Brief to the Special Joint Committee on Physician-Assisted Dying

Summary:
Physician Assisted Dying of the terminally ill unavoidably involves the potential for coercion of the vulnerable, the disabled, the elderly and the destitute with no family or advocate support.

Legislative changes must protect these vulnerable segments of the population from overt and subtle coercion when no one wants to or is able to support them.

Issue

The issue is how to meet the wishes of those terminally ill and in pain who wish to end their lives with dignity, without creating a legislative mechanism that, under societal pressure, ultimately expands to include members of society who are vulnerable to coercion; persons with disabilities, the elderly and the destitute who may be perceived as a burden upon families and professionals and governments, and are without family support or advocates to assist them.

Background

One of the primary reasons to be extremely, extremely cautious about legally facilitating Physician Assisted Dying is the potential for coercion of those vulnerable persons without family or advocates to support them.

Recent newspaper articles have appeared in favour of Physician Assisted Dying, even as young as 12 years old, referring to evidence from Belgium and The Netherlands indicating no "slippery slope", no abuses since the practice was adopted a decade ago.

But the time scales involved in gathering such evidence must be centuries, as people and governments come and go, rise and fall, indulge in war and peace. Over time, decades and centuries even, laws and regulations can become familiar, routine and inconvenient. Doctors can become overworked, hurried and impatient. Families can become distracted, impoverished and fatigued. Under such pressures, governments may welcome ways to reduce costs, assisted by the media interpreting "quality of life" in bold new ways.

Who will be there to protect these vulnerable segments of the population from overt and societal coercion when no one wants to care for them? Who will be there to arrest the inevitable creep of Physician Assisted Dying for the terminally ill to encompass those facing a lifetime of mental or physical disability. No one was there the 1930's and 1940's. Indeed, who will be there?

Considerations

There are several key considerations. Firstly, many members of the vulnerable segments of our population lack the insights and experience to speak for themselves. Many types of medical conditions, for example cerebral palsy, autism and developmental delay may enable those affected to excel in some areas of life but be completely vulnerable to coercion in other areas.

Secondly, no one can define the concept of "quality of life" for another. Even the most disabled and uncommunicative persons, living for the most part within their own heads, can experience a life of quality. And when one spends enough time with them, one comes to understand that an unintelligible utterance, a finger movement, or even an eye movement, can be expressive of a life worth living. No human being can define the "quality of life" of another, and wether or not that life is worth living.

Thirdly, our human behaviour, understanding, and social mores change over time, due to the complex array of political, economic and environmental imperatives under which we live. Political dialogue changes over time as a result, and what was once thought unconscionable becomes acceptable. This is the inevitable part, this shifting of what is acceptable and what is not. When we are talking about the non-life threatening pursuits of happiness, there is often no issue. But when defining quality of life for others and ending that life, there is an issue.

Fourthly, who is competent and who is not? The answer changes with time and situation. Many vulnerable persons may be articulate, may function well, may express pain and lack of "quality of life". But due to limited life experience and dependency may be entirely susceptible to suggestion or coercion. Others may be going through and extended periods of medical and mental illnesses, and yet unpredictably overcome these challenges. Diagnoses are not perfect.

In the care of competent and compassionate family, friends and professionals, The likelihood of just decision making is high for such vulnerable persons. This is not always the case.

The fundamental issue is that over time, as private and public fortunes rise and fall, over decades and centuries, there is no way to prevent society from considering that what may be kind and caring for those who are terminally ill and in pain, may also be appropriate for those whom we define as living lives without "quality", and whom we can no longer see the benefit of caring for: the disabled, the elderly and the destitute.

The evidence for this concern is both history and human nature. Great achievements can lead to unanticipated consequences. Splitting the atom led to nuclear weapons. Darwin's theory of evolution in the 1860's led to Social Darwinism in the 1880's, which became corrupted into National Socialism in the 1930's.

The implementation of Physician Assisted Dying legislation in Belgium and The Netherlands may not have produced excesses and abuses to this point in time. But it has only been a decade or so in relatively good and prosperous times.

Conclusion and Recommendation

Physician Assisted Dying (PAD) is one "giant leap for mankind", but it is not guaranteed to be in the right direction in all situations. And there really is no way to prevent the migration of the concept to vulnerable segments of our population as social, economic and environmental conditions change, and society begins to define the "quality of life" for vulnerable human beings.

Therefore the recommendation of this brief is to restrict PAD to the fully competent terminally ill in unbearable pain, subject to substantial waiting periods and independent public review in every case, not left to physicians and families alone.

Furthermore that PAD never be permitted on the basis of "quality of life" definitions imposed by society upon vulnerable persons.

Respectfully Submitted

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