Reviewer's report

Title: Advice and care for patients who die by voluntarily stopping eating and drinking is not assisted suicide

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Reviewer: Dieter Birnbacher

Reviewer's report:
This debate article addresses an important problem that is under discussion in many countries at present: Is VSED, a practice that finds increasing interest among the elderly as a way of autonomous dying compatible with legislation prohibiting physician assisted suicide, either categorically or with certain exceptions?

The article presents the main arguments for the position that physician aid in VSED is not prohibited favored by many palliative care physicians. It convincingly criticizes the view that VSED cannot be counted as a "passive" variant of suicide because of its special features.

The novelty in the authors' arguments is that they endorse the position that VSED is a variant of suicide but that nevertheless a physician offering palliative care in this context is not committing the crime (where it is a crime) of assisting suicide because he or she is not causally involved in hastening death beyond the causal contribution of the patient's foregoing food and water.

The references of the article are sufficient. The arguments are, however, not all equally convincing.

On page 5 on the top it is argued that the law could not possibly regard providing palliative care to a patient who is practicing VSED as a crime because refusing food and water is a right. This is true enough, but the law might be inconsistent at this point, as it actually seems to be in many countries that prohibit assisted suicide categorically. Even giving advice on the possibility of
VSED does not seem to be exempt from this legal uncertainty, even more so because it may play a causal role in the patient's decision to use VSED.

Another difficulty for the authors' arguments seems to be that the assurance given by the physician that he or she will provide palliative care in case this is needed may be a causally necessary condition of the patient's resolution to use VSED. Without the assurance that he or she will receive help in relevant situation he or she would not start the procedure. In this case the causal involvement of the physician seems undeniable so that legal uncertainty is unavoidable.

Finally, one wonders how legislation might react to hypothetical cases in which medical and social support in practicing VSED is offered on a grander scale. Would a clinic be tolerated by the legal system that advertises VSED as a comfortable way of physician-aided dying for the elderly?

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