

The regulation of assisted suicide in an open society:
German Ethics Council recommends the statutory
reinforcement of suicide prevention

AD HOC RECOMMENDATION

Berlin, 18 December 2014

In a public meeting on 27 November 2014, the German Ethics Council discussed the topic 'Assisted Suicide'.¹ After introductory presentations from members of the Ethics Council on conceptual fundamentals, ethical and constitutional aspects of dignity, autonomy and self-determination, care structures and suicide prevention, the public image and the self-image of the medical profession, euthanasia organizations, and possible regulatory models and their implications, the members held public and private discussions. The recommendation presented here reiterates the view expressed by the Ethics Council in 2012 that a statutory ban applying exclusively to professionally organized, i.e. commercially operated assisted suicide would create more problems than it would solve. The Ethics Council also reaffirms that killing on request should remain a punishable offence (§ 216 StGB [Criminal Code]).

The German Ethics Council welcomes the proposal of the Federal Ministry of Health to establish nationwide hospice and palliative care in the outpatient and inpatient sectors of the health care system and nursing, and to reinforce that care with a further legislative initiative. Good palliative care made available to all patients with a progressive illness and limited life expectancy relieves distress, and can help to overcome fear and despair, providing life-oriented answers to questions regarding possible suicide assistance.

These offers, however, apply only to a small proportion of the approximately 100 000 people who attempt suicide each year in Germany, because most suicide attempts are not made by people suffering from a progressive illness and with limited life expectancy. For isolated and mentally ill people, for example,

other measures and structural systems are necessary to prevent suicide. These include good psychiatric and psychotherapeutic care, the expansion of low-threshold counselling and support offers in times of crisis, and the targeted training of employees who work in nursing and other areas of medical care in the early recognition of – and the appropriate intervention in – crises where there is a risk of suicide. Interdisciplinary research on suicide prevention and on the treatment of those at risk of suicide should also be strengthened in this respect.

Situations in which someone plans to commit suicide and asks another person for assistance to this end are diverse and shaped by a great variety of different aspects, which depend, among other things, on the relationship between the two people, their biographies, and the medical history and conditions of care of the person who wishes to commit suicide.

Current legislation stipulates that neither suicide, nor assisting a suicide that is legally autonomous, is a punishable offence. This is in line with the principles of a liberal constitutional state, which preclude defining suicide in abstract and general terms as a wrong, because that would mean assuming a general and enforceable legal obligation to life, which would be at odds with fundamental legal principles. For this reason, even assisting autonomous suicide cannot, on the whole, be defined as a legal wrong, however controversial the autonomy of suicide in general and the question of its recognizability in an individual case. Even the duty to intervene and the general obligation to render assistance cannot justify the prosecution of the assisting person in such a case. This does not affect the possibility of divergent moral conceptions of suicide and suicide assistance. In view of this, the German Ethics Council recommends that current legislation should not be fundamentally changed. Special statutory regulations, e.g. for medical suicide assistance, are rejected by the majority of the Ethics Council, as is the regulation of suicide

¹ The individual presentations and the discussion can be heard on: <http://www.ethikrat.org/sitzungen/2014/beihilfe-zur-selbsttoetung> [18.12.2014]. Both the audio recordings and the texts are available.

assistance for any other professional group, because this would mean defining cases of suicide assistance as “authorized normal practices”.

It is, however, the view of the majority of the Ethics Council that both suicide assistance and explicit offers of suicide assistance should be prohibited if they are designed to be repeated and take place in the public sphere, which might make them appear as socially standard practices. This serves to protect social norms and beliefs which reflect the special respect due to human life. Any form of suicide assistance that was not individual aid given in exceptional, tragic circumstances, but a kind of standard case – something along the lines of a standard offer available from doctors, or a service provided by an association – would be likely to weaken the social respect for life. Moreover, and above all, precautions are to be taken against the risk of outside influence in situations of precarious autonomy. Finally, the efforts of suicide prevention might be undermined, if suicide assistance were perceived as a socially acceptable normality. This is the case, regardless of whether the assistance is granted by an organisation or an individual.

The German Ethics Council endorses the understanding of the medical profession which is formulated by the *Bundesärztekammer* (German Medical Association) in its principles on medical euthanasia, and which stipulates that it is not the duty of a doctor to collaborate in suicide, i.e. that involvement in assisting suicide is not a task that arises from a doctor's professional responsibility. Not least for purposes of suicide prevention, it is nevertheless important that seriously ill patients can regard their doctor as someone trustworthy, whom they can talk to, even if they are struggling with the desire for a premature death. Within the protected space of the doctor-patient relationship, every patient should be able to rely on a frank discussion about suicidal thoughts and intentions, and on life-oriented counsel-

ling and support by the doctor. The majority of the German Ethics Council recommends that the medical associations make a unanimous statement to the effect that, irrespective of the policy that suicide assistance is not the task of a doctor, moral decisions made in a confidential doctor-patient relationship in exceptional circumstances should be respected, even if they are at odds with that policy.

In addition to the announced expansion of palliative and hospice care, the German Ethics Council recommends the statutory reinforcement of suicide prevention measures and structures, and the majority of the Ethics Council recommends the prohibition of suicide assistance and of explicit offers of suicide assistance if these are designed to be repeated, and take place in the public sphere. Furthermore, the majority of the Ethics Council is of the opinion that the legislator should clarify in the narcotics law that the prescription of narcotics in exceptional cases is not a punishable offence, even in the context of autonomous assisted suicide.

The approach suggested here stresses the necessity of reinforcing suicide prevention in accordance with Germany's National Suicide Prevention Programme, and takes into account both the diversity of individual end-of-life situations and the diversity of moral convictions within the population. It also acknowledges the intimacy of existential decisions and experiences, while at the same time underlining the dignity of every human being, regardless of how able-bodied or needy he or she may be.

Those members who do not approve of individual recommendations on matters of principle nevertheless support the ad hoc recommendation and in particular its focus on the statutory reinforcement of suicide prevention.

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