

Euthanasia's Frontier: The Experiment in Belgium

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ABSTRACT: Belgium's groundbreaking experiment in legal euthanasia is a cautionary tale. Originally designed to deal with patients in intractable pain during the last stages of a terminal disease, the practice has quickly expanded to justify the killing of the depressed and the disabled. Grieving family members have discovered little accountability when they protest what they consider reckless applications of the law in the medicalized deaths of their loved ones. Originally limited to competent adults, the candidates for legal euthanasia now include minors and may in the new future include senior citizens with dementia.

IN RECENT YEARS Belgium has placed itself at the forefront of nations practicing state-sanctioned euthanasia. In 2002 it became the second nation in the world to legalize medical euthanasia. In 2014 it became the first nation to abolish age restrictions on those requesting and undergoing lethal injections. The history of the Belgian experiment has been a disturbing one. The “unbearable suffering” used as a criterion to justify euthanasia has quickly moved beyond the category of patients with intractable pain in the last stages of incurable disease. Patients with depression and other psychological problems have become casualties of the procedure. Recent scholarly studies and legal complaints indicate that a substantial number of the medical euthanasia cases have occurred in conditions that could not possibly meet the standard of informed consent. The recent abolition of an age requirement has made chronically ill children potential subjects for the practice. The Belgian experiment is a cautionary tale about what actually happens in a society that condones medical euthanasia.

Legalized Euthanasia

Belgium's regime of legal euthanasia began with a 2002 law that authorized the practice. The Belgian parliament enacted it several months after the neighboring Netherlands became the first nation to

authorize the practice.¹ The law went beyond allowing for physician-assisted suicide inasmuch as it permits doctors to kill a patient directly through administration of a lethal injection.

The 2002 law placed a series of limits on the practice of medical euthanasia. It specifies that the patient requesting the treatment must be an adult who “is in a medically futile condition of constant and unbearable physical or mental suffering that cannot be alleviated, resulting from a serious incurable disorder caused by illness or accident.” The patient must be mentally competent, capable of understanding the consequences of the action, and free from duress in making the request. A panel of three doctors must approve the request and verify the patient’s medical condition, competence, and freedom. A psychiatrist should be a member of the team. The law imposes a brief waiting period so that the patient can reconsider the request.

As actual cases of euthanasia carried out under this law received publicity, serious abuses became apparent. “Unbearable suffering” was not restricted to what many Belgians thought that the phrase meant, viz., untreatable physical pain in the last stages of a terminal disease. Serious psychological suffering could now justify euthanasia.

In a number of cases severe depression alone appears to have triggered a decision to give a lethal injection under medical auspices. One celebrated case concerns the death of Godeliva de Troyer, the mother of Tom Mortier, a professor of chemistry at Louvain.² In 2011 Mortier was stunned to receive notification from a clinic that his mother had been killed by a lethal injection. Madame de Troyer had suffered from clinical depression for years. Her anti-depressant medication sometimes caused suicidal ideation. When Mortier confronted the doctor who performed the euthanasia, the doctor defended his action as legal. Madame de Troyer had signed the request form, two other doctors had

¹ For an overview of the Belgian polity on euthanasia, see L. Deliens and G. Van der Wal, “The Euthanasia Law in Belgium,” *Lancet* (11 October 2013): 1239-40, and S. Dierickx, L. Deliens, J. Cohen, and K. Chambaere, “Euthanasia in Belgium,” *Canadian Medical Association Journal* (1 November 2016): 407-14.

² For a penetrating analysis of the De Troyer/Mortier case and its consequences, see Rachel Aviv, “The Death Treatment,” *The New Yorker* (22 June 2015): 48-51.

been consulted, and there had been the required delay between her request and the act of lethal injection. After Mortier investigated the circumstances of the death, he filed a legal complaint of malpractice. How could the doctor accurately determine the nature and source of the suicidal desire without consulting the family as well as earlier attending physicians about the woman's medical history? How could euthanasia be performed on someone who showed no signs of grave physical suffering and no signs of a terminal or even degenerative disease? Pierre Barnérais's recent documentary film *Euthanasia? Up to What Point?* studies other cases of Belgian families stunned by the announcement that elderly relatives who showed signs of depression had been euthanized even though they were in reasonably good physical health.

One of the most controversial cases concerns the death of identical twins in 2012.³ Born deaf, Marc and Eddy Verbessem had developed a private sign language that they used only between themselves. They quietly made a living as cobblers in their family home. At the age of forty-four, they both experienced increasing problems with sight. Their doctor informed them that a genetic abnormality causing glaucoma would gradually induce blindness. Fearing the isolation that blindness would bring, the twins sought out a doctor who gave them lethal injections. There was no evidence of terminal illness or physical pain, but the mere probability of psychological disorientation as the twins went blind was thought enough to justify the killing. Critics of the case asked why the twins had never been taught universal sign language, which could have addressed their social isolation.

Another controversial case erupted in 2013 in the death of a transgendered citizen. Born a female, Nancy Verhelst decided to change her gender appearance to that of male and to alter her name to Nathan.⁴ Having undergone years of hormonal treatment, the forty-four year old underwent surgery in 2013 to alter her anatomy. Disappointed by the results of the surgery, Nathan requested and received a lethal injection on the grounds that her unsatisfactory appearance caused unbearable

³ See Bruno Waterfield, "Belgian Identical Twins in unique Mercy Killing," *The Telegraph* (13 January 2013): 4-5.

⁴ See Damien Gayle, "Mother of Belgian Transexual," *The Daily Mail* (20 October 2013): 9-11.

suffering. The Belgian press soon excavated the psychological background of the case. Throughout her childhood, Nancy's parents clearly communicated that they had wished for a boy rather than a girl. Her birth and life as a female had been a disappointment to them. When the mother learned of her daughter's death, she made the following statement to the press: "When I saw Nancy for the first time, my dream was shattered. She was so ugly. I had a phantom birth. Her death does not bother me."⁵

Abolishing Age Limits

In 2014 Belgium took a further step in its euthanasia experiment.⁶ The Belgian parliament abolished the minimum age for the request for euthanasia. Adolescents and even children could now request a lethal injection. According to the new law, euthanasia could be administered to a minor only under the following conditions. The patient must be suffering intractable physical pain in the last stages of a terminal disease. The patient must be capable of "discerning" the grave consequences of the request. A psychiatrist must verify that the patient is competent to make such a request and free from pressure. The child's parents must agree to the procedure.

Proponents of the law argued that a minor has the same right to request a peaceful end to unbearable suffering that Belgian adults now enjoy. There was no point in prolonging the pain of a child who could not recover from a terminal illness. Opponents of the law attacked it as unjust and unnecessary. A committee of pediatricians argued that Belgium's advanced medical system can treat all manner of pain; instances of intractable pain are due to medical incompetence or worse. Pediatric nurses testified that children easily sense if they have become a burden to worried parents and might request euthanasia on account of these emotional impressions. Christian Democratic opponents argued that it is absurd to permit children to kill themselves when minors are not legally competent to marry, vote, drive a car, or order a beer. The objections were in vain. Despite the strict limits placed upon euthanasia

⁵ Cited by Damien Gayle, *ibid.*, p. 11.

⁶ See Charlotte McDonald-Gibson, "Belgium Brings Euthanasia to the Kids," *Time* (13 February 2014): 12-14.

in the case of minors, the cascading abuses in the euthanasia of adults did not inspire confidence in the new law's application. Inspiring even less confidence was the assertion of a legislator who supported the law that she personally knew eight year-olds capable of the rational discernment that the law required before their request for euthanasia could be granted.

The Belgian expansion of euthanasia has not ended. The Belgian Society of Intensive Care Medicine has launched a campaign to extend euthanasia to patients suffering from serious and irreversible dementia.⁷ The argument here is that even if these individuals had never indicated a desire to be killed in such circumstances, euthanasia must be authorized so that their loved ones and society as a whole could be relieved of the burden of caring for those who would never regain rational self-consciousness. The original argument on behalf of euthanasia – that the state must respect the autonomy of competent adults who request medical killing on account of intractable pain tied to a terminal disease – has long since disappeared in the Belgian debate.

Social Causation

Belgium's zeal in establishing a regime of euthanasia raises an obvious question: Why has this tiny nation suddenly become the world's pioneer in promoting the practice? The principal answer is found in related political and religious factors.

Modern Belgian politics has been dominated by three political families: the Christian Democrats, with an electoral base among practicing Catholics and in rural areas; the Liberals, with a base among affluent professionals in cities and suburbs; and the Socialists, with a base in labor unions and the industrial regions. Given the nation's perennial conflict between Dutch-speaking Flanders in the north and French-speaking Wallonia in the south, each of these families is divided into a distinct Flemish and Francophone political party. For a forty-year period from 1958 to 1999, the Flemish Christian Democrats received the largest share (but not a majority) of the vote for parliament. With their

⁷ Jean-Louis Vincent et al., "End of Life in the Intensive Care Unit: A Statement of the Belgian Society of Intensive Care Medicine," *Journal of Critical Care* 29 (2014): 174-75.

Francophone allies, they formed successive governing coalitions to the right with the Liberals and to the left with the Socialists. As the major party in the governing coalition, they defended certain pro-life positions. They blocked the legalization of abortion until 1990 when a *de facto* Socialist-Liberal alliance forced a vote on the floor of parliament, and they blocked consideration of bills authorizing euthanasia or physician-assisted suicide. In 1999 the Christian Democratic hegemony collapsed. Led by the Flemish Liberals, a new secularist Liberal-Socialist coalition quickly passed laws authorizing euthanasia and expanding the grounds for abortion.

The decline of the Christian Democrats is linked to the rapid decline of religious practice in Belgium. Recent sociological studies indicate that approximately five percent of the nation's Catholics practice their religion on a regular basis.⁸ During the 2014 debate on euthanasia for minors, Archbishop André-Joseph Léonard of Malines-Brussels led an ecumenical coalition of Catholic, Protestant, Jewish, and Moslem leaders opposed to the bill.⁹ But their efforts were openly mocked in the Belgian parliament as the last gasp of an archaic ethic which prolonged the suffering of sick children and their parents.

While the causes for the rise of euthanasia in Belgium are primarily social, one individual has become the icon of the nation's new mercy-killing ethic. His name is Wim Distelmans, a medical doctor and professor at the Free University of Brussels. An articulate and telegenic personality, Distelmans frequently appeared in the media to support the 2002 and 2014 laws. He was the doctor who supervised the euthanasia deaths of Godeliva de Troyer, the Verbessem brothers, and Nancy/Nathan Verhelst. The 2002 euthanasia law mandated the creation of a Federal Control and Assessment Commission to investigate abuses in the administration of euthanasia. He was the head of that commission. In other words, the legal complaint filed by Tom Mortier about the euthanasia death of his mother, Madame de Troyer, landed on the desk

⁸ See Lilian Voyé, Karel Dobbelaere, et Koen Abts, *Autre temps, autre mœurs: Travail, éthique, religion et politique: la vision des Belges* (Brussels: FRB et Racine Campus, 2012).

⁹ See Filip Mazurczak, "In Belgium, Two Types of Bishops," *First Things* (30 October 2014): 7-10.

of the very doctor who authorized this killing: Wim Distelmans.

Never shy of controversy, Distelmans announced in May 2014 that he would be holding a special seminar the following fall at Auschwitz.¹⁰ Here is his justification for this provocative gesture:

Belgium is the only country in the world that is concerned with a dignified end-of-life for everyone.... In dealing with the problems of life, one is constantly confronted with existential pain, questions on the meaning of life, self-reflection, self-reliance, self-determination, finitude, and especially dignity. Thus, it seemed logical for us to plan our next instructional trip to the place that is the symbol of an unworthy end-of-life, to Oświęcim, better known as Auschwitz, the extermination camp of the Nazis in Poland. This site will be an inspiring venue for organizing a seminar and reflecting on these issues so that we can consider and clarify any confusion about them.¹¹

Despite outraged opposition from Jewish organizations and from some pro-euthanasia as well as pro-life organizations, Distelmans conducted his five-day Auschwitz seminar in November of 2014.

According to Distelmans, the Auschwitz conference dramatically highlighted the difference between the humane, dignified mercy killing practiced in contemporary Belgium and the brutal, dehumanized killing practiced by the Third Reich. Not all observers noticed the difference.

¹⁰ See Jonathan Petre, "Outrage as 'Dr. Death' Offers Euthanasia Tours at 'Inspiring' Auschwitz," *The Daily Mail* (12 July 2014): 9-10.

¹¹ Cited by Jonathan Petre, *ibid.*, p. 9.