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Point of view

Assisted death by Dr Jérôme Sobel, President

Assisted death is a global term, which encompasses assisted suicide, as found in article 115 of the Swiss Penal code and active direct euthanasia defined in article 114 of the same code. Our society is constantly changing and our values are evolving, this leads to the situation where requests for assisted death are becoming more frequent. Most people have noted the deep disagreement between personal life values and church values. The time of blind adherence to doctrines is finished. Man is trying to become autonomous and to emancipate himself from religious constraints. He refuses to allow religious interference as regards sexual matters, contraception, and abortion and now also the issue of how he deals with the end of his life. Morality is no longer the domain of churches but, above all, is a matter for the individual. Taboos have been broken and new moral concepts have evolved beyond religious dogma. Morals are becoming pluralistic and the freedom of the individual is limited only to the extent that he respects the freedom of others. People must have mutual respect for the personal development, dignity, freedom and even end of life choices of others.

Another evolution can be seen in the doctor/patient relationship. Nowadays the patient sees the doctor less as someone in authority and more as a partner with whom he has a relationship as an equal. The doctor certainly possesses a professional competence that the patient does not have. However, the patient possesses a moral competence that is just as important as that competence possessed by the doctor. And it is the patient who is going to die. He alone can judge if the quality of the remainder of his life is worth fighting for or not. Of course as long as the fight against the sickness can be won everything must be done to win that battle. It is the doctor's duty and honour. But when the sickness is incurable and it is going to win we come to understand, as does the patient, that the fight is lost. One fundamental duty then remains, to accompany our patient to his death.

Good palliative care certainly lead to fewer requests for assisted death, but nonetheless it is an illusion to believe that these requests will disappear totally. We cannot protect certain patients against the complete loss of the sense of their human dignity. And even more so in situations where certain ailments can handicap and mutilate terribly. Certain patients, at this stage in their illness become detached from this world. They only hope for a gentle death without suffering. These patients are not in the throes of a passing, fugitive emotion. They have reflected for a long time and their decision is the fruit of their freedom of thought. These patients confront their passing with serenity and they have the elementary right to take leave of an existence that, for reasons that relate to them alone, no longer seems worth living.

Assisted suicide

Assisted suicide is legal and is not punishable. The Swiss Academy of Medical Sciences has concealed that possibility by stating that assisted suicide is not a medical activity. The Exit Association A.D.M.D. in the French-speaking region has informed and sensitised the medical corps of that possibility on their Internet site (www.exit-geneve.ch). It is desirable that the ASSM modify their guidelines on the subject and admit that assisted suicide is an act of exceptional compassion, which must be left to the ethical judgement of the doctor and his patient.

In a different area the voluntary interruption of a pregnancy is left to the ethical judgement of the gynaecologist and his patient. The modification of the guidelines of the ASSM would encourage the medical faculties to give specific teaching in regard to the problem of assisted suicide to future doctors concerning the ethical practice and the pharmacological methods and the precautions to be taken to avoid

malpractice during the process. This would indeed lead to a situation where assisted suicide could be requested and obtained in a university medical hospital for patients suffering from an incurable illness.

Active euthanasia

Assisted death encompasses active direct euthanasia, which is forbidden at present. Article 114 of the Swiss Penal code stipulates that:

"Anyone who yields to an honourable motive, notably compassion, and who, when requested seriously and urgently by a person, bestows death on that person will be punished by imprisonment."

Parliament must debate this matter following the Cavalli parliamentary initiative proposal of the majority of the Group of experts from the Federal Assisted Death Commission who wish to add a new subsection 2 to article 114 which would be as follows:

"If the perpetrator helps a person, who is in the final stages of an incurable illness, to die in order to end insupportable and incurable suffering, the competent authority will not proceed against this person, will not force him to appear before a court nor inflict a penalty."

International medical literature shows that requests for euthanasia exist and that certain requests are carried out in a clandestine fashion in Great Britain (B.J. Ward "Attitudes among NHS doctors to requests for euthanasia" *BMJ*, 308 1332-1334, 1994) and in the USA (D.E Meier, " A national survey of Physician-assisted Suicide and Euthanasia in the United States", *N.Engl.J.Med.*, 338, 1193-1201, 1998). The Ward study shows that many doctors are faced with difficult decisions in regard to euthanasia. Euthanasia must be discussed more openly to help them and their patients. 12% of the practitioners questioned in that study have practised euthanasia. 46% of practitioners declared they were ready to carry out that act if euthanasia were to be legalised. The study shows that there is considerable support among hospital doctors and practitioners for a law legalising euthanasia. It shows the fact that the subject is taboo and that legal and religious prohibitions obstruct adequate training during medical studies. The Meier study shows that 8% of practitioners questioned have already practised assisted death. 18% of practitioners would be prepared to transgress the laws in force, in certain circumstances while 60% of practitioners would practice assisted death if the laws were modified in the USA. It is perfectly understandable that a doctor would not be prepared to risk his right to practice by transgressing the law even to satisfy a patient whose request seems legitimate and sensible.

Why legislate?

A certain number of people say that euthanasia is sometimes carried out in our hospitals and that it is not necessary to legislate. I would remind these persons that before the insertion of article 120 of the Swiss Penal code it was already felt that abortion was carried out and that it would be better not to legislate because clandestine solutions were possible. Today the SPC has been modified and the situation is better. If a woman wishes she may choose, and she does not need to act clandestinely. The same pressure groups who are opposed to abortion and who keep women from being in charge of their own lives and bodies now try to stop people in general from managing the end of their lives. These groups wish to impose religious dogma to a sector of society who refuses to accept it. We cannot accept the fact that the people who have a religious respect for life impose their principles on those who have a scrupulous respect for their individual autonomy. Legislation is desirable because the law as it is at present does not respect the persons who have an independent desire for euthanasia. Certainly there are patients today whose agony is curtailed because they receive sufficient painkillers to lessen their suffering and even to hasten death a little. But these painkillers are not given until the end of a period of agony and after slow degradation, progressive decadence. These patients are dependent on the goodwill of their doctors and this help is only given clandestinely, in the utmost secrecy, as if a shameful act were being committed. We should no longer beat about the bush in this secretive way but should act clearly because this is an act of compassion.

In conclusion, the question is not to know whether one is for or against euthanasia but whether one is for or against hypocrisy. Euthanasia carried out in controlled conditions, transparently and visibly, will help avoid all malpractice as shown in the article "End of life decisions in medical practice in Flanders, Belgium: a nationwide survey", Luc Deliens, Freddy Mortier, *Lancet*, 356: 1806-1811, 2000.

That is my desire for our society.

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