

Murderer-Rapist Almost Euthanized in Belgium: Is the public outcry warranted?

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Many members of the international public were surprised and/or shocked to hear that Frank Van Den Bleeken, an incarcerated murderer-rapist, was scheduled to be euthanized in Belgium earlier this month. The issue has been in the news since last September when the Belgian Federal Euthanasia Commission accepted Van Den Bleeken's application for euthanasia, and an Appeals Court in Brussels approved a deal that enabled his transfer from prison to a medical clinic where the procedure was to be performed. For about the last twenty years, Van Den Bleeken has been living in a 'regular' prison in Bruges, where he was admitted after his second set of sexual assault offences.

It may be interesting to briefly explore and unpack the reasons why there has been such a public outcry about Van Den Bleeken's scheduled euthanasia. In my view, some of these reasons are related to the divergence in Van Den Bleeken's circumstances from those of the paradigm circumstances in which euthanasia is usually performed. Another factor appears to have more to do with prevailing, discriminatory attitudes toward persons who are imprisoned while living with significant mental illness.

There is a particular set of circumstances in which assisted dying practices, such as continuous deep sedation, assisted suicide and voluntary active euthanasia, are typically considered and performed. The patient is usually suffering from some form of physical-health-based, terminal illness which is expected to end her/his life within a few weeks. The experienced suffering is unbearable/profound in nature. It has proven refractory to a set of standard acute and palliative care treatment modalities that have been consented to by the patient. The distress is most often primarily physical in nature, although it is not unusual for there be secondary, co-mingled and interacting psychological and socio-relational distress elements.

Van Den Bleeken's circumstances differ from these paradigm assisted death circumstances in a variety of ways. It has been reported that his underlying medical illness is psychiatric, i.e., presumably some form of severe paraphilic disorder, and that his suffering is primarily psychoexistential in nature. From a psychological health perspective, his current life circumstances are very grim – he spends most of his time alone in his prison cell. He recognizes that he will not be released into the community

(and, reportedly, he does not desire this due to his personal fear of reoffending). The quality of his imprisoned life is likely to be further degraded by his status as a member of several, intersecting, oppressed social groups, i.e., persons with severe and persistent psychiatric illness, persons who are incarcerated for sexual assault crimes, persons with childhood sexual trauma (a reported component of Van Den Bleeken's clinical history), etc. His day-to-day, lived experience is likely consistent with three of Iris Marion Young's 'faces of oppression': marginalization, powerlessness and violence. It is not very difficult to imagine that a person in Van Den Bleeken's circumstances could be experiencing profound psychoexistential distress. Although this type of suffering is more difficult to evaluate and quantify than physical distress, one could argue that 'self-perceived unbearable suffering' is 'self-perceived unbearable suffering', regardless of the underlying etiology. Such a view is consistent with the WHO' definition of health – "a state of ... physical, mental and social well-being" and its description of palliative care as a therapeutic approach that aims to enhance quality of life "through the prevention and relief of suffering by means of early identification ... assessment and treatment of pain and other problems, physical, psychosocial and spiritual."

Another significant divergence from paradigm assisted death circumstances of relevance to the 'consequences domain' is Van Den Bleeken's projected survival without euthanasia intervention. He is 52 years old and it has been reported that he is not suffering from an identified terminal or chronic disabling physical illness. One of the perceived 'bad effect' consequences of legalized assisted dying practices (that require the direct engagement and agency of healthcare providers) is hastening of death. When death could potentially be foreshortened by years or decades (as opposed to a few days or weeks), this is viewed by some as a big deal. From a 'proportionality' perspective, because of the extended life expectancies in circumstances such as those of Van Den Bleeken, it is more difficult to support a claim that euthanasia constitutes an appropriate, proportional response to the experience of unbearable suffering. However, Van Den Bleeken's circumstances do meet the criteria set out in Section 3 of *The Belgian Act on Euthanasia* – he is an adult with the capacity to make his/her own decisions "in a medically futile condition of constant and unbearable physical or mental suffering that cannot be alleviated, resulting from a serious and incurable disorder caused by illness or accident" (lack of proximity to anticipated 'natural death' does

not preclude successful application for euthanasia in Belgium). By Benelux country standards, Van Den Bleeken's euthanasia would not constitute a (North American dreaded) 'slip' in the legally-recognized indications for an assisted death.

Another reason for the public's negative response to the news of Van Den Bleeken's potential euthanization is the view of some commentators that his assisted death would unfairly shorten/mitigate the punishment for his serious crimes. The sisters of Van Den Bleeken's initial victim have reported to media sources that they would prefer that he languish indefinitely in prison. However, it seems to me that society's needs for punishment and a deterrent to others in the face of a terrible crime (if there is any such need for someone who was deemed 'not criminally responsible' for the initial murder-rape) have already been met through Van Den Bleeken's prolonged incarceration. The reason he remains in prison is to protect societal members from his possible, future criminal actions as a free agent. This legitimate need for societal protection/safety can be equally met by further, indefinite incarceration or (a self-chosen) death.

Perhaps the public should be outraged by Van Den Bleeken's circumstances for a different reason – the fact that he has not been provided with appropriate forensic psychiatric services for the past two decades. Human rights advocates have recognized and recently drawn needed attention to this inequity. The related negative publicity is likely the primary reason why Belgium's Justice Minister interceded at the last minute to revoke Van Den Bleeken's application for euthanasia and arrange for him to be transferred from Bruges to a new, 'short stay' forensic psychiatric centre in Ghent. Transfer to an appropriate, specialized facility in the Netherlands, which had originally been requested by Van Den Bleeken, would have had the potential to unfavourably highlight the current lack of comprehensive forensic psychiatric services in Belgium.

Although the public's negative reaction to this sensational 'euthanasia-in-the-news' event is understandable, further consideration of, and reflection on, the relevant complex factors and challenging context could change the minds of some about the moral status of euthanasia in these particular circumstances – it certainly has mine.

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