

Transl. from «Swiss Medical Forum» Suppl. 11, 12.03.2003

AN EXAMPLE OF ASSISTED SUICIDE

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Summary

Requests for assisted suicide are forthcoming from certain patients. These requests are based, on the one hand, on freedom of conscience and personal moral values, and on the other hand, on the dramatic evolution of certain pathologies, which will inevitably result in the death of the patient, causing him or her intolerable physical or mental suffering. Assisted suicide, which up to now has been marginally tolerated under article 115 of the Swiss Penal Code, was legitimized from a political point of view at a meeting of the National Council on 11th December, 2001. In addition, in a press statement dated the 1st October, 2001, the Swiss Academy of Medical Science, said that *“contrary to its former position, the ASSM believes that today in certain cases, assisted suicide may be considered to be part of a doctor’s activity; competent and comprehensive support along the path towards the last major step from life to death. The dying person does not delegate this step to the doctor, but carries it out himself of his own free will”*.

Introduction

Active direct euthanasia is intentional homicide, which is forbidden in Switzerland. Assisted suicide is, however, possible and legal; according to article 115 of the Swiss Penal Code provided the person who practices it does not have a selfish motive. Assisted suicide gives the person who wishes to die the means of committing suicide in a non-violent way. This is not punishable according to Swiss legislation, which accepts the idea that a person wishing to bring his or her life to an end can be helped to do so.

A debate in the National Council on 11th December, 2001, legitimized this practice, allowing the right to die with dignity, exercised by EXIT associations in the French and German speaking areas of Switzerland.

We all know that ENT cancers can be extremely disabling before they lead to the patient’s death. We must now talk about a forbidden subject, assisted suicide. Although this upsets the medical corps, requests for assisted suicide do exist and occur more frequently than we would like to admit, as seen in recent international literature.

Society is undergoing great changes and individual moral values are evolving beyond religious dogma. Morals are becoming pluralistic and personal freedom must not infringe upon the freedom of others. People must have mutual respect for the personal development, dignity, freedom and even end-of-life choices of others.

The right to life remains fundamental: the right to choose to die appears to be just as fundamental. The right to die when desired has particular significance: it is the request for death by the individual concerned, who can help, assist and organize his own death.

Presentation of a case

The case is of a man born in 1960 who was suffering from leiomyosarcoma of the left maxillary sinus with tumoral invasion of the superior hemimaxillary, of the orbit and the pterygomaxillary fossa.

The patient was admitted to the CHUV and on the 13th of September, 1999 he underwent the following surgical treatment:

- Tracheotomy
- Left cervical exploration highlighting vascular axes
- Submaxillectomy
- Tumorectomy by paranasal, translabial and transmaxillary means
- Left superior hemimaxillectomy
- Orbital exenteration
- Evidement of pterygomaxillary fossa
- Left ethmoidectomy
- Reconstruction of defect by microanastomosis flap of the abdominal muscle wall
- Arterial and venous microanastomosis
- Thiersch's graft

On the 11th October, 1999 a cytopuncture showed up a precocious post operative left jugal recurrence. Another surgical intervention was suggested to the patient but he refused preferring palliative care.

On 21st October, 1999, he contacted EXIT and formally requested assisted suicide. This request was accepted following a meeting, and after a long discussion in the presence of his wife.

On 6th November, 1999 I went to the patient's home. He was waiting for me and introduced me to his parents. His sister, who had come from Great Britain, and his brother-in-law, from the United States, were both present. After a final discussion, I gave the patient a lethal liquid solution that he administered himself by means of a gastrostomy probe. He went to sleep rapidly and I certified his death 45 minutes later. I informed the judicial police of his death and they commenced an enquiry at the request of the examining magistrate. The judge requested an external examination of the patient's body by the medical-legal institute. The investigation was proceeded with, but was then discontinued by the legal authorities in Vaud as there were no grounds for prosecution, based on an examination of the situation, the written request of the patient and the medical diagnosis of the case.

Commentary

I agreed to assist this patient in his suicide because he chose to die in dignity with full knowledge and lucidity, while fulfilling the 5 conditions for assisted suicide:

- discernment
- repeated serious request
- incurable illness
- intolerable physical or psychological suffering
- terminal prognosis or serious disability (in cases of non -oncological pathology).

It is the patient alone who must decide if the quality of the life left to him is bearable or not; it is he who is going to die and not the doctor or the persons caring for him. This means that the patient making the request must be informed of his condition. The right to die with dignity and to request assisted suicide goes hand in hand with the right to know the truth. In such cases nobody has the right to impose his own rules on another person. Everyone's beliefs must be respected and the choice of each person must be respected, because assisted suicide is possible in Switzerland.

Legal situation

Article 115 of the Swiss Penal Code

Article 115 of the Swiss Penal Code dealing with cases of inciting and assisting suicides stipulates that: *"Anyone with a selfish motive who incites a person to commit suicide or who helps that person to commit suicide, if that suicide is consummated or attempted, will be punished by a maximum of 5 years reclusion or imprisonment"*.

If there is no selfish motive, a group of federal experts have confirmed that assisted suicide is, in such cases, legal and is, therefore, not punishable. As suicide is not punishable in the Penal Code, why should assisted suicide with no selfish motive be punishable?

Why is there a problem nowadays?

Palliative care is often proposed instead of assisted suicide. However, despite immense progress, palliative care does not always offer an adequate solution to people's suffering. The existence of such a possibility should not deprive a person, capable of discernment, of his right to request assisted suicide.

According to the evidence of several international medical studies, palliative care is not always sufficient to stop either diverse physical suffering or psychological suffering which can be even more intense than physical suffering when well treated. The patient remembers how he used to be, and can see what he has become. He can ask himself what further deterioration he will have to undergo before death intervenes. Certain patients prefer assisted suicide to any kind of palliative care, particularly the use of strong sedation, which would lead to loss of personality and self-determination. Good palliative care and accessibility of requests for assisted suicide should not be in opposition to each other but should be complementary. The patient should be allowed to choose freely as he alone has the necessary criteria to determine if the quality of the remainder of his life is satisfactory or not.

Following the National Council debate on 11th December, 2001 regarding active direct euthanasia and assisted suicide, the Swiss Academy of Medical Science opposed active euthanasia. However, contrary to its former position, *the ASSM today considers that, in certain cases, assisted suicide can be seen as being part of a doctor's activity: competent, comprehensive support along the path towards the last major step from life to death. The dying person does not delegate this step to the doctor but carries it out himself, of his own free will.*

Conclusions

The right to die with dignity and to request assisted suicide is the fundamental right of the individual, one that should be more freely accessible in the future because it is a legal right. The matter in question here is no longer the doctor and his deontological code, but the patient and his rights, and the means the patient has to ensure that these rights are respected.

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