

LESSONS FROM HISTORY'S MOST CALAMITOUS EXPERIENCE

By Cathleen A. Cleaver and Edward Grant

As early as 1895, a widely-used German medical textbook made a claim for the “right to death.” Immediately following World War I, the notion took deeper root in the German medical and legal professions, instigated largely by the 1920 publication of *Die Freigabe der Vernichtung lebensunwertens Leben* (Permitting the Destruction of Unworthy Life).

The connection of medical killing in Nazi Germany to contemporary debates regarding the legalization of assisted suicide and euthanasia has been a matter of great controversy. It is clear, however, that those closest to these events saw some connection. The condemnation of the “Nazi doctors” was universal and prompted great reflection on the question of ensuring that their actions never be repeated. As one step, the world’s physicians reaffirmed the foundational ethical principle of their profession -- that doctors must not kill their patients.

The acceptance by physicians of the notion that a “life not worthy to be lived” under the euthanasia program was a cornerstone of the honor that was to follow. Without the willingness of doctors to participate, the euthanasia program would not have occurred. This cornerstone principle persists today. The experience of the Netherlands establishes that the participation of physicians in killing their patients invariably rests upon, and propagates, the notion of life unworthy of life. The writings of pro-euthanasia philosophers James Rachels, Peter Singer, and John Harris confirm this fact.¹ While social and political conditions in Western democracies obviously differ from those of Nazi Germany, the consequences of legalizing physician-assisted suicide and euthanasia would be no less dire.

Proposals for Healing by Killing

In interbellum Germany, the medical and legal professions were influenced by proposals that patients in certain categories would benefit from hastened death. Thus, “the most humane, the most sophisticate, the most scientifically advanced medical community in the world” between 1920 and 1940 self-destructed while formulating and promoting ideas of physician-assisted death.² *Sterbehilfe*, “dying help,” was advocated by the elite medical profession for the incurably sick and was considered to be *wohltat*, a merciful act.³

The influential publication by professors Karl Binding and Alfred Hoche, *Permitting the Destruction of Unworthy Life*, advocated *sterbehilfe* as a compassionate and humanitarian response for those who requested it, pursuant to a carefully controlled process. The text was “crucial” and “most important” in creating acceptance within the profession for direct medical killing, and for active participation in the euthanasia program that was to be instituted.⁴

Professor Binding was one of Germany’s leading specialists in constitutional and criminal jurisprudence. Dr. Hoche was a psychiatrist. The jurist Binding queried, Should permissible taking of life be restricted to an individual’s act of suicide as it is in current law, or should it be legally extended...to the killing of fellow human beings, and under what conditions?⁵ He answered affirmatively for three groups of persons: (1) “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”; (2) “incurable idiots” from whom “here is no valid consent to be killed” but whose lives are “completely without purpose” and “a fearfully heavy burden both for their families and for society”; and (3) formerly competent patients who, due to trauma, “have become unconscious and who, if they should ever again rouse from their comatose state, would waken to nameless suffering.”⁶

Hoche asked a somewhat different question, also answered affirmatively: “Is there human life which has so completely lost attribute of legal value that its continuation has permanently lost all value both for the bearer of that life and for society?”⁷

Binding and Hoche explicitly condemned “mercy killings” that took place contrary to the will of the victims and emphasized the consent of victims as a necessary condition for the killing of incurably ill people.⁸ With regard to his first defined category, Binding stressed that the only people who may be candidates for permissible killings are those who are terminally ill and who “have either requested death or consented to dying.”⁹ Consent was of crucial importance to Binding: “[E]very permitting of killing which requires violating the will to live of the actual or potential victim is ruled out.”¹⁰

Hoche and Binding advocated providing sterbehilfe in a carefully controlled process, with evaluation by a three-person panel of professionals and the ability of the person to withdraw consent at any time.¹¹ They recommended that the initiative be made by the patient in the form of an “application for permission.” The application would go to a government board composed of a physician, a psychiatrist, and a lawyer, and unanimity would be required in granting permission. The decree of permission would indicate that a “thorough investigation” had been undertaken, that the patient “seems beyond help,” and that “there is no reason to doubt the sincerity of his consent.”

Warnings

The Hoche and Binding monograph was much debated by the medical community in Germany after its publication. The legalization of medical killing was discussed and rejected at the 1921 *Karlsruhe Arztetag*, medical convention, and at the 1922 Dresden conference of the Society for Forensic Psychiatry.¹²

Critics from the medical community warned that compassionate release for the afflicted would only be the first step toward a new medical ethic of death. Dr. M. Beer wrote in his 1914 book, *Ein schöner Tod: Ein Wort zur Euthanasiefrage* (A Beautiful Death: A Word about the Question of Euthanasia), that physician aid-in-dying might be

the first step, but whether it would be the last appears to me to be very doubtful...Once respect for the sanctity of human life has been diminished by introducing voluntary mercy killing for the mentally-healthy incurably ill, and involuntary killing for the mentally ill, who is going to ensure that matters stop there?¹³

Critics of Hoche and Binding also despised the “utilitarian shopkeeper” mentality which appeared to inform the tract. Others worried about the inflationary, slippery-slope potentialities latent in the whole enterprise. A few had doubts regarding the inherent arbitrariness and perniciousness of value judgments regarding the value of human life.¹⁴

In a major response to Hoche and Binding, *Das Problem der Abkürzung “lebensunwerten” Lebens* (1925) (*The Problem of Cutting Short Life Unworthy of Living*), Dr. Ewald Meltzer hotly disputed the claim that

people with mental handicaps had lost the last vestiges of human personality, stressing instead their capacity and will to enjoy life. [He argued that it is] “far more heroic to accept these beings to the best of one’s abilities, to bring sunshine into their lives, and therewith to serve humanity’ than to kill them for utilitarian reasons...[A]ltruism was humanity’s distinguishing feature, [and] asylums for handicapped people were not only valuable centers of scientific research, but also tangible manifestations of Christian charity.¹⁵

While Binding and Hoche turned out to be “the prophets of direct medical killing,” their thesis remained a minority view within German psychiatry and medicine during the Weimar Republic.¹⁶ The rise of the Nazis brought into power an ideology of eugenics that provided the environment for their thesis, with the willing cooperation of medical and academic leaders, to overcome the initial opposition.¹⁷

Eugenicist theories promoting sterilization and euthanasia were widely propagated in German society through education and other means. Among the most prominent means used was film. In his 1936 novel *Mission and Conscience* (and subsequent film entitled, “I Accuse”), Helmut Unger told a story of a young woman suffering from multiple sclerosis who believes that her life is no longer worth living and asks her physician husband to relieve her of her misery.

Several other pro-euthanasia films were produced during this period.¹⁸ These films argued that a medical ethic of preserving life only caused unnecessary pain and misery. “We humans use science to prolong suffering, where we could use science to bring deliverance,” one said.¹⁹ Such an ethic, these films said, stemmed from an “exaggerated concern for humanity,” combined with “a religion which is alienated from reality,” and “the dictates of an outmoded law code,” which ought to be abandoned.²⁰ Later, the key role of such images in leading to the acceptance of medical killing became apparent.²¹

Small Beginnings

The proposals of Hoche, Binding, and others in the German and international community in favor of physician aid-in-dying were put into practice in the 1930s. First, child euthanasia was permitted for disabled and “defective” infants and children. Soon thereafter, an adult program for an “easy death” for incurably sick and mentally ill Germans was instituted on grounds of compassion. Ultimately, the genocide that was the Final Solution grew out of these programs of medical killing.

This euthanasia program was motivated by a mixture of concerns, some statist and some humanitarian in nature. It is important to note, however, that racial and anti-Semitic sentiments played no role in the original design or implementation of this program. In fact, the German government “did not want to grant

this philanthropic act to the Jews.”²² “[I]t is worth remembering that the engine which drove the early moral transformation of German medicine was not the ideology of racial discrimination, but medical economics.”²³

[The] moral collapse of German medicine was not caused by anti-Semitism. Ironically, [Jews] did not deserve the ‘benefit’ of psychiatric euthanasia. [Nor was the collapse] caused by National Socialist pressure...[T]he collapse did not begin with the hacks and quacks. It began at the top, with the heads of departments of academic medicine.²⁴

Furthermore, it is critical to note that physicians were invited, not compelled or otherwise forced, to participate in this program.²⁵ “Doctors were never *ordered* to murder psychiatric patients and handicapped children. They were *empowered* to do so, and fulfilled their task without protest, often on their own initiative.”²⁶

Merciful Deaths for Children

The practice of euthanasia, as illustrated by two early cases, began with requests from individuals for physician-assisted death. In March 1937, a child was killed by his father because he was significantly mentally ill. When the father was put on trial for murder, the local health office came to his defense, influencing the court to grant him a nominal prison sentence instead of the death penalty asked for by the prosecutor.²⁷

The next year, a man named Knauer wrote the German government asking that his blind and mentally retarded daughter, born without an arm and leg, be granted *gnadentod* (mercy death). The chancellor instructed his personal physician, Dr. Karl Brandt, to investigate, and, if the letter were true, to grant the request.²⁸ Brandt found “a child who was born blind, an idiot--at least it seemed to be an idiot--and it lacked one leg and part of one arm.”²⁹ According to the testimony of Brandt, “The parents should not feel themselves incriminated at some later date as a result of this euthanasia--that the parents should not have the impression that they themselves were responsible for the death of this child.”³⁰

Both doctors and parents preferred to use euphemisms to allow for psychological defense mechanisms of rationalization and denial of what really was happening. After taking a poll of parental opinion, it was determined by the government that, although many supported *gnadentod* for their severely disabled children, “parents would prefer it if they were told that their child had succumbed to this or that illness.”³¹

As many as 6,000 children were killed in this first phase of physician-assisted death in Germany.³²

Merciful Deaths for Terminally Ill and Disabled Adults

The German government also received requests for a mercy death from adults with cancer and severe disabilities for a mercy death.³³ Numerous people, believing that they were acting with compassion, wished that their handicapped relatives could be “released from their suffering.”³⁴

In May 1939, an advisory group, the Committee for the Scientific Treatment of Severe and Genetically Determined Illness, was formed to determine whether and how a euthanasia program for children and adults would operate.³⁵ The adult project was housed in Berlin at number 4 Tiergartenstrasse, giving rise to its code name “T-4.” In the beginning, there appeared to be a broad level of support for this throughout the country.³⁶

Patients then began to be killed by lethal injection at various hospitals and other health care institutions. The T-4 doctors did not consider themselves to be killers, but ministers of medical treatment, although there was some concern that their actions be accorded some legitimate legal authority.³⁷

In September 1939, the chancellor responded to pressure to provide legal immunity for the doctors engaged in *gnadentod* mercy killings, and he issued a memorandum stating:

Reichsleiter [Philip] Bouhler and Dr. [Karl] Brandt, M.D. are charged with the responsibility of enlarging the authority of certain physicians, to be designated by name, in such a manner that persons who, according to human judgment, are incurable can, upon a more careful diagnosis of their condition of sickness, be accorded a mercy death.³⁸

A law to legalize physician-assisted death explicitly was proposed in 1940. Like the version proposed in 1933, it provided:

Anyone suffering from an incurable illness that leads to strong debilitation of either oneself or others can, upon explicit request of the patient and with the permission of a specifically appointed physician, receive dying help (*sterbehilfe*) from a physician.³⁹

An additional clause provided further that those people who were mentally incompetent to decide for themselves to exercise this new “right” were entitled to have others make that decision for them on their behalf.

This law was never formally enacted because the decision was made “to keep the question of euthanasia a ‘private matter’ between doctors and their patients.”⁴⁰ The German medical profession was determined to keep the practice in its hands alone. “The needle belongs in the hand of the doctor,” said Viktor Brack, head of one euthanasia program, in 1939. Brandt agreed, stressing, “Gassings should only be done by physicians.”⁴¹

Government legal authorities initially intended that the T-4 program’s *sterbehilfe* would be lawful only for “those cases where physicians, upon their personal decisions, [can] relieve incurably ill patients from their suffering by administering a drug for mercy killing.”⁴² Within a short period of time, “a network of some thirty killing areas within existing institutions was set up.”⁴³

Morphine, scopolamine, and prussic acid (cyanide) injections were initially used for the T-4 project because they had more of a medical aura than gas. However, objections to use of carbon monoxide gas were soon overcome because, not only was it more efficient, but also, Brandt said, carbon monoxide was painless and “would be the most humane form of death.”⁴⁴

In January 1940, Brandt, Brack, and others conducted the first large-scale test of assisted death for incurable adults in a psychiatric hospital near Berlin.⁴⁵ It was a gassing process that “included a fake shower room with benches, the gas being inserted from the outside into water pipes with small holes through which the carbon monoxide could escape.”⁴⁶

What occurred in the adult program is exemplified by the hospital at Hadamar, one of the major T-4 institutions. Between January and August 1941, more than 10,000 mentally ill Germans were provided a “painless death” in the shower-room gas chambers at Hadamar.⁴⁷ Alfons Klein was an administrative supervisor at Hadamar.

He testified at his war crimes trial that, from October 1940 until January 1941 [The Hadamar] Institution was maintained only for German mental patients. In January 1941, plans were made to kill mental patients and to burn the corpses. This method was carried on and used until August 1941, when it was discontinued.⁴⁸

By 1941, word began to spread on involuntary killings. In August 1941, the psychiatric/physician-assisted death programs at Hadamar and the other T-4 hospitals were officially ordered to be discontinued. By this time, 80,000 to 100,000 people had been killed under the T-4 program.⁴⁹ At Hadamar, however, the program never ceased. Only the method of death changed. Another 3,500 were killed by lethal injection between August 1941 and August 1942.⁵⁰

From Euthanasia to Genocide

World War II caused a change in emphasis and an acceleration of the killing process. Resources were scarce, and it was perceived that the armed forces had a greater claim to food, clothing, and medicine than did the sick, mentally ill, and social undesirables. The government accordingly took advantage of the distractions of the war to eliminate these “burdensome” people.

The original euthanasia project of killing those who were seriously ill was extended to killing virtually anyone whose death was desired under the new “14f13” program.⁵¹ First, hospitalized Jews who had previously been denied a mercy death were given *sonderbehandlung*, “special treatment,” and killed along with Germans in the euthanasia program. Later it was ordered that Jews and other undesirables be transported from the concentration camps to the same killing centers used by the T-4 program.⁵²

Overall, it is estimated that 5,000 were provided a “mercy” death in the child operation, 80,000 to 100,000 in the adult T-4 program, and 20,000 concentration camp inmates in the 14f13 project; “special treatment” against Jews in hospitals eliminated another 1,000.⁵³ Some estimate the total toll of physician-assisted death was 275,000.⁵⁴ Other estimates reach as high as 400,000 from the child euthanasia, T-4, *sonderbehandlung*, and 14f13 operations combined.⁵⁵ The true number of lives lost can never be known.⁵⁶

Testimony from the Medical Case at Nuremberg

Perhaps the best evidence for concluding that society must refrain from permitting any degree of killing by physicians is the testimony of those who participated in these crimes, as well as those who investigated and prosecuted them. Throughout the Nuremberg trials, the defendants insisted that their actions were motivated by compassion and humanitarian concerns. Valentin Falthausler insisted that, for him, “the decisive motive was compassion.”⁵⁷ Pediatrician Ernst Wentzler recalled, “I had the feeling that my activity was something positive, and that I had made a small contribution to human progress.”⁵⁸

Also prevalent was the sentiment that, as physicians, these defendants’ actions ought not be scrutinized by lawyers and judges. Dr. Hermann Pfannmuller, medical director at the Elgging-Haar asylum hospital,

complained at his trial before the Nuremberg Tribunal, "I am a doctor confronted with a lawyer, and our points of view are completely divergent."⁵⁹

Brandt, who had played a critical role in the original authorization of the euthanasia program, spoke most directly in defense of its legitimacy, arguing through his attorney that it was within the authority of the state to institute such a program. In the closing argument for his case, Brandt made the following personal statement:

Do you think it was a pleasure for me to receive the order to permit euthanasia? For fifteen years I had toiled at the sickbed and every patient was to me like a brother. I worried about every sick child as if it had been my own...I fully realize the problem; it is as old as mankind, but it is not a crime against man nor humanity. It is pity for the incurable, literally. Here I cannot believe like a clergyman or think as a jurist. I am a doctor, and I see the law of nature as being the law of reason. In my heart there is a love of mankind, and so it is in my conscience. That is why I am a doctor!...Death can mean deliverance. Death is life--just as much as birth. It was never meant to be murder.⁶⁰

Similar arguments were put forth by Klein and other defendants at the Hadamar trial. Klein insisted that it was only in extreme cases, such as those involving the final stages of tuberculosis, that patients were "helped along" and saved from an insufferable prolonged death. "Only those people died who were very close to death already," he said.⁶¹ Other Hadamar defendants justified the killings as acts of "mercy" and "deliverance."⁶²

The War Crimes tribunals invariably rejected these defenses. Nevertheless, they are indicative of the attitude that the defendants brought to their work in asylums and hospitals, an attitude which some specifically attributed to Hoche and Binding, and others to the general current of thought in German society. In the last of the major euthanasia trials, in 1986, the defendants repeated the refrain that they had killed "out of love and pity."⁶³ These latter-day restatements of the (failed) defenses offered by defendants of 40 years earlier suggests a level of sincerity inconsistent with the theory that these attempted justifications had been manufactured after the fact out of mere expediency. The perpetrators believed in the notion of "life unworthy of living" before, during, and after their horrendous crimes.

Those who investigated and prosecuted these crimes accepted the fact that these physicians had been corrupted, not merely by Nazi ideology, but first by acceptance of a fundamental change in attitude regarding the role of the physician toward the chronically sick.

U.S. Brigadier General Telford Taylor, chief of counsel for the prosecution at Nuremberg, described the prominent physicians who were tried and convicted of murder:

The defendants...are charged with murder, tortures and other atrocities committed in the name of medical science...[They] did not kill in hot blood, nor for personal enrichment...they are not all perverts. They are not ignorant men. Most of them are trained physicians and some of them are distinguished scientists. The perverse thoughts and distorted concepts which brought about these savageries are not dead. They cannot be killed by force of arms. They must not become a spreading cancer in the breast of humanity. They must be cut out and exposed.⁶⁴

Dr. Leo Alexander noted the origin and persistence of such ideas in the wake of his experience as a medical expert at the Nuremberg medical trials:

Whatever proportions these crimes finally assumed, it became evident to all who investigated them that they had started from small beginnings. The beginnings at first were merely a subtle shift in emphasis in the basic attitude of the physicians. It started with the acceptance of the attitude, basic in the euthanasia movement, that there is such a thing as a life not worthy to be lived.⁶⁵

Justice Robert Jackson, chief of counsel for the United States at Nuremberg, issued a warning that should not be lost in the midst of arguments that American medicine will never be corrupted by the legalization of physician-assisted suicide:

A freedom-loving people will find in the records of the war crimes trials instruction as to the roads which lead to such a regime and the subtle first steps that must be avoided.⁶⁶

Conclusion

Frustrated with the ethic of "preserving every existence, no matter how worthless," Hoche in 1920 wrote, expectantly, "A new age will arrive operating with a higher morality and with great sacrifice--which will actually give up the requirements of an exaggerated humanism and overvaluation of mere existence."⁶⁷ Euthanasia proponents of our day, too, seek with great zeal to usher in a new age. They speak, in words echoing from a distant era, about the cruelty of depriving those who are suffering from their desired means to peace and freedom from pain. Like Binding, they scold, "Not granting release by gentle death to the incurable who long for it: this is no longer sympathy, but rather its opposite."⁶⁸

The early promoters of euthanasia appeared to be sincere in their belief in the virtues of merciful death. Today's promoters of physician-assisted suicide may also be sincere, but it is a sincerity born of an unpardonable carelessness. Unlike their predecessors, euthanasia proponents today have the benefit of the lesson of history, which has taught the true nature of physician-assisted killing as a false compassion and a perversion of mercy. History warns that the institution of assisted death gravely threatens to undermine the foundational ethic of the medical profession and the paramount principle of the equal dignity and inherent worth of every human person.

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FOOTNOTES

CHAPTER II FOOTNOTES

¹ See James Rachels, *The End of Life* 77 (1986) (acknowledging that euthanasia is less about autonomy than about societal recognition that certain human beings lack sufficient human attributes to possess lives); Peter Singer, *Bioethics and Academic Freedom*, *Bioethics* (1990); John Harris, *Euthanasia and the Value of Life*, *Euthanasia Examined: Ethical, Clinical and Legal Perspectives* 6 (J. Keown ed. 1995).

² Derr, *supra*, 8 *Issues in Law & Med.* at 488. See also Proctor, *Racial Hygiene*, *supra* at 282-83; Lifton, *The Nazi Doctors*, *supra* at 45-51; Burleigh, *Death and Deliverance*, *supra* at 11-20.

³ Proctor, *Racial Hygiene*, *supra* at 178-79.

⁴ Wetham, *The Geranium in the Window*, (1966), reprinted in *Death, Dying & Euthanasia* at 610-611 (D. Horan & D. Mall, eds. 1980); Lifton, *The Nazi Doctors*, *supra* at 45-58.

⁵ 8 *Issues in Law & Med.* at 232.

⁶ *Id.* at 247-49. As to this last group, Binding expressed doubt that “a standard procedure can be created for managing this group of killings. Cases will occur in which killing seems actually fully justified; but it can also happen that the agent, in the belief that he acted correctly, acted precipitously.” *Id.* at 250.

⁷ *Id.* at 258.

⁸ In general, euthanasia as described by Binding and Hoche and their German predecessors had a societal and statist component that distinguished it from the American tradition of individual rights, to which the current euthanasia movement adheres. See Lifton, *The Nazi Doctors*, *supra* at 47. The distinction, however, may be more sharp in theory than in practice. Contemporary euthanasia proponents do not rely exclusively on the autonomy of those whose lives would be ended, but on the notion that such persons have ceased to have a “life”. See Rachels, Singer and Harris, *supra* note 4. In the Netherlands, moreover, most physician-assisted deaths occur without the explicit request of the patient. See Brief *Amicus Curiae* of the American Suicide Foundation in No. 96-110.

⁹ 8 *Issues in Law & Med.* at 262. As for the third category, Binding considered as proper candidates those who “would (had they not fallen into unconsciousness at the critical time or if they had been able to achieve awareness of the situation) have requested or consented.” 8 *Issues in Law & Med.* at 250.

¹⁰ *Id.* (Emphasis in original.)

¹¹ *Id.* at 252.

¹² Burleigh, *Death and Deliverance*, *supra* at 24.

¹³ *Id. supra* at 15.

¹⁴ *Id.* at 21.

¹⁵ Burleigh, *Death and Deliverance*, *supra* at 2 1-22 (citations omitted).

¹⁶ Lifton, *The Nazi Doctors*, *supra* at 48.

¹⁷ *Id.* at 22-44.

¹⁸ See Burleigh, *Death and Deliverance*, *supra* at 183-219.

¹⁹ *Id.* at 204 (quotation from film).

²⁰ *Id.* at 201-05 (quotations from films).

²¹ One of the persons involved in these physician-assisted death programs was Alfons Klein, supervisor at Hadamar sanatorium. His attorney described the course of events leading up to the whole slaughter: In a motion picture called, "I Accuse," the problem of euthanasia, that is, mercy killing, was expounded. This picture was simply a prelude for things to come, because shortly after the beginning of the war the government passed a law whereby people who were afflicted mentally should be put out of the way...from January 1941 to July 1945, more than 10,000 German mental patients were killed in Hadamar alone. (*The Hadamar Trial*, *infra* at 220-21). Counsel for Hadamar defendant Dr. Adolf Wahlamann further described what was to happen in the elite German Medical Community: The opinion was held in important circles that people of so low a physical or mental standard that their lives were not worth living, and for whom there was no hope of recovery or ability to work, should be removed after medical examination, especially when they themselves were a burden on their relatives and on the general public...In Germany, this point of view was put before the public through the media of books and movies, and was gradually recognized by widening circles. (*The Hadamar Trial*, *infra* at 226.)

²² *Brandt*, Nurem. Mil. Trib., *infra* at 877-80; Kamisar, *Non-Religious Views*, *supra* at 470; Gallagher, *By Trust Betrayed*, *supra* at 69 (Viktor Brack maintained that "the blessing of euthanasia should be granted only to [true] Germans").

²³ Derr, *supra*, 8 *Issues in Law & Med.* at 494.

²⁴ *Id.* at 488-89. "It would be a mistake to call it a Nazi program. It was not. The program was conceived by physicians and operated by them. They did the killing." Gallagher, *By Trust Betrayed*, *supra* at 5.

²⁵ Gallagher, *By Trust Betrayed*, *supra* at 60.

²⁶ Proctor, *Racial Hygiene*, *supra* at 193; see also Gallagher, *supra* at 5, 46.

²⁷ Proctor, *Racial Hygiene*, *supra* at 182.

²⁸ Proctor, *Racial Hygiene*, *supra* at 186; Burleigh, *Death and Deliverance*, *supra* at 93-96.

²⁹ Gallagher, *By Trust Betrayed*, *supra* at 47; Proctor, *Racial Hygiene*, *supra* at 186.

³⁰ Alexander Mitscherlich, *The Death Doctors* (1962) (James Cleugh, trans.) at 234.

³¹ Burleigh, *Death and Deliverance*, *supra* at 98. Few parents, however, were as explicit as a woman who requested that the Ministry of Interior "have her two "idiot children" taken to the asylum at Schleswig in order to carry out euthanasia." *Id.* at 102.

³² *Id.* at 111; Lifton, *The Nazi Doctors*, *supra* at 50, 56.

- ³³ Burleigh, *Death and Deliverance*, *supra* at 93.
- ³⁴ Henry Friedlander, *The Origins of Nazi Genocide: From Euthanasia to the Final Solution* 17 1-72 (1995).
- ³⁵ Proctor, *Racial Hygiene*, *supra* at 186.
- ³⁶ *Id.* at 194.
- ³⁷ Friedlander, *The Origins of Nazi Genocide*, *supra* at 300.
- ³⁸ *United States v. Brandt et al., Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10*, Nuremberg, October 1946-April 1947, Vol. II:196.
- ³⁹ Proctor, *Racial Hygiene*, *supra* at 193; Burleigh, *Death and Deliverance*, *supra* at 98-99.
- ⁴⁰ Proctor, *Racial Hygiene*, *supra* at 193.
- ⁴¹ Proctor, *Racial Hygiene*, *supra* at 190.
- ⁴² Lifton, *The Nazi Doctors*, *supra* at 138-39.
- ⁴³ Lifton, *The Nazi Doctors*, *supra* at 54; Burleigh, *Death and Deliverance*, *supra* at 101. These hospitals and health care facilities included Wurtemberg, Brandenburg, Hartheim, Sonnenstein, Hadamar, Leipzig-Dosen, Eglfing-Haar, Meseritz-Obrawalde, Tiegenhof, Langenhorn, Bernburg, Eichberg, Kalmenhof, Uchtspringe, Konigslutter, Scheunern, Mainkofen, Am Steinhof, and Kaufbeuren. Friedlander, *The Origins of Nazi Genocide*, *supra* at 87-89, 95, 152-53, and 162. In fact, the killing secretly continued at Kaufbeuren, Eglfing-Haar, and a few other hospitals for months after the war ended and Allied forces assumed control. Gallagher, *By Trust Betrayed*, *supra* at 249-50.
- ⁴⁴ Lifton, *The Nazi Doctors*, *supra* at 72.
- ⁴⁵ Proctor, *Racial Hygiene*, *supra* at 189-90.
- ⁴⁶ Lifton, *The Nazi Doctors*, *supra* at 71.
- ⁴⁷ *The Hadamar Trial: Proceedings of a Military Commission for the Trial for War Criminals*, Introduction at xxiv (E. Kintner ed. 1948). Counsel for Hadamar physician Adolf Wahlmann insisted at his war crimes trial, "In general, the people killed were those faced with a permanent illness, for whom a completely painless death was a relief," *The Hadamar Trial*, *supra* at 228. "Insane people are useless to society and as a rule do not endure pain...Incurable tubercular patients, on the other hand, have to suffer terrific pain," added counsel for Heinrich Ruoff. *Id.* at 233.
- ⁴⁸ *Id.* at 69-70.
- ⁴⁹ Lifton, *The Nazi Doctors*, *supra* at 192; Burleigh, *Death and Deliverance*, *supra* at 160.
- ⁵⁰ The Hadamar Trial, *supra* at Introduction xxiv.
- ⁵¹ Lifton, *The Nazi Doctors*, *supra* at 255.
- ⁵² Lifton, *The Nazi Doctors*, *supra* at 134-44; Burleigh, *Death and Deliverance*, *supra* at 132-33.
- ⁵³ Friedlander, *The Origins of Nazi Genocide*, *supra* at 150; Lifton, *The Nazi Doctors*, *supra* at 142.
- ⁵⁴ Alexander, *Medical Science Under Dictatorship*, *supra* 241 New Eng. J. Med. at 45-46.
- ⁵⁵ Lifton, *The Nazi Doctors*, *supra* at 142.

⁵⁶ On Jan. 20, 1942, nearly four years after the euthanasia program for Germans began with the *gnadentod* of the Knauer child, the plans for the Final Solution of the “Jewish Problem” were completed at the Wannsee Conference, a meeting of 13 high-ranking government officials. Proctor, *Racial Hygiene, supra* at 210; Lifton, *The Nazi Doctors, supra* at 158. Even then, “during early 1942, the details of the killing procedure were not yet clear, and were not solved until spring with the establishment of gas chamber camps in Poland.” Lifton, *The Nazi Doctors, supra* at 158.

⁵⁷ Burleigh, *Death and Deliverance, supra* at 277.

⁵⁸ *Id.* at 100.

⁵⁹ Burleigh, *Death and Deliverance, supra* at 273.

⁶⁰ Nurem. Mil. Trib. II:139.

⁶¹ *The Hadamar Trial, supra* at 88.

⁶² Burleigh, *Death and Deliverance, supra* at 152, 160.

⁶³ *Id.* at 289.

⁶⁴ Nurem. Mil. Trib. I:66-7 1.

⁶⁵ Alexander, *supra*, 241 *New Eng. J. Med.* at 44. In the last year of his life, Dr. Alexander drew explicit links between the German experience he had studied so extensively and the advocacy for legalized euthanasia in the United States: “It is much like Germany in the 20’s and 30’s. The barriers against killing are coming down.” Patrick G. Derr, “The Real Brophy Issue,” *The Boston Globe* 15 (Nov. 18, 1985).

⁶⁶ *Id.*

⁶⁷ 8 *Issues in Law & Med.* at 265.

⁶⁸ *Id.* at 254.