

Hitler and the Nazis had two criteria by which they measured the worth of a human life: race and utility. The Nazis set out to create a robust nation of Aryans while at the same time purging those they believed to be either racially malignant, like Jews, or useless burdens, like the disabled. In the sequence of events, Nazi genocide actually began with the disabled in 1939, around the time World War II started, and was then extended to the Jews in 1941. The entire genocidal project continued until 1945, or basically the end of the war. Techniques that were first developed to do away with the disabled—killing centers with gas chambers disguised as showers along with crematoriums—were later employed to eradicate Jews. The Nazis benignly referred to the murder of these disabled persons, who included both children and adults, as euthanasia, or mercy deaths, because such lives in their judgment were not worth living.

Just as the Nazis did not invent anti-Semitism, neither did they create the notion of “life unworthy of life.” The Nazis applied both concepts to the extreme, but both were already present in German culture. In 1920, Karl Binding and Alfred Hoche published a short book titled, *Permitting the Destruction of Unworthy Life*. In the first half of the book, Karl Binding (1841-1920), a widely published legal scholar, argued that the law should allow and the bureaucracy should enable the euthanizing of “unworthy life.” In the second half of the book, Alfred Hoche (1865-1943), a forensic psychiatrist, rejected the traditional obligation of physicians to do no harm and went on to support Binding’s arguments from a medical perspective. The Binding-Hoche notion of “unworthy life” was widely discussed in German medical circles at the time and was eventually taken over by the Nazis to the point where, correctly or incorrectly, it was used to justify their euthanasia program. The excerpt below is from Binding’s portion of *Permitting the Destruction of Unworthy Life*.

Karl Binding on “Life Unworthy of Life”

(“Permitting the Destruction of Unworthy Life,” *Issues in Law & Medicine*, Fall 1992, Volume 8, Issue 2, pages 8-14; first published in German in 1920.)

...Are there human lives that have so completely lost the attribute of legal status [legally protected status] that their continuation has permanently lost all value, both for the bearer of that life and for society?

Merely asking this question is enough to raise an uneasy feeling in anyone who is accustomed to assessing the value of individual life for the bearer and for the social whole. It hurts him to see how wastefully we handle the most valuable lives (filled with and sustained by the strongest will to live and the greatest vital power), and how much labor power, patience, and capital investment we squander (often totally uselessly) just to preserve lives not worth living—until nature, often pitilessly late, removes the last possibility of their continuation.

Reflect simultaneously on a battlefield strewn with thousands of dead youths, or a mine in which methane gas has trapped hundreds of energetic workers; compare this with our mental hospitals, with their caring for their living inmates. One will be deeply shaken by the strident clash between the sacrifice of the finest flower of humanity in its full measure

on the one side, and by the meticulous care shown to existences which are not just absolutely worthless but even of negative value, on the other.

It is impossible to doubt that there are living people to whom death would be a release, and whose death would simultaneously free society and the state from carrying a burden which serves no conceivable purpose, except that of providing an example of the greatest unselfishness. And because there actually are human lives, in whose preservation no rational being could ever again take any interest, the legal order [legal system] is now confronted by the fateful question: Is it our duty actively to advocate for this life's asocial continuance (particularly by the fullest application of criminal law), or to permit its destruction under specific conditions? One could also state the question legislatively, like this: Does the energetic preservation of such life deserve preference, as an example of the general unassailability of life? Or does permitting its termination, which frees everyone involved, seem the lesser evil?

Thinking rationally, one can scarcely doubt the necessary answer. But I am firmly convinced that the rationally considered answer cannot be advanced as definitive by itself; its content must receive the approval of a deep feeling for its rightness. Every un-forbidden killing of a third person must be experienced as a release, at least by the victim; otherwise allowing it is self-evidently ruled out. One conclusion follows from this as unconditionally necessary: complete respect for every individual's will to live—even the sickest, most miserable, and useless people. The legal order can never dare to act in the fashion of murderers and killers who forcibly violate the will to live of their victims. Obviously, one cannot consider permitting the killing of mentally ill people who feel happy in their lives.

So far as I can see, the people who are to be considered here fall into two primary groups with a third intervening in between.

The first group is composed of those irretrievably lost as a result of illness or injury, who, fully understanding their situation, possess and have somehow expressed their urgent wish for release.

...I think particularly of terminal cancer, untreatable tuberculosis, and of the mortally wounded everywhere. It seems to me totally unnecessary that the demand for death arise from unbearable pain. Painless hopelessness deserves the same sympathy.

...But seriousness of consent or request is not the only unconditionally necessary presupposition, for beyond that, both parties must have accurate knowledge (not just hypochondriac belief) that the situation is beyond help and a mature appreciation of what the task of life means for the one seeking death.

...But I cannot find the least reason—legally, socially, ethically, or religiously—not to permit those requested to do so to kill such hopeless cases who urgently demand death; indeed I consider this permission to be simply a duty of legal mercy (a mercy which also asserts itself in many other forms)...

But what about considerations for the feelings of relatives, or even, perhaps, their strong interest in life's continuation? The patient's wife, who loves him fanatically, clings to his life. Perhaps the patient supports his family by receiving a pension, and they most strenuously oppose the act of mercy.

Nevertheless, it is clear to me that in this case mercy for the hopeless must prevail unconditionally. None of the loved ones can help the patient bear his soul's miseries. They can do nothing for him. Each day, he involves them in more suffering and perhaps becomes a heavy burden for them. He must decide whether he can still endure this lost life. Assuming always that the request for death is serious, the relative's right to object or to hinder cannot be recognized.

The second group consists of incurable idiots, no matter whether they are so congenitally or have (like paralytics) become so in the final stage of suffering. They have the will neither to live nor to die. So, in their case, there is no valid consent to be killed; but, on the other hand, the act encounters no will to live that must be broken. Their life is completely without purpose, but they do not experience it as unbearable. They are a fearfully heavy burden both for their families and for society. Their death does not create the least loss, except perhaps in the feelings of the mother or a faithful nurse. Since they require extensive care, they occasion the development of a profession devoted to providing years and decades of care for absolutely valueless lives. It is undeniable that this is an incredible absurdity and a misuse, for unworthy ends, of life's powers.

Again, I find no grounds—legally, socially, ethically, or religiously—for not permitting the killing of these people, who are the fearsome counter image of true humanity, and who arouse horror in nearly everyone who meets them (naturally, not in everyone)! In times of higher morality—in our times all heroism has been lost—these poor souls would surely have been freed from themselves officially. But who today, in our enervated age, compels himself to acknowledge this necessity, and hence this justification?

And so today, the question is: to whom may and should such killing be permitted? I would think first of all the family who have to care for the patient and whose lives are so continuously heavily burdened by the patient's existence, even if the latter has found a place in an institution, and then also the guardian in case one or the other asks permission. One would scarcely grant such right of application to directors of institutions for the care of idiots. Also, I would think that the mother who will not renounce her love for the child, despite its condition, should be granted a right to object, if she will either take over care herself or assume responsibility for it. By far the best thing would be for application to be made as soon as incurable idiocy is diagnosed.

I have mentioned a middle [or third] group, and I find it in those mentally sound people who, through some event like a very severe, doubtlessly fatal wound, have become unconscious and who, if they should ever again rouse from their comatose state, would waken to nameless suffering...

...it should be noted that here too (as in the case of idiots, but for completely different reasons), the consent of the hopelessly ill to their killing is missing. If an agent goes forward on his own initiative (aware of a great risk, and in the conviction that the victim would consent if he were able), then he proceeds out of sympathy and in order to spare the comatose patient a fearful end—not to rob him of life.

...With good reason, it could be said that permission always presupposes a clinical diagnosis of lingering terminal illness or incurable idiocy. This diagnosis requires competent objective verification, which cannot possibly be placed in the agent's own hands. It is easy to imagine that someone with a great interest (perhaps regarding an inheritance) in the patient's early demise would strive mightily to encourage a lethal intervention by the attending physician, or that the doctor, on the basis of an inadequate diagnosis, might decide individually to play the role of fate.

...If one reviews the [three] relevant [groups of] cases with respect to their differences, a major distinction appears, depending on whether the fatal intervention is acutely necessary or whether sufficient time is available for a preliminary investigation of its presuppositions [by a government board, a "Permission Board"]. This time is always available for cases in the second group (incurable idiocy), and sometimes also for cases in the third group (long-enduring unconsciousness). In a greater number (or even overwhelming majority) of cases in the first group, it is doubtful whether such time is available...

The initiative must take the form of an application for permission from a qualified applicant. In the first group, this can be the terminally ill patient, his physician, or any other person (particularly a close relative) to whom he has entrusted the authority.

This application goes to a government board [the Permission Board], whose primary task is limited to investigating whether the presuppositions for permission are met—that is, verifying a terminal illness or incurable idiocy, and if necessary (in cases of the first group) the patient's capacity for serious consent.

...No one can have a right to kill—even less a duty to kill—not even the petitioner. The act of euthanasia must be a consequence of free sympathy for the patient. The patient, who has vigorously stated his consent, can naturally rescind it at any moment, thereby canceling the conditions of the permission and consequently of the act itself. With the board's finding, it would be advisable to indicate what the most appropriate means of euthanasia would be in each case. The final release must be completely painless, and only qualified persons are justified in applying the means.

...Killings of incurable persons [may occur]...based on the presumption that the presuppositions of permissible killing are met.

...[In a time-sensitive] case one faces a choice: either, because of practical difficulties, one pitilessly consigns the incurable patient to continue his suffering to the bitter end and consigns the family and the physician, despite their sympathy, to complete passivity; or one

does not forbid the “accomplices” to run the risk of satisfying themselves about the conditions of un-forbidden killing and acting upon the best advice of their consciences.

...In my view, if someone kills an incurably ill patient in order to release this person (whether with the latter’s consent or under the assumption that the patient doubtlessly would give it but is prevented by unconsciousness), then we must keep open the possibility of letting such an agent and his accomplices go free. We would let them go free if the conditions for granting permission can subsequently be shown to have been met. In such cases a “duty of declaration” is to be placed on the agent, i.e., a duty to inform the Permission Board of the act immediately upon its completion.

...Thus, under our proposal, there are two new kinds of un-forbidden killing: killing carried out with explicit permission and unauthorized killing carried out by an authorized petitioner under the correct assumption that the conditions for permission are met in the specific case.

...In the second type [of new un-forbidden killing], the agent bears the risk of error and even incurs punishment in case of unpardonable error...

...the possibility of error by the Permission Board is [also] undeniable. Only in the case of permanent idiots can it be almost completely excluded. But error is possible in all human actions, and no one would draw the foolish conclusion that, considering this possible defect, we must forego all useful and wholesome activities. Even the physician in private practice can make errors that have serious consequences, but no one would bar him from practice because he is capable of erring. What is good and reasonable must be done despite the risk of error.

Although proof of error can be shown in thousands of [other kinds of] cases of erroneous action, proof of alleged error by the Permission Board would be very difficult to come by and would scarcely attain a degree of probability greater than the bare possibility of imagining the patient’s survival.

Yet, if one ever takes error to have been demonstrated, then humanity has lost a life. Perhaps this life could have successfully overcome the catastrophe and then become very valuable; but most lives will have had little more than average worth. Naturally for the family this loss is acutely felt. But humanity loses so many of its members through error that one more or one less really scarcely matters...