A.D.M.D. SUISSE ROMANDE

ASSOCIATION POUR LE DROIT DE MOURIR DANS LA DIGNITÉ

ASSISTED SUICIDE
AND
THE COMMUNITY HEALTH CENTRE

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Direct active euthanasia is an intentional homicide which is illegal in Switzerland. Assisted suicide is, on the contrary, perfectly possible and legal, according to Article 115 of the Swiss Penal Code, provided that the person who carries out the act has no egotistical motive. Assisted suicide is the act of making available to the person who wishes to die the means permitting him/her to commit suicide without violence. It is not punishable under Swiss legislation, which accepts the idea that one may assist a person who wishes to put an end to his/her life.

Indeed, a debate at the National Council on 11 December 2001 legitimised this practice employed by the associations EXIT Suisse romande and Suisse alémanique for the Right to Die with Dignity.

Although they may trouble the medical corps, requests for assisted suicide do exist and they are becoming more frequent than we wish to admit, as demonstrated in recent international reports.

Society is in the throes of change, and people's moral values are evolving beyond the realms of religious dogma. Morale is becoming pluralistic, and the personal freedom of each human being should be placed wisely in relation to other people's freedom. Each person must show others mutual respect for their personal development, their dignity, their freedom and even their choice as to the end of their life.

The right to life remains fundamental, so it seems just as fundamental to be able to choose one's own death. The right to die at one's time introduces a specific request: the request for death by the individual concerned, who can help, assist and organise his/her own death.

The right to die in dignity and to receive assistance with suicide becomes legitimate, in my eyes, when we endeavour to look at this in the context of an incurable illness which has taken an irreversible turn, with a prognosis of fatality or full disability, and which involves intolerable physical or psychological sufferance. I am now going to present to you the case of a patient who touched the whole of Suisse romande, because her story and the circumstances of her death were covered in a newspaper report which asks several pertinent questions.

It involves the end of the life of a lady aged 82, hospitalised since 1965 in a community health centre, due to progressive Sclerosis. The community health centre is a retirement home under medical supervision.

On 19.06.2001, Mrs. K. became a member of our association, EXIT Suisse romande, and insistently requested assisted suicide. This lady met with her lawyer in the retirement home, and confirmed her request in the presence of two witnesses, in a certified statement.

“The signatory, aware of the deficiency in her present state of health, and the irreversible nature of the evolution of her illness and of her total and definitive physical dependence, expresses in the present act her express desire to be assisted in her self-deliverance, and authorises the EXIT Association to act along these lines. The signatory declares that she is fully aware of the consequences of her decision”.

On 20.07.2001, I visited the community health centre to get to know this lady face-to-face. I found myself seated with a patient who was calm, lucid, coherent, bedridden and totally disabled due to a quadriplegia. This lady complained about her total dependence and the progression of her illness due to the appearance of the beginnings of diplopia and a light dysphagia. After a lengthy meeting, she confirmed to me her request for assisted suicide whilst it is still possible for her to swallow. I then had a discussion with the daughter of this patient, and the head nurse of the community health centre.

On 27.07.2001, I returned to the community health centre for a second visit, and during a new discussion, Mrs. K. continued to reiterate her request. I then had a meeting with the second daughter of the patient, the head nurse and the doctor in charge of the establishment, who politely but firmly refused the request of the patient, and was absolutely opposed to the idea of an assisted suicide taking place in his establishment. “Mrs. K. will have to go and die elsewhere”.

On 10.08.2001, I visited the community health centre for the third time. Mrs. K. was still persistent in her request, and she told me that she had been subject to “friendly” pressure to get her to change her mind. She had been visited by a chaplain who had talked to her of sin and hell, but in vain. She had also undergone a psychiatric examination to evaluate the soundness of her judgement and the level of her depression. The outcome: no evidence of confusion.

Mrs. K. wanted to proceed with her self-deliverance on 17 August 2001. Taking into account her determination, and in view of the fact that there was no possibility of helping her within the community health centre, a meeting was held with the patient’s two daughters, to find a location at which she could be helped. One of the daughters lives in a studio on the 4th floor of a house with no lift. The other daughter lives in a farm in the French Jura, and suggested transferring her mother to her home by means of a camping car she owns. I explained to the two ladies that transferring her to France was of course impossible, due to the French legislation. There remained the solution of the camping car, which the old lady herself proposed.

That very day, 10 August, the head nurse of the community health centre informed us that Mrs. K. was to be transferred the following day to the University Hospital of Lavigny, to undergo a specialised neurological and neuropsychological examination. This transfer was to be made against the opinion of the patient and her daughters.

On 16.08.2001, I went to the Hospital of Lavigny for a fourth meeting with Mrs. K. A meeting was held between the patient, her two daughters, the head doctor of the neurology department, and the chief nurse. The doctor confirmed that the patient was lucid, non-depressive, and that she possessed all her faculties of judgement.

He confirmed that there was no possible curative treatment, but proposed a transfer to palliative care in another community health centre, which the patient firmly refused. She renewed her request for assisted suicide for the following day, 17 August, as planned. The hospital management absolutely refused that the assisted suicide should take place within their establishment, but they were not opposed to the “transfer of the patient elsewhere through our care”…

The afternoon of 17 August, I returned to the Hospital of Lavigny for a fifth visit with the patient, who continued to reiterate her request, in the presence of the hospital’s head doctor and of her two daughters. We then transported Mrs. K. to the camping car, according to her wish. After having settled her comfortably, I presented her with a drinkable solution of Pentobarbital

which she swallowed herself with the aid of a straw, up to the last drop, because she did not want to fail in her goal to depart. Mrs. K. dropped progressively to sleep, and fell slowly into a deep coma which would result in decease. I then informed the police department who arrived to conduct their enquiry in the presence of a forensic surgeon. The patient's body was then transferred from the car park of the Hospital of Lavigny to the university institute for legal medicine, for an external examination and establishment of a report for the examining magistrate. The examining magistrate closed his enquiry without taking any legal action, in accordance with Article 115 of the Swiss Penal Code, which stipulates:

"A person who, pushed by an egotistical motive, has incited a person to suicide or has assisted this person with a view to suicide, will be, if the suicide has been consumed or attempted, sentenced to five years' imprisonment or more".

If there is no egotistical motive, a group of federal experts confirmed that assisted suicide is thus legal and as such not punishable. Suicide not being a punishable act under the Swiss Penal Code, why would one punish assistance without any egotistical motive to a non-punishable act?

I agreed to assist this lady in her suicide, because she had chosen, with full knowledge of the facts and complete lucidity, to die with dignity, and she filled the following five conditions:

1. judgement
2. a serious and repeated request
3. an incurable illness
4. intolerable physical and psychological sufferance
5. complete disability or fatal prognosis.

The circumstances surrounding the assistance of Mrs. K. were rendered particularly difficult due to the obstacles put in place by the community health institutions. Drawing upon the lessons of this dramatic situation, a Cantonal Ethics Committee in Neuchatel declared that the guiding tool in any debate surrounding assisted suicide must be the respect of human rights. There is no reason why the residents of a health-care retirement home should not benefit from the same rights as persons residing in their own homes.

In fact, a person living in a community health centre has in many cases not chosen to reside there. It is life's circumstances which have confined them there. Furthermore, a free choice of the residence is often not possible, notably due to problems of availability.

Institutionalisation represents, in many people's eyes, a considerable loss of autonomy for the patient. It is important to highlight here the principle of subsidiarity which means that the institution is careful to interfere as little as possible in the resident's life.

In particular, it is clearly established that the institution cannot exercise control or censure over contacts (visitors, correspondence) that the resident has with the outside world. It should, on the other hand, be pointed out that life within an institution involves a collective aspect which the resident cannot ignore. It is not possible within such an institution to consider an individual in an isolated manner, since he/she is at the centre of a network of relations - parents, friends, other residents, the team of carers, volunteer workers, etc -. These relationships are often not chosen, but the bonds formed are very real and one cannot overlook them.

The autonomy to be bestowed on a resident is therefore often weighted by the community environment which has just been described. This weighting must, however, never go as far as removing the right to have recourse to suicide.

In most cases, a request for assisted suicide is viewed as a denial, as an indication of the failure of the care system. The carers must nevertheless bear in mind that the criteria for evaluating the quality of a life are very personal, and often have no relation to the quality of the care provided by the health centre.

Ethically-speaking, the carers are nevertheless required not to reject a patient who is taking a stand which goes against their own. In this sense, the idea that a patient may be removed from an institution and asked “to go and commit suicide elsewhere” is intolerable. Disagreements must be addressed and discussed in such a way as to encourage the most humane solutions possible, and to respect the patient’s wishes.

In this same vein, palliative care is often weighed against assisted suicide. Despite huge progress, palliative care does not always succeed in providing an adequate solution to people’s suffering. The existence of such bodies should not remove the right of a person of sound judgement to ask for assisted suicide.

The evidence from several international medical studies demonstrates that palliative care is not always adequate in putting an end both to the physical sufferance, which can be very diverse in nature, and the psychological sufferance, which is rendered all the more intense as the physical sufferance is treated. In this case, the patient remembers how he/she once was, he looks at what he has become, and he asks himself how much more degeneration he is going to have to suffer before death occurs. There are patients who will prefer assisted suicide to any other palliative measure, in particular the use of intensive sedation which will make them lose their personality and their self-determination.

Good palliative treatments and access to assisted suicide are not always weighed against one another, but rather should be complementary. They should be left to the free choice of the patient, who is the only one with the necessary, adequate criteria to be able to determine if the quality of life remaining to him/her is satisfactory or not.

During the 11 December 2001 meeting of the National Council, on direct active euthanasia and assisted suicide, the Swiss Academy of Medical Sciences opposed active euthanasia. On the other hand, contrary to its previous stand, today this organisation considers that, in certain cases, assisted suicide can be considered as part of the doctor’s activities; competent, comprehensive support during the journey towards the last major step from life to death. This step is not delegated by the dying person to the doctor, but is taken by the dying person him/herself, at his/her own free will.

The Parliamentary debate which has just taken place in Switzerland confirmed the legitimacy of assisted suicide without egotistical motive, and has reinforced the action of associations for the right to die in dignity.

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