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Karl Binding and Alfred Hoche, “Permitting the Destruction of Life Unworthy of Living” (1920)

Jurist Karl Binding (1846-1920) and psychiatrist Alfred Hoche (1865-1943) argued in favor of allowing the practice of euthanasia for certain populations. They labeled the mentally ill, the physically disabled, and others as genetically dangerous and financially burdensome to society, and they offered a legal basis for permission to kill them. Their argument, which provoked considerable opposition, was influential in the development of the Nazis’ T-4 euthanasia program.

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[ . . . ]

Are there human lives that have lost the quality of legally protected entities to such an extent that their continuation has permanently lost all value for the bearer of that life and for society?<sup>1</sup>

Merely posing [the question] gives rise to an uneasy feeling in anyone who has gotten used to sizing up the value of an individual life for the bearer of that life and for the collective. It pains him to see how wasteful we are with the most valuable lives, those filled with and propelled by the strongest will to live and the greatest life force, and how much labor power, patience, and wealth we squander, often uselessly, merely to maintain lives unworthy of living until nature – often pitilessly late – robs them of the last possibility of continuing.

If one imagines a battlefield strewn with thousands of dead young men, or a mine in which firedamp explosions have trapped hundreds of industrious workers, and if, at the same time, one juxtaposes that image with our mental asylums, with their care for their living inmates – one is deeply shaken by the shocking discordance between the sacrifice of the finest examples of humanity on the largest scale, on the one hand, and by the greatest care that is devoted to lives that are not only absolutely worthless, but even of negative value, on the other hand.<sup>2</sup>

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<sup>1</sup> Jost has rightly recognized that the question should be posed in this way, and notes correctly (p. 6): Someone could find himself in a situation “in which his ability to benefit his fellow men is minimal, while his remaining life suffering is maximal.” Page 26: “The value of human life, however, can not only decline to zero, it can even become a negative.”

<sup>2</sup> “The total loss of all the warring powers in this World War must be reckoned at about 12-13 million dead.” Hoche, *Vom Sterben* (Jena, 1919), p. 10. According to a recent report by *Vorwärts*, the German army lost 1,728,246 men in this war, the navy 24,112 – losses on a scale exceeding all calculations.

It can in no way be doubted that there are living human beings whose death would be a deliverance both for themselves and society, and especially for the state, which would be liberated from a burden that fulfills absolutely no purpose, other than that of serving as an example of the utmost selflessness.

But if that is the case – if there are indeed human lives in whose continued preservation all rational interest has permanently vanished – the legal system confronts the fateful question of whether it is called upon to actively advocate their asocial continuation, in particular also through the fullest application of criminal law, or, under certain conditions, to permit their destruction? In legislative terms, the question could also be posed this way: whether the vigorous continued preservation of such lives, as evidence of the inviolability of life, deserves preference, or whether permitting their termination, to the relief of everyone involved, would seem the lesser evil.

[ . . . ]

And so today one must ask: to whom can and should this killing be permitted? I would say first of all to the family members who have to care for him, and whose lives are constantly so heavily burdened by the existence of the poor soul, even if the ward has been admitted into an idiot asylum, and also to guardians – in case the one or the other request this permission.

[ . . . ]

Thus, the only persons who come under consideration for permissible killing are the incurably sick, and incurability must always be joined by the longing for death or the acquiescence to it – or would be joined if the sick person had not fallen into unconsciousness at the crucial moment, or if the sick person could have ever arrived at an awareness of his condition.

As already explained above, any permission to kill that involves a violation of the will to live of the man slated for death, or of the person killed, is ruled out.

The granting of permission to kill to just anyone – I would like to use the terrible expression *proscriptio bona mente* – is likewise ruled out.

Just as self-killing can be permitted only to a single person, the killing of the incurable can only be permitted to those who, under the circumstances, would be called upon to save them, and whose act of compassion would thus find the understanding of all empathetic people.

To clearly circumscribe this circle of persons by legal means is not feasible. Whether the petitioner and the executor of the permission should belong to this circle in certain instances can be determined only on a case-by-case basis.

Family members will often – though by no means always – be part of this circle. Hatred can also assume the mask of compassion, and Cain killed his brother Abel.

Source: Karl Binding and Alfred Hoche, “Die Freigabe der Vernichtung lebensunwerten Lebens: Ihr Maß und ihre Form” (1920), in Anneliese Hochmuth, *Spurensuche: Eugenik, Sterilisation, Patientenmorde und die v. Bodelschwingschen Anstalten Bethel 1929-1945*, edited by Matthias Benad in conjunction with Wolf Kätzner and Eberhad Warns. Bielefeld: Bethel-Verlag, 1997, pp. 179-86.

Translation: Thomas Dunlap