

Reason - a Victim of Nazi Legacy

Hans-Joachim Niemann

In a country where memories of the Nazism still haunt the national psyche, some questions have become taboo, tainted by their association with the Third Reich. One such taboo is euthanasia and one professor who dared write about it is Norber Hoerster (picture above). The result was a hail of protest leading to his resignation. Hans-Joachim Niemann who has lead the support for Professor Hoerster, tells the story and speaks to Hoerster himself (panel opposite).

Give a dog a bad name and hang him. Professor Hoerster, formerly of the University of Mainz, had been given a lot of bad names, before student leaders finally started to boycott his lectures and made him give up his chair. A group of agitators and journalists labelled his moral thinking about the beginning and end of human life with words like 'eugenics' and 'euthanasia', which in Germany carry terrible connotations because of their abuse by the Nazis. They conjured up the hell of Nazi terror and accused him of planning to murder disabled and sickly persons. So wherever he tried to deliver a speech they could easily manage to mobilise people who could or would not see that his thinking differs sharply from the ideologically-based practices of the Third Reich. As a result, police had to be called in to protect him from personal attacks and insulting phone calls and letters harassed him and his wife. Because of this atmosphere of hate and misunderstanding, last term Hoerster withdraw from his teaching at the University of Mainz (Germany), where he had given lectures for 24 years.

Professor Norbert Hoerster was born in 1937 and studied in the USA, Great Britain, and Germany under eminent teachers like William Frankena, Herbert L.A. Hart, John Leslie Mackie, and Richard Brandt. After the award of an MA by the University of Michigan, he gained doctorates in both law and philosophy from the University of Munich. He is a philosopher of the analytical tradition, with fewer linguistic and more practical interests. His field of research also includes the moral and legal issues of abortion and eutha-

nasia, the right to live and the right to die. His many articles have been published in leading journals such as *Erkenntnis* and *Mind* and he is the author and editor of several books concerning questions of law, the justification of ethics, medical ethics, and religion.

But the publication of his last three books has made him a target of hate and harassment by certain self-appointed upholders of moral standards. Their very titles, *Abortion in a Secular Country*, *The Newborn Infant and Its Right to Live*, and *Euthanasia in a Secular Country* upset many of his opponents.

In 1997 at a conference of the Catholic Academy in Trier, Germany, Hoerster was hindered from speaking by rioters. Prior to the talk, the local press had described him several times as an advocate of euthanasia. In the German context this is a clear insinuation of Nazi thinking, because *Euthanasie* refers to the extermination of hundreds of thousands of disabled people against their will and interests by the Nazis. It goes without saying that Hoerster's views have nothing to do with this. Not a word in his writings or lectures can give reason to doubt his democratic and humanitarian thinking. The national press, also helped spread these baseless suspicions. So by the time of the lecture, disabled people's organisations and religious groups had been activated. As a precaution, police were called in. Since the participation of violent groups was expected, they were ready to intervene. A hostile atmosphere loomed when Hoerster was about to start his speech about *Sterbehilfe*, the meaning of which is equivalent to "euthanasia" in English and in German means "last help for people who want to die". A hail of whistles rose. Radicals snatched the microphone from him. Police started to get the rioters out, but the organisers stopped them from doing so. After three hours of chaos police finally escorted Hoerster to the station protecting him against attacks.

To Hoerster and his supporters, it seemed that the organisers were guilty of cowardice, and that their fear spread to the administrators of some other universities, who also gave in to pressure from militant groups of students.

Today at some German universities we are faced with a strange situation: whereas in other parts of the world students are suffering and even sacrificing their lives for freedom of

speech, at the University of Dortmund they are screaming: "We demand a ban on Hoerster speaking!" Elected members of the students' council, called *AStA*, at the University of Mainz clamoured: "No tolerance for his freedom of speech". Distributing handbills entitled "Today this lecture will not take place", they organised the boycott of one of his seminars.

Unable to resist the clamour against him, Hoerster eventually resigned his chair at the University of Mainz. He was disappointed at the lack of support by those whom he thought should feel responsible for defending freedom of speech against rioters.

Unfortunately, Hoerster is not alone. In 1996 in Erlangen, the Australian ethicist Peter Singer was violently hindered from delivering his speech and the police had to intervene. When he returned to Erlangen two years later to discuss his new book *Rethinking Life and Death* and there was no uproar. It happened that on this very day, had he read the newspapers, Singer would have seen that his then opponents had stood trial and had just been condemned. But in this case there was no uproar only because there had been no public announcement of Singer's lecture. Arguably, the very fact that the event could not have been publicised shows that this was still a restriction of the freedom of speech.

As Hans Jonas said, it is one of the bequests of the Nazi period that in Germany some questions of life and death cannot be discussed without accusations and agitation, even though they are immensely important to nearly everyone. This resistance to Nazism is both too late and rather blind. In the fierce determination of the Germans to fight the last remnants of Nazism where they find it, they sometimes unfortunately thrash the wrong dog, while the real neo-Nazis go about their business unhindered.

* * *

Herr Professor Hoerster, the discussing of death and dying is often repressed by both, irrational and rational thoughts. There seems to be a last taboo even in societies seeing themselves free of taboos. However, has not the unspoken dream of dying in peace and dignity become an illusion for many of us today?

H.: Life expectancy has risen enormously these last decades. This is welcomed by all of us. Unfortunately there are also negative

side-effects. More and more aged people spend their last months or even their last years in a state of serious illness. When they reach the moment when medical aid can do no more than prolong their lives, many of them may consider the time ahead is no longer as useful and worth living. They only want to die.

Seriously ill patients who are going to die, generally do not want to suffer hopelessly. In your recent book you outline the revision of a paragraph of the criminal law, which authorises physicians to give patients the last aid they long for. Should such killing be allowed?

H.: In my opinion active euthanasia should be practised by physicians only, and only if the patient (i) is afflicted by a serious and incurable illness and (ii) if the patient himself longs for it and has free and judiciously, thoroughly and knowingly considered his situation.

The representatives of the protestant and catholic Churches consider suffering as a necessary process of contemplation and purification. They refuse to let someone shorten his suffering. Can we expect them to tolerate secular laws?

H.: The traditional doctrine of Christian Churches refuses all kinds of active killing - whether suicide or killing by others - because it is supposed to violate the moral law, even if only the shortening of a final agonising illness is intended. Consequently any offence of this kind ought to be punished. As the legislation of a modern secular society



has to be ideologically neutral, one has to resist such a demand. Acting in one's own interest cannot be punished as long as it is not socially harmful. On the other hand euthanasia should not be coerced on anyone who cannot accept it because of religious or any other reasons. My law proposal involves the demand to force neither the patients nor the doctors to perform acts they do not want.

The hospice associations often deny that patients wish to die if there were only enough care and palliative support. Do we need doctors who do more?

H.: It is a common error to assume that all severe suffering or even agonies could be mitigated by an optimal care combined with palliative therapy. This was shown by scientific research; e.g. in the final state of cancer 10 % of the patients cannot be given relief, not even with the help of modern pain therapy.

Lawful euthanasia can be misused by physicians and relatives. Had we not better keep physicians in continuous fear of having possibly committed a crime?

H.: Human life is not casually enjoying legal protection; to abandon it would mean a serious and irreversible act. Hence the mitigation of the ban on killing to enable euthanasia is to be protected against any misuse. The best way I see is that only a physician should be authorised to administer euthanasia given that he has thoroughly examined the patient's physical condition as well as his mental and subjective situation.

You define death as an irreversible loss of consciousness. Even some sympathetic critics infer that, if we accept that, comatose patients will be handled as corpses. Are they right?

H.: The determination of death is important concerning transplantation of organs. I consider the irreversible loss of consciousness as an adequate definition of death. However to define the end of life is not enough; medical practitioners need also a criterion or tests useful to attest death undoubtedly. Up to now the state of the art in medicine has not yet gone further than to use the criterions of heart death and brain death.

Discussing euthanasia and especially abortion of severely disabled infants causes always a stir. Is this avoidable?

H.: The legitimisation of killing newborn hopelessly disabled infants, who are expected to live only a short, agonising life, is certainly a difficult problem, even if the killing is done in their own interest. To close one's eyes to this issue, however, doesn't solve the problem. A rational consideration may convince us that in such cases active killing could be more humanitarian than following the still widespread practice of passive euthanasia, which means non-treatment and a rather lengthy agonising dying.

You have had a lot of bad times. Often your lectures were cancelled at the very last moment. Rioters drove you out of conferences. Do you have understanding for directors of academies who make sacrifices for the sake of peace and quiet?

H.: You are alluding to the events in Trier. What really frightens me is not the actions of rioters, but a far-reaching loss of personal courage of academics and intellectuals. The organisers tried neither to quiet the rioters nor to break off the conference. As for the other lecturers, there is also a lack of solidarity. They behave simply opportunistic.

Hans-Joachim Niemann

Gestrichen aus Platzgründen:

Recently the court of appeal in Frankfurt pronounced a judgement that was widely discussed. Does this verdict mean that one of your proposals is realised now?

H.: This verdict was concerned with passive euthanasia, that is the abandonment of treatment, but it did not concern active euthanasia. The law-court declared, rightfully as I think, the continuation or resumption of any treatment to be legal only if an explicit or a presumed acquiescence of the patient is demonstrable. This is of even more concern if the treatment is prolonging the life of the patient.