with the sole intention of relieving pain and distress is permitted by Halachah and the patient and the family and carers should be properly supported through what may be a fraught time.

Negative actions intended to hasten death are not permitted by Halachah. Thus it is not permitted to withhold food or other nutrition from a patient. The issue of withholding certain forms of medical treatment is complex and many Jewish people will wish to consult a Rabbi before any decision is made.

In recent times, and in an increasing number of jurisdictions, patients are being advised to draw up advance directives, sometimes described as living wills. These documents permit patients to make clear their own wishes of how they wish to be treated in the event of a

debilitating illness which may reduce their ability to consent to treatment. The Jewish position on living wills is complex. It would not countenance living wills being used to facilitate euthanasia, whether active or passive. It would also be unhappy with a document being drawn up so far in advance of the final illness that the patient would be unaware of exactly what was being agreed to in advance. A valid Jewish living will should specify the religious authority to be consulted for advice on management of the incompetent patient in his or her final illness and may nominate a proxy, sometimes described as a health care proxy, who can be trusted to represent the view and opinions of the patient. This will usually be the next of kin or a close family member.

The Jewish ethic which allows no form of 'assisted dying' is entirely opposed to the putative ethic on which the recommendations in this consultation are based, and indeed we would regard the basis of these proposals as entirely UNethical. Accordingly, we cannot support the proposal to any degree.

¹ *Article 9, European Convention of Human Rights*

Everyone has the right to freedom of thought, conscience and religion; this right includes freedomto manifest his religion or belief, in worship, teaching, practice and observance

² *Section 29, Scotland Act 1998*

(1) An Act of the Scottish Parliament is not law so far as any provision of the Act is outside the legislative competence of the Parliament.

(2) A provision is outside that competence so far as any of the following paragraphs apply-

(d) it is incompatible with any of the Convention rights or with Community law

The Scottish Council of Jewish Communities is the representative body of all the Jewish communities in Scotland comprising Glasgow, Edinburgh, Aberdeen and Dundee as well as the more loosely linked groups of the Jewish Network of Argyll and the Highlands, and of students studying in Scottish Universities and Colleges. Members of these communities have been consulted in the course of preparing this response.