"PHYSICIAN ASSISTED SUICIDE IN SWITZERLAND"

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EXIT german part of Switzerland, 2004

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The subject of my speech is announced as "Physician assisted suicide in Switzerland". However, until February of this year, there was not so much to inform about. Since In Switzerland the discussion about suicide and suicide assistance has become publicly for now 24 years, the SAMW (Swiss Academy of Medical Siences) has emphasised again and again that suicide assistance, i.e.. assistance to death is not part of medical activities.

However, in an anonymous survey from last year, Swiss doctors admitted that they had assisted in suicides in 400 cases. According to unofficial projections, in Swiss hospitals and nursing homes far more patients were to be assisted not just at death but also to death.
Let me therefore explain the previous practices in Switzerland, before I give my attention to the latest change of policy of the professional upper chamber of Swiss physicians:

1. Proportions
7,36 millions inhabitants, 5 organisations for suicide assistance (EXIT german part of Switzerland, EXIT ADMD french part of Switzerland, Dignitas, Ex-International and SuizidHilfe): This is the present situation in Switzerland.
All associations together count approx. 62 000 members, thereof 50 000 are from EXIT German part of Switzerland, to which I mainly refer, because I know it best after 17 years of management work in both of the Swiss EXIT associations, thereof 4 years as a chairwoman of EXIT german part of Switzerland.

The yearly death toll in Switzerland is at about 64'000. Last year, 181 therefrom were members of the two EXIT associations: 131 EXIT german part of Switzerland, 50 EXIT ADMD Suisse romande (French part). This stands for 181 cases of wished and planned suicide assistance from totally 64 000 deaths in the year 2003.

2. Process of suicide assistance
The process of suicide assistance by EXIT is explained quickly, but not executed lighthearted.
One who requests EXIT to assist in suicide,
a.- has to be a member and must contact EXIT personally. "EXIT accepts members who are discerning and at least 18 years old, as far as they are Swiss citizens or are living in Switzerland or at least have a second domicile in Switzerland. Legally, assistance in suicide can only be supported on Swiss ground.
b - The member must provably be suffering from a mortal disease in an irreversible stage or from a disablement that is unreasonable to him/her, **or from intolerable troubles without any prospects to cure or at least to alleviation.**
c - A suicide assistant gets in touch with the person itself, but also with its social environment, in order to get information about the reasons for the wish of suicide, about the medical situation and the living conditions and primarily to create a basis of trust - a contact lasting on an average 2-4 months, sometimes 1-2 years. In emergency situations, this contact can even be restricted to a few days.
It must be clarified if the person willing to die is of sound mind and able to take act on his own account, if it exists a durable, stable wish to death, which is not influenced by other persons. And it must be clarified that all therapy possibilities are exhausted - as far as it is the patient's wish.

d - EXIT exclusively applies the medicinal method, a highly dosed barbiturate, which is available only in a medical prescription.
If the attending doctor does not want to issue this prescription - and this is always up to him/her - we have a network of confidence doctors. After studying the dossier, they will get in touch with the patient, will clarify the situation again and - if they will also come to the conclusion that help is necessary, will issue the prescription. Usually, this confidence doctor will also consult the attending doctor or the hospital, in agreement with the patient.
Cases of doubt are presented to our ethic commission.
e - The pharmacist hands out the medicine exclusively to the doctor, EXIT or to the suicide assistant, never directly to the member and never "on stock", in order to avoid any abuse.
f - The patient fixes the day of death, a date that can be postponed or even cancelled at any time.
g - Only if the person willing to die has signed a suicide declaration in the presence of witnesses on record, the suicide assistant hands over the glass with 10-15 g dissolved Natrium-Pento-8arbital,. (3-5 g of this barbiturate in undilited form has a deadly effect.)(2) To avoid vomiting, the patient first takes an anti emetic as a pill or suppository. Within a few minutes and without any symptoms of pains, the patient falls in a deep coma, similar to anaesthesia. 10, 20, 30 minutes or sometimes hours later, the breathing stops, but always, without exception, with death consequence, without the patient having attained the consciousness again.
Apart from the suicide assistant at least a second person takes part as a witness. This can be another suicide assistant, a familiy member, a friend or the attending doctor. EXIT approves the presence and agreement of close relatives or friends of the dying person in his/her hour of death, but, when ever possible, we would like to avoid that the family will be confronted with a fait accompli without preparation. In the end, the decision is at the patient.
According to a representative IPSO survey (3) among the entire Swiss population in the year 2000, assistants are preferred as follows:
90 % relatives, family, friends, 22 % doctors, 11 % support of a pastor and 11 % presence of a suicide assistant.
h - As soon as the suicide assistant has ascertained the death, he calls the police, because according to Swiss law police or a medical officer has to examine every "unusual" and therefore non-natural death in order to avoid a crime.

This method shows the importance of an experienced assistant: He/she is not only standing by the dying person, watching over the execution of his/her wishes, protecting him/her from unexpected incidents but also helping to preapare the family practically and emotionally as well as dealing with the authorities. Even if our suicide assistants are laypersons in terms of not being doctors (apart from some exceptions) but everyone has the necessary human and professional experience and education for this task. **This was also conformed by an aptitude test developed for EXIT by the institute for applied psychology in Zurich, which all assistants had to undergo last year.**
As you can see, therewith due care will be satisfied.

3. Obstetricians - "Euthanasians"
Let me develop an approximate suggestion on a new but passable way:
-At the beginning of life, at the birth, normally a midwife, an obstetrician, will do. This is a solid person with a solid education, who does not compete with the doctor but cooperates complementarily with him. A gynaecologist is only needed at complications. Both professions meet with much respect.
Why shouldn't it give, in analogy to midwife ("la sage femme" in French: the wise, the knowing) any educated, established "death foster mothers" / death assistants? This can be a man or a woman, sensitive, solid and, like a midwife, also with a serious, adequate education. Finally, dying at home or in a hospital could be handled (again) as naturally as giving birth. Home childbirths have also increased lately. The doctor is only needed at complications.
As a counterpart to the gynaecologist one could imagine a specialist with the training to "thanatology". There would be no doubt that he/she would be disregarded by his/her colleagues, just like the gerontologist 20 years ago, who has now become a fully accepted specialist.
The course that EXIT german Part of Switzerland has adopted with its very serious, subjet-specific education of its suicide assistants, could absolutely get directional for those two new branches of profession, could therefore contribute to the easing of the situation between suicide organisations and professional upper chamber of Swiss physicians - not only in Switzerland!

4. Legal basis:
Many humans still think that suicide assistance respectively euthanasia moves in a grey area, between murder and suicide, is kind of active euthanasia on demand. The truth is that EXIT's activities are based on the existing Swiss law. We base on article 115 of the Swiss law, established in 1942. It is incidentally nearly identical to article 102 of former law, established in 1898, in which was speaked about suicide assistance as an "act of kindness", however with a different social· historical background.
Article 115 of present Swiss Law indicates:
"One who leads someone to suicide or gives someone assistance to it for egoistic motives, will be punished with penitentiary up to five years or with prison, as *soon* as *the suicide* was *executed or tryed. "*

In other words: without any egoistic motives, this assistance is not punishable. This seems to be logical, as aiding and abetting an action can hardly be punishable as long as the action itself is unpunishable. **Law therefore doesn't define persons or groups who may assist s.o. in committing suicide. It does not even restrict the application to certain situations, such as the terminal stage of a disease.**
At present, there are endeavours to give a more defined, but also narrower scope of action to organisations assisting to suicides, on a cantonal as well as on a federal basis, in the form of a legal regulation of assistance to suicide. The decision of Mr. Blocher, member of Swiss Federal Assembly, to cancel the "euthanasia" topic from the priority list of his police and justice department for the legislative period 2003-2007, caused Zurich's public prosecutor Dr. Andreas Brunner, to suggest a law or at least a decree on a cantonal basis, hoping it might have a snowball effect on other cantons and would finally lead to an arrangement for whole Switzerland. (4).

His attention is particularly directed to the following points:

- Guidelines for the choice and education of suicide assistants and doctors as well as for their control;
- measures to assure the constancy of the wish to die, keyword "fast assistances"
- cretearia to determine the power of judgement of the person willing to die, particularly mentally disordered persons;
- measures about using medical aids in assisting suicide, such as perfusions or stomach-probes. By the way, the so-called "EXIT-Bag", which is used in USA and Australia, was neither "invented" nor has ever been used by EXIT! We clearly refuse this method;
- restriction of suicide assistance on persons with residence in Switzerland or in the canton Zurich;
- cost sharing of the organisations which assist to suicide with the costs of authorities;
- evidence duty of suicide assistants and their organisations in investigation proceed ings;
- Inclusion of 2 doctors instead of just the medicating doctor;
- guidelines for cases, in which a doctor issues a medical prescription for NaP, independently of an organisation: an increasing trend;
- And primarly, permission duty for all organisations assisting suicides.

In principle, impunity of euthanasia should not be changed, primarly, abuse should be prevented.
Public prosecutor Brunner incidentally praised EXIT for the already existing exemplairly guidelines and standards, particularly concerning choice, education and supervision of suicide assistants. However, there is no change in his wish to exclusively control euthanasia organisations, but not conditions in hospitals and old people's homes. Furthermore, the problem is discussed in the European Council for family health and social- and adjourned again and again.
So we still will have to manage a whole while on our own.

5. "Tourism of death"

The headword "tourism of death" came up because of the activities of Dignitas and because of the media hype which was provoked by their president RA L. Minelli quite consciously and with intention. Probably the problem will be ended as a matter of priority because of financial reasons as Zurich's ratepayers and authorithies are obviously not ready to pay CHF 3000.- to 5'000.- per "case" for costs of proceedings for people who financially compensate Dignitas for their help, but not city or canton. According to the prosecuting attorney's office the costs for foreign suicidents in canton Zurich amount to CHF 273 000.- p. a!
Best liability to avoid assistance to suicide and euthanasia for non-Swiss would be, that neigboring nations of Switzerland, I particularly think of Germany, France, but also Great Britain, create conditions which makes it possible to seriously ill persons to die at home in dignity and peace.

6. Definitions

There is a certain confiusion with definitions:
It is to differentiate between

- Assistance to suicide or euthanasia: it is punishable only at egoistic motives;
- passive assistance to suicide, that means to refrain or abort a life prolonging or life preserving medication: tolerated;
- indirect active euthanasia, that means administering medicine or treatment soothing disease though, but as a side consequence can accelerate dying process: tolerated;
- active euthanasia, purposive killing of a seriously ill person, in order to shorten his/her sufferings, for example by injecting a deadly substancy: under punishment in Switzerland as well as in most other countries;
- active euthanasia on demand: it is punished in Switzerland with penitentiary up to 5 years or with prison, also for worthy motives.

In Europe, only in Belgium and Holland active euthanasia is unpunishable under certain circomstances. There any kind of suicide assistance on insistent and serious demand of a seriously ill person hypokrisie- und komplexlos is described as "euthanasia" and put into practice as PAS (physician assisted suicide). As opposed to Switzerland, in
Belgium and Holland exclusively doctors are allowed to assist suicide, but by injection.

An internal survey with members of EXIT german part of Switzerland from the year 2000 shows an interessting result: less than 1 % wishes exclusive suicide assistance by a doctor, slightly more than 50 % vote for assistance as well as by non-doctors and by doctors.

Euthanasia, "wonderful death" - the sense of this word was abused by the Nazis. Against knowing it better, in Switzerland as well as anywhere else, any allusion to this is sited as soon as negative emotions should be aroused, instead of having factual discussions.
The free, autonomous decided, repeatedly seriously expressed wish of a judicious adult. attested by witnesses, to decide how and when he/she wants to die, for controlable and comprehensible reasons, is exactly the contrary of what happened in concentration camps and psychiatric clinics at that time!

7. Advance directives

Also in this point, EXIT pioneered in 1986, when they put the famous lawyer Dr. iur M. Keller in charge of a legal opinion concerning obligations of advanced directives. In 1986 his conclusion was revolutionary, from today's view it's almost taken for granted:
"The advance directive is legal; it is also binding (for addressees). The doctor is only allowed to deviate from it if he/she is able to prove that it does not correspond to the patient's real current wish; " ... The enacting person may authorise a third person (legally) to make sure that the advance directive is observed ... " (5). Although in 2000 only 6 % of Swiss population had filled in such an advance directive, there is no doubt about its helpfulness; in several cantons, its obligation is already established in law. In Danmark, it is even obligatory before each hospitalisation. (6)
Advanced directives are particularly intended for situations where the patient is not able (anymore) to express him/-herself, respectively has lost consciousness, either by an accident or in the course of his/her disease. It should protect the patient from unrequested life prolonging measures or it can demand their termination. So it is a

protection against, a useless and painful prolongation of the process to death. To this day, no more than that is achievable with advance directives. However, the essential
would be won with it.
However, one can and should name a patient's agent, a so-called "patient's lawyer", to observe the abidance of designations.
This confidant, your "guardian angel" carries a different authority in discussions with doctors and nursing staff, as if he/she is not a member of the nearest family circle, if he/she can refer to a long-existing document which has been confirmed by a yearly signature.

8. Patient's rights:
Patients, who are conscious and judicious, are entitled to be broadly informed at an early stage and with comprehensible words as a basis of any decision. In Switzerland as well as in Germany they are always entitled to refuse proposed medical measures or to demand abortion of measures already applied. And, as a member of EXIT, they are intitled to ask for suicide- resp. euthanasia assistance.
How much we are bearing up agains constitutional or psychical pain, how much we are ready to accept, facing near death, depends on ourselves, on our character, our own experiences, but also on our environment, on the quality of our habitat and the medical care, but above all on behaviour of our attachment figures. For this point it may not give any universally valid norms, none may accroach to force his/her personal criterias on someone else. **Self-determination and no heteronomy, even it is well-meant! If we take self-determination for serious, we have to acknowledge the right of subjectiv assessment of pain and attendance of pains to a judicious patient who is able to decide.**
In the mayor of cases, particularly aged humans with their large experience of life are calculating their position correctly without any illusions. If furthermore their wish to die is intensified by loneliness, abandonment by relatives, loveless care by swamped nursing staff, no psychiatrist or social politician can change this situation by disuscussion in needed hurry.

9. Reasons for suicide assistance
Which reasons are committed to the desire of suicide assistance? According to our internal statistics, as most frequent reasons are stated:

- cancer in an advanced state, often in combination wih a lung-emphysem and metastasis, particularly if an unswalloability is to fear,
- multiple sclerosis,
- brain tumour
- amyotrophia
- amyotrophic lateral sclerosis Parkinson
- AIDS
- Incombatible skeletal pains.

Today, pains or fear of them can be medicated or at least reduced to a sufferable level in most of the cases. However, it lasts the denial of the own, irresistible constitutinal and mental prostration, the picture every human carries of him-/herselve and the impression he/she wants to communicate and to leave in his/her environment. For this reason,

EXIT also assists to

- Very aged humans with irreparable polymorbidity, that means blindness, hearing loss, increasing arthrosis, palsy, and often all combined, humans though, who tax their quality of life as insufferable and do not see any sense in living on.

In this case, it would be inhuman to wait until final stage, if the informed patient does not want it, can't bear it anymore and can't agree with his/her measure of dignity anymore. Then, he does not need any suicide assistance anymore, because in the final stage of the dying process, most of doctors help with corresponding sedation, legally. The intention of "alleviation of pain" is important, but not the effect of "medically assisted
suicide". .

As mentioned at the beginning, in Swiss hospitals and old people's homes far more than the 400 patients mentioned are dying that way. Private expansions by doctors show 7000, but even if there is "only" 700-1000, how I was assured by experts during discussions: **These humans too often die without being asked for their opinion in time. To install efficient controls would badly be needed.**

One word concerning the problem of <u>mentally disordered</u>:

EXIT does not assist them anymore since the moratorium which was self-imposed at the end of 1998. However, we have commissioned well-known experts in psychiatry,
medicine and law to furnish an opinion concerning the question if from the multiplicity of
mentally disordered certain patients can be judicious in reference to their suicide wish. (7). It is certain, that the borderline between somatic an mental illness is not always clear.

Certainly, in every individual case, it must be clarified extremely careful, if the suicide wish is conditional upon illness or not. And certainly it must always and before each suicide assistance be clarified if the wish to die is not rather a call for life aid. However, certainly there are exceptions, where a suicide wish has to be respected as an autonomous expression - and psychiatrists amongst you will not contradict this.

In certain cases, non-assistance would be more inhuman than assistance to a human termination of a long lasting and consciously experienced misery, from where even the best psychiatric care can't find a way out.

<u>10. Effort of autonomy. "slippery slope" and "crevasses"</u>

In Central Europe's liberal countries with their world-viewing and religious heterogeneous composed communities to authonomy of each, more and more value is attached on the right on arranging his/her own life and death. But: Even if the right on this liberty is a privilege of presence, on the other hand, there is a bounteousness of new responsibilities to be learned and excercised. **Self-determination to suicide must not be a free ticket to egoism, must not harm or endanger anyone.**

In connection with suicide and euthanasia assistance, danger of <u>"slippery slope"</u> is mentioned again and again. I don't want to minimise this anxiety at all. However, without falling in a historic discourse: Let's have a look at the most serious "crevasses" in our nearest past, let's take the example of rassism or the efforts of hegemony in several countries:

<u>"Crevasses" are becoming dangerous as soon as people are manipulated. kept in ignorance or wrongly informed - where emotions are stoked instead of presenting facts.</u> In my opinion, best weapon against any kind of "crevasses" is opposing an awake and critical mind against the authority-faith of last centuries, are people who had learned to think independently and even feel free acting this way.

Ethic basis, transparency, clear frontiers, clear directives, controlable files (with every possible respect to privacy), severest criteria in selection and education of suicide -assistants. both doctors and non-doctors: In my opinion, these are not just practically executable but also efficient guidelines against danger of "crevasses" in the range of euthanasia and suicide assistance.

11. Majority and self-determination:

Today, in Switzerland as well as in Germany, human's right of disposal over own life is seen as a base right of a major citizen. Nobody would deny a major 20 years old person the right of self-determination, in reference to career choice, military service, marriage and desire for children, even if decisions are obviously unreasonable, absurd or unmoral, as long as they are not at odds with law**. However, an aged human, life experienced but weary of life should not be able anymore to know if something is good for him or not?**

Also a human in need of care, also the aged human also the terminally ill person keeps his/her right to personal responsibility as an expression of his/her freewill.

One must not be abased to a tutored person, just because one does not react as fast, because one does not know every medical-technical term, because one needs to ring for every service and is addicted to nurses coming in right time.

70 % of Swiss citizens - In Germany this figure may be similar - die in hospitals or nursing homes. However, even care at home does not protect from situations experienced as a tutored. Some are this much debased by this habit upon to intimate acts that they prefer a death without pains to this situation, if there are no more signs of recovery and even if they are cared affectionately. Who would presume to refuse this with a clear conscience?

Self-determination does not necessarily mean fast suicide assistance, in principle; selfdetermination can express as well ,a cry for help for MORE medical support. To assure this right on self-determination, political solutions, political willingness even to provide the corresponding means for passable and human solutions are demanded, facing the increasing costs in health care which are just accused to aged patients. One cannot propagandise the palliative care, quasi as an effective "antidote", against the request for suicide assistance without providing the corresponding means.

12. New directives by the ethic commission of SAMW

As announced, let me finally go into a pleasant development in Swiss medical fraternity:

Until now, in absence of legal basic conditions, the directives by the ethic commission of SAMW have been standing for behavioural directives of medical deontolgy. The doctor infringing upon the present EngfOhrung directive did not have to fear prosecutions, but was legally sanctioned with cancellation of authorisation to practice or at least with menacing it.

Already at the beginning of 2002, the following last sentence of a press release in Schweizer Arztezeitung **Swiss doctor's journal was pricking up ears: "Contrary to their former position, today SAMW assumes that suicide assistance may be part of medical activities in certain situations ... " (8). In February 2004 SAMW presented the concept of a reorganisation of "caring patients at their end of life" (9)**

In the text presented for consultation is attached importance to - and this is very new difference between the doctor's part and his/her job.

The personal conscience decision of a doctor, to abet in suicide in individual cases has to be respected, stands there. **It's also new, what was expressed by the president of the central commission of ethics, prof. Michel Vallotton, as follows: "It is undisputed, that attendance of dying humans is not reserved to doctors."** In other words: Now also doctors are authorised to assist suicide of a critically ill person. Because, the law is no respecter of persons, how stated at the beginning. Also doctors. Only active euthanasia is refused, from legal as well as from medical-ethical view. Whereby, by the way, Belgian and Ouch doctors are denied ethical and moral level of Swiss doctors. However, the acknowledgement of a patient's self-determination, the patient's authonomy, finally contributed to a certain opening concerning judgement of assisted suicide. Therefore, the principle of assisted suicide is not challanged anymore, unlikely to 20 years ago, when every discussion about suicide assistance and euthanasia was tabu, a provocation, and did create a storm of protest. Today, discussion is just about modalities, in draft law of Zurich's prosecutor as well as in the directives of SAMW.

13. Concluding remark:

Laws concerning medically assisted suicide, medical-ethical directives, palliative care, suicide assistance, passive suicide assistance, indirect active suicide assistance: It is outstanding that all these activities which are that worthily, refer to the ultimate end of life. As soon as a patient expresses his wish to die - finally - suddenly everything is focused on him/her, appaled, affected activity is developping around him/her. However, before that, at the beginning of the disease, in the course of increasing afflictions of old age, multiple addiction, at the beginning of social death, the old and ill human sometimes and all too often had to hear and feel about how expensive he/she is for health insurance, old age insurance, pension fund and community, how bothered the family feels about his/her request for affection in their hyperactive everyday life. For these reasons, among others, quite a couple of them are "deported" to a home for the aged. Don't you think, we all should endeavour to satisfy aged humans, before it is too late for them, instead of abstracting the problem and anonymise the misery in theoretical discussions? - Finding back to a humane death culture, in the spirit of Hippocratic Oath, but with means of actual medical-technical possibilities and on the basis of the right on self-determination of the person concerned. **At the same time, we would assure our own death better.**

Because we are tomorrow's old people.

Remarks:

. 1 *Byelaws EXIT German part of Switzerland, Zurich, 15th May 2004, Art.3*
2 *Opinion of the institute of forensic medicine, university of Zurich-Irchel, Forensic Medicine dept., Zurich, p. 5*
3 *IPSO: representative survey in population: assisted suicide and its reputation EXIT. Duebendorf, 11th. October 2000*
4 *speech at "EXIT-day", May 2004*
5 *Keller-Schwegler, Max : Legal opinion concerning the question: Are advance directives binding on everybody, in the manner of the text which EXIT proposes to its members, especially on doctors, hospital doctors and all other hospital staff? Zurich, 1986*
6 *A Repori from Denmark: Experiences and Attitudes Towards End-of-Life Decisions Amongst Danish Physicians. Dans: Bioethics ISSN 0269-9702, volume 10 number 3 1996.*
7 *Bosshard, Kiesewetter, Rippe, Schwarzenegger: Suicide Assistance for mentally disordered humans. In special consideration of power of judgement. Experts report fort he attention of EXIT german part of Switzerland, Zurich 2004*
8 *Schweizer Ärztezeitung Swiss doctor's journal no 1/2, 2002, p. 47*
9 *Schweizer Ärztezeitung Swiss doctor's journal no 6, February 2004, p. 286 ff*