

Memento mori

Ann Meskens – January 31th 2020

Column 4: Week theme ‘City and well-being’

The euthanasia-discussion

The Neverending Park. De Grond der Dingen.

1

January 1987. My mother is dying. She has just turned fifty. The cancer has literally eaten her to the bone. First her breasts, then everything that is soft in her interior, now the disease is stuck to her skin. Every day more of her exterior disappears, she is now bald and skin-and-bone. She is so light to carry, heavier to bear is the constant pain, for her, but also for me. This is not life, says her whole body, but her young heart does not give up. Make an end to this life, I say, so that the pain stops, why is no one helping? Eventually, she dies anyway. Bye, bye, my dear mother.

She loved us. And we loved her.

January 2017. My father dies. He is past seventy, but after a heavy life his body is up. Heart, kidneys, lungs. He has done his best to stay alive for a while now, for us, the children, but it's enough, he tells us. He could have died before the end of the year, but out of consideration, he has decided to go early January. First the end-of-year celebrations, he says, and then dying. In his hospital room he toasts the new year with an oyster and a sip of champagne. Stop the machine, stop the medication, thank you, merciful doctor. Bye, bye, my dear father.

He loved us. And we loved him.

And I still miss them both, although it is no longer every day. But I am still grateful that they were allowed to die and that I was there to wave them goodbye. Bye, Bye, it's okay, just go, life and death are both part of being human. And when you don't longer have a life, death is welcome. Life and death is not a matter of either/or but of and/and.

That, I learned from the philosophers of ancient Athens. The Greek philosophical schools differed a lot sometimes, but their doctrines and exercises often revolved around the same thing : to make people self-aware, as self-reliant as possible and self-determining as needed, in life and in death.

The word euthanasia comes from Ancient Greek, by the way. It means εὖ (eu) = good and θάνατος (thanatos) = death. A good, mild or merciful death.

I remember a story from ancient Greece, it happened long before my own wise father died, but similar. An old philosopher had decided that his life was fulfilled, it was time to cross the river. He stopped eating, but when he realized that he was going to die while there was a feast in town, he asked the baker to put freshly baked bread on his face for a few days. So he could keep death at bay, out of consideration of the citizens around him. As normal life went on again, he calmly drew his last breath. It is reconcilable, exercising individual freedom and taking responsibility for the group to which you belong.

This anecdote does not say whether the old philosopher suffered physical or mental pain. Probably neither, it was not a general belief among Greek philosophers that this was necessary to end life. Life could be seen as a feast, a banquet to which you were invited, and if you didn't enjoy the feast anymore, you'd better go home. As a human being, you had, what we now call, self-determination.

2

The *Assisen* trial that ran in Ghent this week was special. For the first time, three doctors had to justify their actions in a euthanasia case in court. After about twenty years of euthanasia law and more than twenty thousand applications, that is also special. It also means, some people rightly say, that this law works, is fairly well designed and is accepted by most Belgians.

The law is very specific, by the way. If someone who is incurably ill or suffering unbearably, expresses his or her will to end their life in a dignified and mild manner, repeatedly and with full awareness, and asks a doctor for help who is willing to grant this decision,... then and only then we are talking about euthanasia.

I repeat. It is never the end of the life of a person at the request of third parties or as a result from a medical decision. It is one singular person who decides that life is no longer possible, one "I", so no one else, no family, no doctor, no priest, no pressure group or attorney. The legalization of euthanasia always starts and ends with human self-determination, and that is highly individual. The evolution of the last decades also showed that more and more people, conscious and informed, fully aware of their choice, went within reason for euthanasia. Almost twenty years ago, the demand for legal recognition of euthanasia was legitimate and it still is.

But now there was this trial. Ten years ago, euthanasia was performed on a young woman because of psychological suffering. It is her family who are asking questions about this today.

That raises, however, other questions. Why has the case been previously dismissed by court and is it now being brought before *Assisen*? Is it their intention to bring the euthanasia law to court with a certain political or religious pressure? I hope not. Are they hoping to achieve something in front of a public jury that is not possible in parliament? Let us hope they aren't. Why is this not a matter for the Order of Physicians when it comes to improper application of the conditions?

Why do the family lawyers demand a declaration of guilt and not just heavy penalties? Why did the public prosecutor suddenly ask for an acquittal for the doctor at the end?

It seems like a malfunction of justice after all and, more importantly, an ideological struggle. Inside the court and, by now, outside in the media. Thousands of doctors have shown support, and thousands of others have been frightened to the core, patients, doctors, fellow citizens. This case, a murder by poison? Come on. Our law, a license to kill? Come on. What, Opus Dei, freemasonry? This is how you end up in a trench-conversation, while the real conversation is clouded by emerging supporters and opponents. Polarization, again.

Someone lamented this week: the process of useless damage. Ah, a young woman whose existence was not bright in life, is now posthumously burdened. I admit. Perhaps because we should have taken more time to write the law, because in the meantime we should have evaluated both the law and the statutory audit committee. That's true.

The Raad van State already warned our parliament in 2001 that the law did not mention how to penalize doctors if they violated the conditions. The difference is enormous: a doctor who assists a patient who is not legally allowed to be euthanized, or a doctor who makes procedural errors. Consequently, doctors could be prosecuted for the most serious criminal offense. That could not have been their intention. Experts emphasized this week that the law did not initially make this distinction, but the distinction nevertheless arose through judgment and a lot of discussion on the topic.

Belgian euthanasia legislation exists since 2002. We are still quite unique to legalize this topic that exists all over the world. Ah, the law was too late for my mother, but still early enough for my father. Today, their physical suffering would be decisive for the both of them and would cause little resistance, but as always, there is psychological suffering too. A sick body does not spare the mind, and the body of someone with a mental illness also gets affected. The ancient Greeks did not make the modern body/mind split yet.

It apparently makes a difference for us. In 2015, in an open letter, psychiatrists, psychologists and professors insisted that 'mere' psychological suffering should be legally dropped because it was impossible to objectively define the hopelessness of psychological suffering. In the existing law, the difference between terminal and non-terminal is more crucial than the distinction between psychological and physical.

I think physical suffering is also difficult to objectively define, it is first and foremost about the subjective human being, but the meaning of a term like 'hopeless' or 'untreatable' is more complex with psychological suffering, that is true. Yet psychological suffering is equally obvious sometimes; the long duration, repeated relapse, the infinite attempts ... getting up again becomes very unlikely at a certain moment. And, on the other hand, with terminal physical suffering, you can always hope for a miracle or medical progress, but will you save people with this? *They shoot horses, don't they?*

Because one can never medically declare a situation hopeless for psychological suffering, you cannot literally apply the law here, said clinical psychologist Ariane Bazan this week in a talk show. However, according to her, it would be possible that any type of help or assistance could fall under something called 'assistance with suicide', which is acceptable under Dutch law.

The question is how we would practically realize this in the reality of our country, how it could be implemented and whether this procedure should remain within the medical sphere? The question is also what terminology and arguments we use here and whether we want to be in a very ideological conversation again?

To begin with, it is not easy to choose a term for a voluntary and self-chosen end of life 'because it's been enough'. What are we talking about here? Old and tired of life, no purpose or pleasure, no partner or generational peers, whether or not accompanied by physical disorders, whether or not satisfied with their past life?

It seems that a term like a 'fulfilled life' offers possibilities, but it remains difficult.

However, we cannot have this conversation without wondering whether our society should first and foremost take better care of its citizens, be warmer and more caring and present, spend more money on the elderly, on residential and

care facilities, on the psychologically vulnerable and on suicide prevention? All those things that are now subject to budget cuts, according to the choices our current politicians have made. And in any case, we also have to talk to palliative institutions and caregivers in this conversation, precisely because they are allies and not opponents.

Radio presenter Lutgart Simoens mentioned a few years ago that she would consider euthanasia in case of a fulfilled life if our legislation allowed it. Open VLD chairwoman Gwendolyn Rutten immediately joined her, but the debate has never lifted off. Perhaps with reason, because a request for help from a fulfilled life without additional pathology is highly exceptional anyway. More often, especially the elderly among us, suffer from incurable ailments, each of which is not in itself a sufficient condition, but can be covered by legally unbearable suffering as 'polypathology'.

It seems more urgent to revise the law due to the increasing demand for euthanasia for dementia, it seems. The writer Hugo Claus succeeded but it remains tricky. One can only ask for the termination of life if the disease has not progressed too far. Understandable, because they have to be declared mentally competent, but at what point do we consider people with dementia competent and when not anymore?

We live in a contemporary pluralistic society where these questions can be asked and adjusted and democratically decided. But still. The predominant Catholic doctrine has made us forget the ancient Greek idea that someone decides about life and death without prohibition or commandment from any god or group. We still have to get used to this idea. And from our current youth-, health- and happiness-culture, together with scientific progress, including immense medical progression, we prefer to keep death as far away as possible from us, and therefore refuse to think about it.

Life is no more than an exercise in dying, Plato said, also a Greek philosopher, and most philosophers thought it unwise to think of death only when the time came. Thinking together and talking together about our passing is necessary, as it turned out this week.

For liberals, the right to self-determination remains fundamental. According to them, one should, as long as it's possible, decide for themselves how they want to live and die, without pressure from others. A fairly Greek philosophical point of view, you could say. Religious people often find it more difficult here, they often call this self-choice morally wrong and selfish.

Even in 2008, Cardinal Danneels thought the euthanasia law and possible expansion of the law to be a choice between two civilizations; 'a civilization of people who (want to) be masters of themselves and a civilization where there is still room for a God and the superhuman.' He condemned the growing modern consciousness since the Renaissance as 'an excess,' with 'almost cancerous proportions,' which went 'rabid.'

Freer spirits responded by saying that they considered Catholic hospitals and doctors to be barbaric, a very Greek term, by the way. Here, too, nuance, sufficient insight or a willingness to listen to each other was lost sometimes and people did not want to see that, despite bad will here and lobbying there, there was just as much care, humanity and cooperation in these institutions, as well as many caregivers.

Debate is always necessary, but I emphasize debate, not insults or manipulation. Because almost everyone realizes, this process should not have taken place this week. But it is there now, and it is an opportunity today to have a better social debate about the law, about possible extensions, and improved supervision and implementation.

Instead of dividing the conversation in supporters or opponents, in religious or non-religious, in terms of murder and manslaughter, we should all be talking about legality, humanity, diligence, and how we can implement a euthanasia law that keeps us better protected in the future, in life and death. What about the elderly, children, dementia, for example? Is it conceivable in the future that we will create a legal framework for assisted suicide? What does a term such as 'in the foreseeable future' mean in various specific cases? What is the function of and where is the control of the public prosecutor if it comes to a court case?

Just because this is not a univocal conversation, the starting point for talking about it remains justified; how can we ease the suffering, that remains deeply human and can of course never be excluded, for many of us in dignity?

The big questions always return and have to be asked again to everyone, because that is what it is all about: as a civilized society, what do we want for as many of us as possible, now and at the hour of our death?

Ann Meskens