DIGNITAS
To live with dignity
To die with dignity

Comments on the paper
"Suicide tourism: a pilot study on the Swiss phenomenon"

On 20 August 2014, the British Journal of Medical Ethics (BJME) published online the paper "Suicide tourism: a pilot study on the Swiss phenomenon" by Saskia Gauthier, Julian Mausbach, Thomas Reisch and Christine Bartsch.
http://jme.bmj.com/content/early/2014/07/03/medethics-2014-102091

The five Swiss charities working for the human right to a life with dignity and a self-determined end of suffering have analysed this study. It has many omissions and errors and contains statements which are wrong, misleading and inflammatory. The study is not representative as the authors did not use all data in Switzerland and they only analysed the years 2008 - 2012. The allegation that the number of people going Switzerland has doubled, bases on a selected analysis. The findings of the study are misleading.

Hereafter, a choice of the inaccuracies and flaws of the paper on "suicide tourism"

Within **Abstract**

1) Gauthier et al claim that assisted suicide (a/s) is not clearly regulated by law in Switzerland.
This is not accurate. Article 115 of the Swiss Criminal Code which came into force already in 1942 states on inciting and assisting suicide unmistakably: "Any person who for selfish motives incites or assists another to commit or attempt to commit suicide is, if that other person thereafter commits or attempts to commit suicide, liable to a custodial sentence not exceeding five years or to a monetary penalty" What these "selfish motives" are, has been explained by the Government before-hand: examples are morally inacceptable motives such as pushing a person for whom one has to pay support money to commit suicide, in order to get rid of having to pay that support anymore. Or, to push a relative to commit suicide in order to inherit earlier. The scheme of practice with assisted/accompanied suicide, basing on article 115 and obviously done with non-selfish motives, has been in place in Switzerland for over 30 years now.

2) The authors claim that the imbalance between a/s being restricted in many countries, yet – allegedly – not being clearly regulated by law in Switzerland leads to people going to Switzerland, mainly to the Canton of Zürich, for the sole purpose of committing suicide.

The choice of wording shows the utter disrespect of the authors of the study. Badly suffering people from outside Switzerland do not come to this country for the sole purpose of committing suicide but for the purpose of having a self-determined, safe and accompanied (professionally and by loved ones + friends) assisted suicide - and this only because the law in their home country would not (yet) allow them to do so.

Within **Introduction**

3) In the first two lines, the authors repeat the claim that a/s is not clearly regulated by law in Switzerland.
As already mentioned before, this is not accurate. See comment no. 1) before.

4) Gauthier et al state that the medical professional code of Switzerland allows doctors to provide assistance in suicide in certain circumstances, when they assume that the end of life is near or the patient is in the end stage of a terminal illness.
This is not accurate. The guidelines by the Swiss Academy of Medical Sciences (SAMS) do not have the formal quality of law, being that the SAMS is a non-governmental organisation which has no power to set law. See also the judgment of the European Court of Human Rights in the case of Gross v. Switzerland: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119703

5) The authors claim that the European Court of Human Rights recently ruled that Switzerland has to issue regulations for prescribing lethal medication such as sodium pentobarbital
However, this is not factually accurate. The Court concluded that "Swiss law, while providing the possibility of obtaining a lethal dose of sodium pentobarbital on medical prescription, does not provide sufficient guidelines ensuring clarity *as to the extent of this right*" (emphasis added). Besides, the case concerned situations in which ". . . an individual has come to a serious decision, in the exercise of his or her free will, to end his or her life, but where death is not imminent as a result of a specific medical condition."
see: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119703 paragraph 65.
Furthermore, the authors omit to mention that the European Court of Human Rights has acknowledged the right/freedom of a competent individual to decide on time and manner of his/her own end in life in its judgment Haas v. Switzerland, see:
http://www.dignitas.ch/index.php?option=com_content&view=article&id=56&Itemid=90&lang=en

6) Gauthier et al claim that each case of a/s results in legal investigation costing approximately 3000 Swiss Francs.
However, they offer no proof for this assertion. Furthermore, they study omits that these costs are A) unnecessarily created by the Zürich Prosecution Authorities

because they still do not want to accept - after 30 years - that an assisted/accompanied suicide, assessed by Swiss physicians, taking place in the presence of professionals of Exit and Dignitas, with a medical file and further evidence handed over to the authorities, etc., is not the same as finding a decayed body of a unknown person somewhere out in the woods. The Zürich authorities still treat these two entirely different situations in the same way; B) It is the Zürich Authorities which create unnecessary costs – in order to then claim that foreigners coming to Switzerland for seeking a dignified end of suffering would be a financial burden. There are now legal procedures under way against said authorities; C) the study omits that the now retired Chief Prosecutor, Mr. Andreas Brunner, drew up a "contract" with Exit which the Swiss Supreme Court had to cancel as being nil and void. However, the Zürich Prosecution Authority is still handling assisted suicide cases with Exit differently from those with Dignitas, which has led to legal investigation / court cases against the Zürich Prosecution Authorities.

7) The authors claim that in May 2011 the population of Zürich rejected a draft bill aiming at restricting a/s to people who had lived in the Canton of Zurich for at least one year.
This is not accurate. In fact, in May 2011 the people of the Canton of Zürich did not vote on a draft bill but on 2 people's initiatives, brought in by conservative-religious representatives of two small "Christian" political parties (EDU/EVP). One of the initiatives aimed indeed a prohibition of a/s for people who had not lived in the Canton of Zürich for at least one year. The other initiative aimed at prohibiting a/s altogether. Both initiatives were heavily rejected in said vote of May 2011, the one initiative by 84 % and the other by 78 % of the voters. See also: http://www.dignitas.ch/index.php?option=com_content&view=article&id=26&Itemid=6&lang=en (scroll down to entry of 16 May 2011)

8) Whilst the authors, in the abstract of the paper, claim that a/s is not clearly regulated by law in Switzerland (see point 1 before), they state that there is no definitive legislation, adding that there was clearly restrictive regulations in other European countries.
However, interestingly, nowhere in the study would the authors actually specify these other “clearly restrictive” countries, and even more, list which other European countries in fact would allow for a/s or even voluntary euthanasia.

9) The authors claim that people from abroad coming to Switzerland for an a/s are referred to as suicide tourist.
With their very use of the term “suicide tourism”, Gauthier et al set a tone of disrespect for people who – far from enjoying a tourist’s experience of Switzerland – are confronting momentous decisions for themselves and their families. Even if these researchers did not themselves develop the term, each researcher bears responsibility for respectful reference to people making lawful decisions. This is true even if the researcher would choose differently for him or herself. These

researchers' bias is evident and discrediting by their use of a derogatory term for the subjects of their research.

Within **Table 1**

This table contains several inaccuracies and faults:

- The column "AS/year", which presumably is to show average figures, does not specify which years the authors included in their calculation. As to Dignitas, the number of a/s shown (150) is wrong. The correct number of a/s would be 106 (1701 a/s in 16 years). Even if one bases the average on the years 2008 – 2012 (which the authors picked for their paper), the number would still be wrong: the total of a/s at Dignitas for the years 2008 – 2012 was 676 which gives an average of 135 for those 5 years.
- The column "Member" shows outdated figures. Dignitas has 6,924 members (as of 31 December 2013), Exit Deutsche Schweiz some 73,000 and Exit ADMD Suisse romande 19,702 (as of 23 August 2014).
- The column "Fee for AS" shows false information.
    - As to Exit DS: Correct is: CHF 3500 (in the first 12 months of membership), then CHF 1900 (13-24 months of membership) and then CHF 900 (25-36 months of membership). Additionally, if Exit has to find a consulting medical doctor, additional costs of CHF 450 are charged.
    - As to Dignitas: The actual cost of an assisted suicide with Dignitas is CHF 3000 - not 9000 and not 10500. All costs beyond 3000 have to do with additional work carried out by Swiss medical doctors (who are independent of Dignitas), such as assessing the formal request for an assisted suicide; also, costs in relation to funeral issues (such as cremation) and costs of dealing with the Swiss civil registry offices (registration of demise, issuing an internationally valid death certificate) etc. Besides, the authors omit (on purpose?) to mention that the articles of association as well as the info-brochure – all published on the Dignitas-website – state the possibility of reduction or even total exemption of having to pay costs to Dignitas for people who live in modest financial circumstances.
    - As to Spirit: The authors omit to mention that this foundation (correct name is "Eternal SPIRIT") is connected to the not-for-profit member's society "Lifecircle". And, in fact, Lifecircle / Eternal Spirit has the same fees for services in connection with a/s services as Dignitas – just as well as offering the possibility of reduction and exemption.

Within **Results**

10) The core claim of the authors – which after publication of their paper made international media headlines – is the aspect of "doubling", that the cases of a/s in the Canton of Zürich, after an initial decrease between 2008 and 2009, increased from then onwards and doubled in number by 2012.

However, Gauthier et al analysed only a/s in which the Zürich Institute of Legal Medicine had been involved and only that occurred between 2008 and 2012. Cases of non-Swiss residents in which other Institutes of Legal Medicine have been involved, just as much as earlier years, were not considered. The authors claim to have included 611 cases ("all foreign residents who had been given assistance in suicide during the period 1 January 2008 – 31 December 2012"), but Dignitas alone assisted 632 non-Swiss residents during that period. In fact, had the authors included just two more years, 2006 and 2007, they would have found that the number of a/s decreased from 2006 until 2009, and then increased until 2012 to reach the level of 2006. In consequence, the hype-claim of "doubling" is relativized. Besides, the method of data collection and analysis by Gauthier et al is not explicitly justified by the authors and leads to serious misrepresentations of the factual situation in Switzerland.

11) The authors claim that according to the German Federal Medical Association's professional code of conduct, doctors are forbidden to help someone to commit suicide.
However, the authors omit that this professional codex is not law and that not all of the German Bundesländer have adopted this ruling of the Federal Medical Association – something which would be necessary to make it effective in the specific Bundesland.

12) Gauthier et al mix legal and ethical issues as to German medical doctors attending an a/s in Germany, omit important background information and make false assertions.
The possibility of a German doctor witnessing an a/s and not starting resuscitation procedures is first and foremost a legal issue. The question has been resolved in Court cases. Furthermore, if there is a patient's health care advance directive present, which rules that no resuscitation shall take place, a German doctor basically has to follow this directive. Even more so in the light of the fact that a German doctor violating the individual's will stated in his or her advance directive could be criminally liable for causing bodily harm (§223 of the German Criminal Code).

13) Gauthier et al's claim that in Germany, some physicians consider their ethical values higher than the law and still do help people commit suicide, which is misleading and unfounded.
First of all, the law in Germany does not prohibit a/s. Furthermore, as already pointed out before, the German Federal Medical Association's professional code of conduct is not law and not all of the German Bundesländer have adopted this ruling of the Federal Medical Association. Fact is, for example, that Dr. U. C. Arnold from Berlin has assisted in dozens of a/s over the past years and even made this public. He is still a free man and he still holds his medical approbation. Claiming that some German physicians weigh their ethical values higher (than the law) is a most delicate allegation by the authors. They try to create an image of

clear-cut German law prohibiting doctor's a/s-assistance and some doctors violating the law.

14) Regarding the guidelines of the Director of Public Prosecution (DPP) for the Crown Prosecution Service (CPS) of England and Wales, the authors of the paper state "The current policy allows for assisting someone to commit suicide may be free from prosecution in certain circumstances, for example, when the decision to commit suicide was voluntary, clear, settled and informed. In addition, the person assisting had to be acting out of compassion."
Obviously, the authors made a mistake as they first state that the current policy allows for assisting someone to commit suicide. However, overall, the facts are: A) the DPP / CPS made it clear on several occasions that the CPS cannot change the law, but only Parliament can do so. In other words: the publication of the guidelines has not changed anything in legal terms. Aiding and abetting etc. in suicide was and is a criminal offence in England and Wales, as stated in the Suicide Act 1961 http://www.legislation.gov.uk/ukpga/Eliz2/9-10/60 ; B) the cases of investigation in relation to assisted suicides at Dignitas, which we are aware of, have all been closed under the notion of "no public interest to prosecute"; C) there have not been any prosecutions before 2010, before the publication of the guidelines, and there have not been prosecutions thereafter. As far as Dignitas knows, none of the relatives and friends of the over 244 UK patients who came to Dignitas during the past 12 years have ever been prosecuted for accompanying their loved ones.

15) Gauthier et al state that "in August 2013 the wife and son of a man who wanted to commit suicide in Switzerland with the help of Dignitas were arrested" – by referring to an online tabloid publication (!) which in itself contains false information…

16) Gauthier et al claim that organisations such as Dignitas and Exit are still forbidden by law [in the UK and Ireland].
This is misleading. Gauthier et al should have stated that organisations which enable a/s would not be allowed in the UK and Ireland – however, there are organisations similar to Exit and Dignitas in the UK and Ireland, for example SOARS and Dignity in Dying in England and FATE in Scotland.

Within **Discussion**

17) The authors imply that non-fatal diseases or diseases that are not yet end stage did not meet the criteria required for Swiss doctors.
This is inaccurate. In fact, there are no criteria in relation to a/s with non-fatal diseases to be met by Swiss physicians, because the existing guidelines/criteria by the Swiss Academy of Medical Sciences (SAMS) only apply to patients at life's end. The SAMS has refused, so far, to issue other guidelines. This has been subject of a court case and is pointed out in a legal scientific essay:

http://www.dignitas.ch/images/stories/pdf/artikel-fragwuerdiger-geltungsbereich-samwrichtlinie-15062013.pdf Furthermore, as mentioned before, the guidelines by the SAMS do not have the formal quality of law, being that the SAMS is a non-governmental organisation which has no power to set law. See also the judgment of the European Court of Human Rights in the case of Gross v. Switzerland: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119703

18) Gauthier et al state that it is possible that suicide tourists suffer from such [non-fatal] diseases more often than Swiss residents or that those with terminal cancer are not able to travel to a foreign country.
The authors ignore the fact that people suffering from terminal cancer, in their final bouts, are much more likely to find relief through palliative care than people suffering from illnesses such as ALS, MS, etc., which bring about slow deterioration to the point that the patient is a "prisoner in a dysfunctional body", long before they would be considered "terminal" and thus eligible for full-fledged palliative care.

19) The authors claim that the Debbie Purdy case impacted jurisdiction with supplementary guidelines to the existing law in 2010, resulting in an overall liberalisation of the prosecution practice in the UK following assistance in suicide.
This information is false. As already mentioned before with point 14, the DPP made it clear on several occasions that the DPP / CPS cannot change the law, but only Parliament can do so. In fact, the publication of the guidelines has not changed anything in legal terms.

20) Gauthier et al claim that Dignitas maintains a “branch” in Hannover and that this “would basically be at risk because of its advertising activities.”
However, Dignitas-Germany e.V. in Hannover is not a branch of Dignitas in Switzerland. It is a German member's society, founded with German initiative and with German employees. It is affiliated with Dignitas, but it has its own members, statutes, etc.
As to advertising activities, this is complete nonsense. Dignitas-Germany, just as much as Dignitas in Switzerland both have never done any advertisement for its services. Furthermore, Dignitas-Germany has never done any a/s.

Within **Conclusion**

21) The authors claim an increasing proportion of neurological and rheumatic diseases diagnosed among the suicide tourists, and this implying that non-fatal diseases are increasing among suicide tourists.
However, according to Table 3 in the paper, ALS/motor neurone disease is the second most common reason for a/s. To call ALS/motor neurone disease “non-fatal” is cynical by all means, in the light of its dire consequences such as gradual loss of bodily functions and the fact that many patients develop choking and breathing difficulties, even leading to suffocation.

22) Gauthier et al claim a continuing political debate [one the issue of suicide tourism] in Switzerland (and other countries).
However, there is no political debate in Switzerland on this. In fact, it is the opponents of a sensible and liberal freedom of choice in "last matters" who try to stir up a new discussion in Switzerland, because they lost all attempts to narrow access to choosing a dignified ending of suffering. As the study mentions, the Swiss Government and both Chambers of Parliament have decided not to further legislate on the issue and maintain the long-standing status quo. In fact, they found that the existing legal status quo is sufficient. This is what the opponents of freedom of choice at life's end would like to overturn, via "ethic debates" and pseudo-scientific research. See page 19 of this speech: http://www.dignitas.ch/images/stories/pdf/diginpublic/referat-how-dignitas-safeguards-eth-21072014.pdf

23) Finally, Gauthier et al state that the ongoing project "Assisted suicide in Switzerland - Development over the last 30 years" will furnish an in-depth analysis of a/s in Switzerland in general and may provide a scientific basis for a generalised procedure in Switzerland, including suicide tourism.
However, said project is part of the National Research Project "End of Life" (NRP 67) in Switzerland, which is under heavy criticism because it lacks a sufficient neutral and scientific approach. Both Thomas Reisch and Christine Bartsch – co-authors of the paper published in the British Journal of Medical Ethics dealt with here – have been involved in that project, which needed the cooperation of Dignitas and Exit in Switzerland. All background information on this is available from www.dignitas.ch under the header "Forschung auf Abwegen" (= Research going astray /erring). Dignitas has dealt with the NRP 67 issue in one of its publications, see page 19 here:
http://www.dignitas.ch/images/stories/pdf/diginpublic/referat-how-dignitas-safeguards-eth-21072014.pdf After initially supporting the NRP 67, all Swiss self-determination member's societies such as Exit, Dignitas and Lifecircle withdrew their support to the NRP 67 and especially the project of Thomas Reisch and Christine Bartsch, because it had become clear that their aims and approach were not scientific-based but by other motivations. In fact, there is a court case pending against the NRP 67 because of its questionable approach and selection of people and projects.

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