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Proposed Organ and Tissue Donation (Scotland) Bill

Organ donation is a peculiar form of witness to charity. In a period like ours, often marked by various forms of selfishness, it is ever more urgent to understand how the logic of free giving is vital to a correct conception of life. Indeed, a responsibility of love and charity exist that commits one to make of their own life a gift to others, if one truly wishes to fulfil oneself. As the Lord Jesus has taught us, only whoever gives his own life can save it (cf. Lk 9: 24)."

- Pope Benedict XVI, November 2008

Consultation Response

Catholic Parliamentary Office

15 September 2014

Consultation questions

1. The overarching purpose of my proposal is to move from the current opt-in system to a soft opt-out system of organ donation. Do you support this move? Please indicate "yes/no/undecided" and explain the reasons for your response.

No. The proposal undermines the important principle of consent in our legal system and undermines the integrity of the person.

2. How essential is it to change the law (from an opt-in to a soft opt-out system) in order to achieve the intended benefits (increased transplant rates, reduced waiting lists)? Are there other (non-legislative) measures that could achieve similar outcomes without the need for legislation?

It is essential NOT to change the system from an opt-in system. The present system recognises the importance of genuine consent in the treatment of persons and the charitable nature of organ donation which is based on a gratuitous act of kindness on behalf of the donor.

3. I believe the role of the family should be limited to being consulted on whether they are aware of any (unregistered) objection by the deceased rather than asking for their consent. Do you agree? Please indicate "yes/no/undecided" and explain the reasons for your response.

No. The family has a right to be consulted as appropriate in relation to ensuring the wishes of the potential donor are respected. Organ donation is not morally acceptable if the donor or his proxy has not given explicit consent.¹

4. Do you think an individual should be able to appoint a proxy to make the final decision regarding transplantation on their behalf? Please indicate "yes/no/undecided" and explain the reasons for your response.

Yes. An individual should be free to designate a proxy decision-maker to ensure that their wishes and interests are safeguarded.

5. My proposal is that only adults should be automatically opted-in to be a donor. Younger persons would have to register to be a donor, by themselves or with parental consent as they currently do. This approach is I believe the best way to safeguard children and young people. Do you agree? Please indicate "yes/no/undecided" and explain the reasons for your response.

¹ Catechism of the Catholic Church, Paragraph 2296

Children should not be part of an opt-out system. This particular proposal is anomalous in that it aims at safeguarding the integrity of a child's consent yet the bill is based on bypassing a requirement for consent from adults on how their organs will be used.

6. Do you agree the age limit for an adult should be set at 16 years old? Please indicate "yes/no/undecided" and explain the reasons for your response. If you answered no, what would you consider a more appropriate age?

The United Nations Convention on the Rights of the Child proposes children to be those under 18 years of age.

7. Do you agree the soft opt-out system should apply to people who have been resident in Scotland for a minimum period of 1 year prior to their death? Please indicate "yes/no/undecided" and explain the reasons for your response.

No. We do not believe the opt-out system should be implemented.

8. If you answered no to the above how long, if any, should this period of residency last before they become subject to the soft opt-out system? Would this residency need to be for a continuous period?

We do not support the opt-out system proposal for anyone.

9. Do you think 6 months is a long enough period to run a campaign prior to change over?

A campaign would be beneficial for the promotion of organ donation based on free and consensual giving.

10. What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

The Church is likely to need to invest time and effort in explaining the ethical principles underpinning organ donation. We have no figure on this at this time.

11. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

The proposal is intrinsically discriminatory in that it denies the integrity of the person by overriding the requirement for consent on how a person's organs may be used. The proposal aims to establish a principle in law that the consent of the person can be determined by the authority of the state. This removes the objective respect for the integrity of each person. Such an arbitrary determination therefore puts citizens at risk of arbitrary and discriminatory choices.

12. Do you have any other comments on or suggestions relevant to the proposal?

The Church is an enthusiastic supporter of organ donation. Licit means for encouraging a greater cooperation and willingness on the parts of citizens are commendable. In aiming to meet the demand for organs and transplantations it is important not to sacrifice important ethical principles. The aim can be achieved through good means but can be corrupted by opting for means which are inconsistent with the integrity and dignity of the person. Whilst the intention of this bill is recognised as noble it overlooks the importance of ensuring rigorous adherence to principles which protect citizens from unwarranted breaches of their rights.

"Transplants are a great step forward in science's service of man, and not a few people today owe their lives to an organ transplant. Increasingly, the technique of transplants has proven to be a valid means of attaining the primary goal of all medicine - the service of human life... There is a need to instil in people's hearts, especially in the hearts of the young, a genuine and deep appreciation of the need for brotherly love, a love that can find expression in the decision to become an organ donor."

- Pope John Paul II to attendees at the International Congress on Transplants in Rome – August 2000

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