

ARTICLE

Lighting the spark? Murder Trials in the 1960s and 1970s
in the Liège Court of Assizes and Their Influence on Belgian
and International Attention for the Issue of Euthanasia

¿Encender la chispa? Los juicios por asesinato celebrados en
los años sesenta y setenta en el Tribunal de Primera Instancia
de Lieja y su influencia en la atención prestada por Bélgica
y la comunidad internacional a la cuestión de la eutanasia

Niels de Nutte ¹

How to cite:

Nutte, de, N. (2025). Lighting the spark? Murder Trials in the 1960s and 1970s in the Liège Court of Assizes and Their Influence on Belgian and International Attention for the Issue of Euthanasia. *Derecho en Sociedad*, 19(2), pp. 1-22. DOI 10.63058/des.v19i2.325

Submission received: 25 April 2025. Accepted: 25 June 2025.

1 Niels De Nutte holds a PhD from the Vrije Universiteit Brussel, to which he is affiliated as a postdoctoral researcher of the research group Secular Studies Association Brussels and a guest professor in history as well as practical humanism. He holds a postgraduate degree in Société et Laïcité from the Université Libre de Bruxelles, where he is a visiting researcher. ORCID: 0000-0001-9252-6744. Email: niels.de.nutte@vub.be

Abstract

Euthanasia, which has been pluriform in its content throughout history, has been a part of human society. Although the practice of actively shortening the life of a fellow human being - whether as mercy killing or at his or her request - was punishable by law in Belgium, ethicist and advocate of a self-chosen end of life Hugo Van den Enden argued that legal convictions were strongly decreasing from the 1960s and 1970s onwards, making use of the options of “irresistible moral pressure” [*onweerstaanbare morele druk*] or “murder with extremely mitigating circumstances” [*moord met extreem verzachtende omstandigheden*]. This paper examines the wider societal context and legal reasoning used in three cases that were prosecuted before the Liège Court of Assizes. The trials took place between 1960 and 1974, and each resulted in the defendants’ acquittal. In addition to the internationally (in) famous Softenon trial, mercy-killing cases from 1972 and 1974 are also examined. For Belgium, this period constitutes somewhat of an intermediate stage in the history of euthanasia. On the one hand, end-of-life advocacy groups would only emerge in the early 1980s, with the French-speaking *Association pour le Droit de Mourir dans la Dignité* (ADMD) in 1981 and the Dutch-speaking *Recht op Waardig Sterven* (RWS) in 1983. On the other hand, significant levels of acceptance for mercy-killing practices already existed among the secular part of the population as early as 1950.

Keywords:

Euthanasia, mercy killing, softenon, end-of-life, murder trial, dementia

Resumen

La eutanasia, de contenido pluriforme a lo largo de la historia, ha formado parte de la sociedad humana. Aunque la práctica de acortar activamente la vida de un semejante - ya sea como homicidio piadoso o a petición suya - estaba penada por la ley en Bélgica, Hugo Van den Enden, especialista en ética y defensor de la autoelección del final de la vida, argumentó que las condenas legales comenzaron a disminuir considerablemente a partir de los años sesenta y setenta, recurriendo a las opciones de “presión moral irresistible” [*onweerstaanbare morele druk*] o “asesinato con circunstancias extremadamente atenuantes” [*moord met extreem verzachtende omstandigheden*]. Este artículo examina el contexto social más amplio y el razonamiento jurídico utilizado en tres casos que se juzgaron ante el Tribunal de lo Penal de Lieja. Los juicios tuvieron lugar entre 1960 y 1974, y todos ellos acabaron con la absolución de los acusados. Además del internacionalmente (in)famoso «juicio Softenon», también se examinan casos de homicidio por piedad ocurridos en 1972 y 1974. Para Bélgica, este periodo constituye una especie de etapa intermedia en el tratamiento de la cuestión de

la eutanasia. Por un lado, los grupos de defensa del final de la vida no surgirían hasta principios de la década de 1980, con la francófona *Association pour le Droit de Mourir dans la Dignité* (ADMD) en 1981 y la neerlandófona *Recht op Waardig Sterven* (RWS) en 1983. Por otra parte, ya existían niveles significativos de aceptación de las prácticas de homicidio por piedad entre la parte laica de la población desde al menos 1950.

Palabras clave:

Eutanasia, homicidio piadoso, softening, final de la vida, juicio por asesinato, demencia

To say that euthanasia is a contentious subject is an understatement. Belgium, having decriminalized a form of this practice in 2002, has proven to be a good case study for current insights into its incidence, location, typologies, and related aspects.² One of the things that remains unclear, however, is when the legal sphere became interested in this issue. Additionally, the question needs to be asked whether specific legislation or depenalization was, in fact, necessary, or if existing legal systems could have made room for a ‘right to die’, as the wider issue would be called from the 1970s onwards. Until the influential study *Handelwijzen van artsen rond het levenseinde van hun patiënten (Approaches of Physicians to End-of-Life of Their Patients - HALP)*, published in the late 1990s, euthanasia incidence in Belgium remained a *Dunkelziffer* (Deliens, 2001). To this day, the same can be said for the prosecution of euthanasic practices prior to the 2002 legislation, while the work of the Swiss legal scholar Jean Graven demonstrates that deaths resulting from actions described as a form of euthanasia have been ever-present in European and American modern-day legal history (Graven, 1964).

By the latter half of the twentieth century, a significant portion of Belgian society — particularly its more secular segments — had begun to move away from traditional Catholic beliefs that framed end-of-life suffering as spiritually meaningful (De Nutte, 2022). Instead, growing emphasis was placed on the value and quality of life itself. This shift in moral perspective naturally led to a heightened public and ethical interest in questions surrounding the end of life. Advances in medical technology following the Second World War further complicated

2 A myriad of qualitative studies have been published throughout the years by people such as Luc Deliens and Freddy Mortier. A worthwhile dataset is published every year by the Federal Commission for the Control and Evaluation of Euthanasia. In 2023 an extensive edited volume analysing the 20-year mark of the euthanasia law was published. See Vansweevelt & Delbeke (2023).

these discussions, as they made it increasingly possible to prolong life in ways that would have been unimaginable in earlier eras.³ These technological developments sparked new inquiries into what it means to live — or die — with dignity.

High-profile cases such as the protracted dying process of Spanish dictator Francisco Franco in 1975, and the widely publicized situation of Karen Ann Quinlan in the United States — whose family sought to withdraw life-sustaining treatment due to her persistent vegetative state — brought these ethical dilemmas into sharp public focus. Whereas previous work by us has examined how such debates reflect broader concerns about what makes life humane, this study turns to a different, though related, question: what are the implications when life is no longer seen as humane? More specifically, does this shift open the door to a “right to die”? These questions are explored here through both the broader debates of the time and a close examination of three euthanasia-related cases brought before the Court of Assizes in Liège, in the French-speaking part of Belgium, between 1962 and 1974.

One of those cases was the infamous Softenon Trial, in which the Coipel-Vandeput family was acquitted for the mercy killing of their deformed newborn daughter.⁴ The two others, tried in 1972 and 1974 respectively, concerned the mercy killing of women of advanced age suffering from severe forms of dementia (Wilkin & Wilkin, 2022). For Belgium, this period constituted an intermediate stage when looking at the issue of euthanasia. On the one hand, end-of-life advocacy groups would only emerge in the early 1980s, with the French-speaking Association pour le Droit de Mourir dans la Dignité (ADMD) in 1981 and the Dutch-speaking Recht op Waardig Sterven (RWS) in 1983. On the other hand, we have shown the existence of significant levels of acceptance for mercy-killing practices among the secular part of the population as early as 1950 (De Nutte, 2022). This support is confirmed during the 1962 trial. The societal consensus, however, ran significantly ahead of the political reality, as no openings for any law-making initiatives were made until the first coalition without the Christian Democratic Party came into power in the mid-1990s.

The Belgian context presents a particularly compelling case for historical inquiry into end-of-life debates, especially when considered through the lens of religious worldviews and the

3 This was coupled with the emerging field of bioethics and discussions on brain death, for instance. See Baker & McCullough (2008) and Veatch (1980).

4 This trial was followed internationally, as shown by publications in American, French and Swedish cases. Its importance is evident given the response it eluded from the Vatican Radio service and the fact that Jean Graven's treatise opens with a reference to it. See for instance *Le Monde* (1962), *The Monitor* (1962), *New York Times* (1962), *Dagens Nyheter* (1962), Gunzinger (1978) and Triche & Triche (1975).

dynamics of secularization. Belgium's historically strong Catholic roots have long shaped moral and medical perspectives on suffering and death. However, by the mid-twentieth century, a marked shift was underway. As segments of Belgian society began to question the religious framing of suffering as redemptive, they increasingly emphasized individual autonomy and quality of life — trends that paralleled wider European secularization patterns but took on distinctive forms in the Belgian context. What makes Belgium unique is the visibility and persistence of its philosophical-religious divide, which directly influenced discourse around euthanasia from as early as the 1930s. In this setting, ethical attitudes toward end-of-life care often diverged along ideological lines, with secular voices pushing for a more individualized and negotiated approach to dying, while religious perspectives generally maintained a more traditionalist stance. This created fertile ground for competing conceptions of a 'dignified death.'

Although Graven cites examples going back to the beginning of the 20th century, it seems that actual attention to the 'problem' of euthanasia within the European legal sphere only began to awaken in the late 1960s and early 1970s. Examining our three cases allows insights on two fronts. Firstly, there is the national perspective. By looking at three euthanasia cases in which defendants were acquitted, this paper tackles questions about how the legal framework in Belgium dealt with prosecutions for murder in cases where euthanasia was seen as a factor. Given the acquittal in a societal context where mercy killing was, to an extent, deemed acceptable, the results of these trials begged the question in the legal sphere of whether a right to die existed. Could a difference be made between an act with or without the goal of mercy? Did this correspond to a new way of dealing with death? And was legalization or depenalisation of euthanasia practices deemed necessary within the legal community of the 1970s?

Secondly, there is the transnational perspective, for which two points are worth mentioning. First, we will show that the first trial seems to have sparked interest in euthanasia at a European, if not global, level. Though the lasting impact of the trial in Belgium seems very limited, looks can be deceiving, as will be discussed. Secondly, the specific influence of France and its linguistic and cultural commonality with the South of Belgium is much more pronounced than previously assumed. We have shown in earlier work that the 1980s saw a transfer of information towards Belgium through the linguistic commonality of Flanders and the Netherlands, the latter receiving information through their British and American connections — countries that have long-standing traditions in euthanasia advocacy (De Nutte,

2020).⁵ It seems, however, that the lack of historical work on this issue in the French context has obscured important developments. Information on topics such as living wills reached Belgian society approximately a decade earlier through its cultural connections. The attention of the legal sphere came at a time when other scientific disciplines were also experiencing a resurgence of interest in, and shifts toward, issues of death and dying. Yvon Kenis, a prominent president of one of the Belgian right-to-die societies and a medical professor at the Université Libre de Bruxelles, described this as follows:

Since approximately twenty years, American medical professionals and sociologists and French historians have shown us at what point man's attitude towards death, by the middle of the 20th century, was different from the traditional attitude. It was referred to as 'invisible death' [*mort escamotée*] as opposed to 'tamed death' [*mort apprivoisée*] (Kenis, 1986).⁶

Although the Netherlands and Belgium were among the first countries in the world to depenalize some forms of euthanasia, the influence of France should not be underestimated. Equally, as Dominique Dirlewanger has shown concerning the impact of the Swiss euthanasia trial of the physician Haemmerli on international debates in the mid-1970s, we are convinced that the 1962 Softenon trial also qualifies as an earlier trigger event (Dirlewanger, 2020).

A Spotlight on Death and Dying

If the 1960s and 1970s constituted something of an intermediate stage for the issue of euthanasia in the Belgian context, the period was also marked by a prolific rise in scientific interest in death and dying.⁷ The French historian Philippe Ariès, alongside colleagues such as Michel Vovelle and François Lebrun, is undoubtedly a central figure in this development. His work on the history of mentalities, particularly regarding attitudes toward death—or, as a more apt translation of the French focus, attitudes in the face of death—has enjoyed a wide international readership, especially since the mid-1970s. This is exemplified by the

5 For the American and British history on the matter, we refer to the work of historians Ian Dowbiggin and N.D.A. Kemp respectively.

6 Attitude towards death is a translation of *attitude de l'homme devant la mort*, a direct reference to the influential work of the French historian of death Philippe Ariès.

7 An overview is given by French historian Michelle Vovelle (1980) and by Dirlewanger (2020). After 1970, books on death and dying appeared at a rate of one per month. See Dowbiggin (2003).

substantial number of publications found in various international journals from that time.⁸ In France, as in the United States, Switzerland, and of course Belgium, the work of Philippe Ariès was perceived as that of a man not merely limited by the boundaries of his discipline. An outstanding interdisciplinarian and popularizer, his theses have made contributions to research in demography, sociology, psychology, medicine, education, and history.⁹ Additionally, his work found its way to social actors and the wider society. A Belgian case in point is the articles of the ADMD from the 1980s. The timelines on changing attitudes towards death included in these publications were strikingly similar to those identified by Ariès.¹⁰ These included for instance Geoffrey Gorer's 1955 book *The Pornography of Death*¹¹, the usage of the terminologies *mort apprivoisée* – which is the title of Ariès' first chapter in *L'Homme devant la mort* (1977) – and the *mort escamotée*, used in his book *Essais sur l'histoire de la mort en Occident* (1975).

Apart from the interdisciplinary nature of the renewed attention to attitudes towards death, the connection between American and French research is a factor of importance as well. This connection is clear once again when looking at the work of Ariès, both the translations of his articles and the disciplines involved, among them journals of law and sociology. Another connection is to be found with the concept of a living will. Originally theorized by legal professional Lewis Kutner in 1969, we see this idea appearing in almost all French-speaking legal treatises on the issue of mercy killing and self-chosen death by the second half of the 1970s.¹² The concept was translated into *testament biologique*, and articles dealing with this issue often include literal translations of living wills provided by the *Euthanasia Society of America* (ESA).¹³ Here as well, discussions on the issue find their way to contemporary societal actors. These advocacy organizations linked the living wills with the concept of *acharnement thérapeutique* [therapeutic tenacity], a concept originating in France as an issue related to medical deontology since the 1950s (Carol, 2004; Ricot, 2016). The ideas at the base of this concept, namely that physicians were prolonging life unnecessarily rather than mitigating pain, found traction in the United States too (Dowbiggin, 2003, p. Dowbiggin, 110-112). The changing of death's shape – evoking an image of dying comatose and entubed in the hospital – is echoed in ethicist Joseph Fletcher's work in 1973.

8 Some examples include Ariès & Brooks (1969), Mitchell (1978), Chamboredon (1976), Ramsey (1974).

9 “Réception de l'œuvre de Philippe Ariès,” site dédié à Philippe Ariès, last consulted April 5, 2024, <https://philippe-aries.histoweb.net/spip.php?rubrique33>.

10 Even in their first Bulletin, a publication in which they announced their establishment, the work of Ariès featured prominently. See Bulletin de l'Association Belge pour le Droit de Mourir dans la Dignité (1981).

11 This same sequence can be found, for instance in Ariès (1974, p. 536-560).

12 See for instance Chatillon (1977) and Dijon (1982).

13 A prominent example here is Crossard (1976).

The Legal Profession and Euthanasia: Murder in the Balance of a People's Jury

Given what we have described, alongside moral canvassing, the legal profession also showed a growing interest in the issue of medically assisted dying during this same period. Interest across a variety of disciplines rose dramatically by the second half of the 1970s (Young, 2011). Internationally, we can identify several important developments. For instance, the ESA underwent a significant shift in the connotation it assigned to euthanasia during the 1960s. Whereas before this time the organization had advocated for mercy killing, this gradually shifted toward a personal right to die. This transition led to the successful implementation of living wills. In 1976, such a document was legally recognized in the state of California, followed by seven other U.S. states within a year (Dowbiggin, 2003, pp. 116–121). At higher levels of governance, the United States Special Commission on Aging held hearings on death with dignity, while the Parliamentary Assembly of the Council of Europe adopted a resolution in 1976 on the rights of the sick and dying, confirming that “the true interests of the sick are not always best served by a zealous application of the most modern techniques for prolonging life” (2024).

As Jean Graven pointed out quite eloquently in 1963, euthanasia had a hard time *à naître juridiquement* [of being born in the judicial sphere]. The motive—however disinterested and honorable, inspired by love or compassion—did not change the *nature juridique* of euthanasia as murder. Yet within the French and Belgian legal frameworks, Graven already referred to the public prosecutors power of discretion and to cases dismissed by the prosecution's office (1963, pp. 143–146). Notwithstanding this early work, it seems that substantial attention from the legal sphere only emerged around the mid-1970s.¹⁴ This was true in Belgium, and likewise in France, Switzerland, and the Netherlands.¹⁵ Coincidentally, this timeline mirrored the one unfolding in the United States.

Although a few tentative articles on euthanasia in the Belgian legal field date from as early as the 1950s, the first substantial contributions only began to appear by the mid-1970s and early 1980s. As Danny Pieters notes, most earlier publications focused on foreign developments and were hampered either by bias stemming from self-selected definitions of euthanasia or by the conflation of legal analysis with philosophical speculation and advocacy claims (Pieters, 1982). In their 1976 handbook on Belgian penal law, professors Constant Vanhoudt and

¹⁴ Examples are Lust (1972) and Grysolle (1979)

¹⁵ See for instance Weyers (2004, p. 94-101), Chatillon (1977), Dierkens (1976, p. 386-396) and Dirlewanger (2020, p. 16-21)

Willy Calewaert of Ghent State University—the latter also an influential socialist and secular politician—stated that opening the possibility of using euthanasia as a legal justification in murder trials would, *ipso facto*, result in unacceptable acquittals. From a legal perspective, personal motives should have no bearing on the determination of guilt and, as with the consent of the victim, should not prevent the application of penal sanctions for manslaughter or murder. The authors did, however, recognize that public attitudes no longer fully condemned such acts (Vanhoudt & Calewaert, 1976).

Although Vanhoudt and Calewaert chose to include the topic of euthanasia, comprehensive legal analyses of its status *vis-à-vis* Belgian law would not appear until the early 1980s. The most prominent examples are found in the work of legal scholars Xavier Dijon and Danny Pieters and of Hugo Van den Enden, ethics professor at Ghent University and vice-president of the RWS. Van den Enden's article, when examining both its content and references, appears to be largely based on the work of Pieters—although the authors disagreed on one specific point.

Pieters, then a doctoral student at Leuven Catholic University, demonstrated analytical rigor by deliberately avoiding a fixed definition of euthanasia. Instead, he identified several components that might be present in any event potentially categorized as euthanasia, thereby aiming for a strictly legal analysis. He listed six elements:

1. The intention guiding the act (was death intentionally hastened?).
2. The method used (refusal of treatment, intentional administration of lethal agents, etc.).
3. The intended beneficiary (the deceased, family members, the “race” or public health, etc.).
4. The condition of the person euthanized (terminally ill, dying, mentally or physically disabled).
5. The executor (medical professional, family member, etc.).
6. The degree to which the individual wished for or explicitly requested the act to occur (Pieters, 1982, pp. 237–238).

Having defined these six categories, Pieters proceeded to analyze relevant provisions of the Belgian Penal Code (Pieters, 1982, pp. 238–341). As prior authors had indicated, euthanasia did not exist as a separate legal offense. Dijon similarly noted that French law relied on a penal syllogism in such cases. What was likewise absent—thus not constituting a crime—were situations where the executor and the euthanized individual were the same person, i.e., suicide or assisted suicide.

If, however, the executor was someone other than the deceased, Articles 393, 394, 395, and 397 of the Penal Code applied. These pertained, respectively, to manslaughter (punishable by life with hard labor), murder (punishable by death—although executions were no longer carried out and sentences were almost automatically converted into life imprisonment), parricide, and murder by poisoning. *Stricto sensu*, the victim's consent and the executor's intention were legally irrelevant. Public order could not tolerate a situation in which one individual is permitted to kill another with impunity. Legally, the definition of murder required proof of intent to kill—an element that is present in most forms of euthanasia. A possible exception was what was traditionally referred to as passive euthanasia, in which a physician administers escalating pain medication that, as a side effect, leads to the patient's death. In such cases, the death was considered an unintended consequence; the primary goal was the mitigation of suffering. Some legal interpretations categorized this under involuntary manslaughter, addressed by Article 481. By the 1980s, however, Belgian courts had largely ceased prosecuting such cases altogether. It is likely that by this time there was also minimal judicial effort to suppress active euthanasia cases (Le Soir, 1983).

In practice, however, considerations of consent and intent did influence the way the justice system addressed acts of euthanasia. As far back as 1950, reference was made in an explanatory memorandum to the Belgian Penal Code stating that, if a crime were committed without violence or malice—but rather because of surrendering not to the offender's passions but to the victim's pleas—the consent of the person killed substantially altered the question of guilt. Such factors could therefore warrant a significant reduction in sentencing (Nypels & Servais, 1938, p. 342).

Courts of Assizes were, in principle, empowered to hear such cases. These courts ruled on euthanasia trials through lay juries composed of twelve citizens selected by lot, who were required to rule “according to their conscience and heartfelt conviction” on the question: “Is the accused guilty of this particular crime?” Where the defendant invoked a legally recognized exculpatory circumstance, a second question followed: “Has this fact been established?” Thus, whenever euthanasia was prosecuted in Belgium, it was judged by a non-professional jury tasked with establishing guilt. By taking mitigating circumstances into account, convictions for murder, manslaughter, parricide, or poisoning could be reduced to a prison term of at least three years. Pieters pointed out that some juries, believing three years of imprisonment to be too severe, were inclined to lie and answer “no” to the question of guilt—despite substantial evidence to the contrary. This is where Pieters and Van den Enden diverged in interpretation. While Pieters argued that the jurors were lying, Van den Enden emphasized

that they were simply following their consciences, as the law required, and that those consciences compelled an acquittal (Van den Enden, 1984, pp. 107-108). Although the outcome was the same, the different framing reflects how each scholar approached the subject.

Finally, both authors referenced Article 71 of the Belgian Penal Code, which provides a *schulduitsluitingsgrond* [ground for the exclusion of guilt],¹⁶ stating that no crime has occurred if the accused was compelled by an irresistible force. In one of our case studies, this defense was successfully invoked and resulted in an acquittal.

Three Belgian Trials Prosecuting Cases of Active Euthanasia

We now examine the three euthanasia trials, trying to understand how the acquittals of the defendants in these cases came about. The legal point of view is taken into consideration, as are the arguments of the defense. On a more general level, we ask whether these same arguments correspond to wider developments in society vis-à-vis specific forms of mercy killing. Do they run ahead of, or lag behind, prevailing social sentiments? Did the results inform public debate on the matter?

This brings us to the final level—namely, that of societal change. As we have touched upon earlier, these cases seem to have had little impact in this regard. Advocacy groups and legislative proposals emerged only in the early 1980s. So, did none of these cases constitute a trigger effect in any way? Even today, one finds ample coverage of the 1962 case. If the early 1960s perhaps proved too soon for any lasting societal debate, the 1970s trials represented a tangible opportunity, given both the rising interest in death and dying, and the lasting effects the Swiss Hämmerli trial of 1975 enjoyed in an international context.¹⁷

The Softenon Trial of 1962

In November 1962, five people—four family members and one general practitioner—were accused of conspiring to kill a newborn baby in the Coipel-Vandeput family. The daughter was born, as was the case with several babies during this period, with severe physical defor-

16 This term is elaborated upon in Casier, Gutwirth, Distelmans & De Herdt (2014, p. 126-131).

17 Peter Hämmerli was a gastroenterologist accused of and acquitted for murdering his dying patients. See Dirlewanger (2020, p. 105).

mities: specifically, a lack of limbs and embryonic, non-functional hands attached directly to the torso.¹⁸ This was a direct consequence of the mother's use of Softenon (Wilkin & Wilkin, 2020, pp. 111-112). This drug, with the active component thalidomide, was brought to market in the 1950s by Grünenthal GmbH to help pregnant women combat nausea. It was commercially sold in Belgium in 1959. The killing of the newborn infant in this case occurred at a time when doctors were just beginning to understand and warn against the consequences of the drug for fetuses. These complications led to the drug being discontinued in Belgium by June 1962 (Wilkin & Wilkin, 2020, p. 112; McBride, 1961, p. 1358).

The trial itself generated a substantial amount of both national and international sensation, much to the frustration of some in the Belgian legal profession. The inhabitants of the city of Liège, for instance, amassed over 5,000 signatures in support of the acquittal of Dr. Casters, the accused GP (Wilkin & Wilkin, 2020, p. 112; McBride, 1961, p. 1358). Quite some debate in wider intellectual circles emerged as well. This is illustrated clearly by the attention given to this case by preeminent French philosopher Jean-Paul Sartre (Cormann, 2018, pp. 203-238). In two unpublished papers, he developed concepts such as *mort dans la vie* and *technologie mal appliquée*. He argued that the child would have a life that was equivalent to death without end. Here, he clearly refuted any notion of the sanctity of life and echoed contemporary activist voices that slowly began to see life as something that should be a choice, not a given. His second concept seems to be an embryonic manifestation of what would become a central trope in the euthanasia advocacy of the 1980s—namely, the notion of *acharnement thérapeutique* (therapeutic tenacity) mentioned earlier.

The indictment sums up what transpired.¹⁹ It seems the pregnancy occurred only months after the marriage of Coipel and Vandeput. Although both had imagined starting a family later, no effort was spared to bring the pregnancy to term under optimal conditions. Since both parents worked as civil servants, it was decided that raising the child would be left to the maternal grandmother.

The child's birth defects were identified in the hospital only after delivery. This news was immediately communicated to both the father and the maternal grandmother. The mother herself, however, was left uninformed for four days. Both the father and the grandmother immediately asked the attending physician whether the child's life could be terminated. The same was true for the mother's sister, who was informed by the grandmother. Like her

18 State Archives of Liège (SAL), Court of Assizes 1962 second semester, 154, Coipel-Vandeput, indictment.

19 SAL, Court of Assizes 1962 second semester, 154, Coipel-Vandeput, indictment.

family members, she appealed to the attending nurse for termination, only to be met with refusal once again. In the indictment, the nurse described the sister's reaction as "a violent scene of blasphemy."

Following these events, both women contacted their general practitioner to pose the same question they had asked at the hospital. The indictment states—and this is reflected in later media coverage of the trial—that the actions were initiated by the women of the family. The husband is described as passive and unimpressive.²⁰ The GP prescribed barbiturates to be injected into the baby, but later contacted the family, explaining that since an injection would leave physical marks, another method of administration would be more favorable. When the child was brought home after four days, the family convened at night, and the mother fed the baby a bottle containing a lethal dose of barbiturates, which resulted in death. It was the attending physician at the hospital who alerted other staff to the family's intentions, which led to a police visit that brought to light what had transpired.

The accused, as a group, did not dispute the facts presented in the indictment, but in a letter to the court, they refuted the insinuation of a "conspiracy of silence." The family and the GP cited an error of science and stated that they had wanted to spare the child a life of misery. If confronted with the same situation again, the group explicitly stated they would act in the same manner.²¹ The accused were prosecuted, with varying degrees of guilt, for manslaughter and death by poisoning. The defense argued, as one might have expected (De Standaard, 1962). Their arguments included the claim that the child's death occurred in her own interest, as well as a demonstration of the extreme moral pressure and emotional conflict experienced by family members because of the position taken by the maternity hospital. The defense further elaborated on the nature of a "normal and humane" life. They also focused on society's negligence toward the family: "What has the community done to protect these people from the consequences of Softenon?"²² The trial eventually resulted in all questions of guilt being answered negatively by all twelve members of the jury (De Standaard, 1962).

Using the categories developed by Pieters, let us look more closely at what transpired. The goal of the family's actions was to kill the child to spare her from what they perceived as a life not worth living. This was carried out by way of poisoning. The question of the beneficiaries, however, remains somewhat unclear. Financially speaking, the act had no consequence.

20 For instance *Le Soir* (1962, p. 7)

21 SAL, Court of Assizes 1962 second semester, 154, Coipel-Vandeput, statement of the defence.

22 *Ibidem*.

For the family itself, two arguments can be made: first, that the family gained nothing and lost a child; second, that the family was relieved of the responsibility of caring for a severely deformed child.

The executor, in a narrow sense, was the mother; in a broader sense, it was the family and the physician. The act itself cannot be construed as consensual, given that it concerned the death of a newborn. Did this constitute a wholly exceptional case? The actions of the GP are telling. The fact that he was aware of what could be done and immediately appeared sympathetic to the family's plight may suggest a personal familiarity with practices of mercy killing. His concern about possible prosecution following an autopsy is also of interest.

The Picquereau Trial of 1972

In the indictment of our second case, the prosecution of Picquereau for the killing of his retired wife, the story begins with policemen finding the wife of the accused dead on a couch in their residence.²³ The document further recounts him strangling his wife in the residence they occupied together with their son and daughter-in-law. His wife suffered from vascular dementia (arteriosclerosis) since 1969 and was cared for at home. Two months before the incident, the relatively quiet demeanor of the wife changed abruptly. No longer did she recognize close relatives. She also became physically abusive and prone to hallucinatory episodes. The accused felt exceedingly desperate in this situation. On the day of his wife's death, the husband consulted the secretariat of the communal administration to find a place for his wife in a dedicated care facility. The administration responded that no places would become available in the foreseeable future. The husband, fearing to become an additional burden on the young couple in the house, had written a goodbye letter a month before. His intention was not only to kill his wife but also himself. Picquereau was accused of both murder and manslaughter.²⁴

In this trial, a variety of mitigating circumstances were put forth. Firstly, a psychiatric evaluation concluded that the accused was fully mentally competent, but that the responsibilities and circumstances of his married life had a profound impact on his mental health.²⁵ Second, the defense stressed several points. As we have mentioned, the husband began the day by

23 Idem, Court of Assizes 1972, 166, Picquereau, Indictment.

24 Ibidem.

25 Idem, Court of Assizes 1972, 166, Picquereau, psychiatric evaluation.

seeking help from the communal administration, only to be met with a seemingly endless waiting list for care institutions. A request to have his spouse institutionalized constituted a particularly difficult step for the accused, as his brother-in-law had previously died in a similar setting.²⁶ His testimony further explicitly referred to the many times his wife had asked for her life to be ended. The defense coupled this with their “exceptionally loving” marriage of over 40 years. Following the act, Picquereau immediately summoned a physician to the house. His former colleagues also provided a signed statement attesting to his exemplary moral fiber.²⁷ As was the case in the previous trial, the questions of guilt were answered negatively by all members of the jury.

In this case, the goal was twofold: to spare the wife further suffering and to honor her wish, as well as to avoid burdening the next generation of the family. The method was strangulation. The intended benefit was for the next generation, which was not involved in the act and therefore not prosecuted. The executor was once again a family member, and in this case, there is strong reason to believe that the act corresponded to the expressed wishes of the deceased.

The Hoyoux Trial of 1974

The third case is much more concise. The indictment paints a picture of a wife returning home from a weekend away to find her husband holding a rifle at the foot of the bed, where her mother-in-law lay dead, holding a crucifix between her arms.²⁸ In the kitchen, she was confronted with empty pill containers and written instructions detailing financial and other affairs. These were accompanied by a short statement in imperfect French: “Goodbye, my mother is too much and so am I.”

The deceased woman was described as having a difficult disposition, which was aggravated by the advanced form of vascular dementia from which she suffered. Despite brief periods of lucidity, her ability to interact was almost completely gone. This led the son to accept underpaid jobs that allowed him to remain permanently at his mother’s side. Prior to this, a healthcare facility had been selected, and the deceased had spent some time there. Utterly

26 Idem, statement of the defence.

27 Idem, file 28.

28 Idem, indictment.

shocked by what his mother's life had been reduced to, Hoyoux checked her out. The crucifix she held after her death had also been placed in her hands by her son.

As with the previous case, the psychiatric evaluation found no particular imbalances in the accused—neither at the moment of the act nor in the time that followed.²⁹ The expert also referred to an increase in responsibility and emotional strain experienced by the accused. This psychiatrist concluded by stating that Hoyoux exhibited reduced cognitive abilities as a consequence of depression. The defense added arguments referencing both his flawless professional record and a petition from the local community requesting the immediate release of the defendant. Once again, the members of the jury answered negatively to all charges, resulting in an acquittal.

Although this case was perceived by some as a form of euthanasia (Wilkin & Wilkin, 2020, p. 188), the goal is much less clear in this instance. It is evident that, as in the previous case, the sense of being a burden was a primary motivator. The fact that Hoyoux also considered himself a burden further complicates the matter. The method in this case was a combination of drugging and shooting. The perceived beneficiary was the wife, although there is no indication of any material gain. Once again, the advanced dementia clearly defined the state of the euthanized individual. The executor was, as in earlier cases, a family member acting in a caregiving role. Unlike the previous case, however, there is no record of an expressed wish to die.

Support and Tolerance do not Trigger Change?

We began this article by stating that the 1960s and 1970s can be identified as something of an intermediate period when it comes to the subject of euthanasia. Although we are now able to draw some noteworthy conclusions about what occurred during these decades, it is safe to say that the prosecutions we have examined appear to have informed certain developments. We have attempted to test Hugo Van den Enden's claim from the early 1980s, in which he argued that convictions for mercy killings—or what we now call modern euthanasia—no longer existed in post-1960 Belgium. As such, the question remains: did a right to die exist at the time?

²⁹ Idem, psychiatric evaluation.

The three cases we have studied seem to support this notion. The absence of similar cases lends weight to assertions about the legal community's reluctance to prosecute euthanasia during this period. The outcomes of the trials are also consistent with what we know about broader societal acceptance of mercy-killing practices. Even the factual proceedings serve as relevant examples. Not only was the defense based on arguments about the failure of science, but it also emphasized the desperation experienced by the accused—acts seemingly forced upon individuals with otherwise good moral standing. The juries rejected the accusations entirely, despite substantial evidence to the contrary. In the 1970s cases, the defense was further supported by psychiatric evaluations and public petitions calling for the acquittal of the accused. One detail that cannot be overlooked when assessing whether a right to die existed at the time is the behavior of the general practitioner in the early 1960s. His willingness to assist the family—and his caution to avoid being caught—raises the question: did contemporary GPs experience any scruples about such actions?

We have also sought to understand whether these trials influenced debates on euthanasia and whether they instigated calls for depenalization. It is quite clear that the Softenon trial contributed to debates in broader society and intellectual circles—even appearing in foreign legal treatises. The other trials, however, were for all intents and purposes obscured from the public eye and absent from widespread discussion. One case in point is the press review covering the period from 1962 to 1983, published by the ADMD in the mid-1980s. This 300-plus-page collection of newspaper clippings mentions the first trial on several occasions but contains no coverage of the others. As a rule, legal treatises from the mid-1970s through the mid-1980s further argued against the need for, or desirability of, the depenalization of euthanasia. Here, contemporary legal scholars and right-to-die advocates found common ground in promoting a changing attitude toward death and dying—without explicitly endorsing active euthanasia.

One of the trials, however, did lead to societal change—though not in the area of euthanasia. Rather, it spurred momentum in abortion advocacy. As is made clear in the work of Marc Hooghe (1990) and Els Witte (1990), the societal outrage generated by the Softenon trial fueled debates around the right to abortion. This moment coincided with Witte's observation of the emergence of personal choice as a central theme in ethical debates in Belgium, as well as Ian Dowbiggin's analysis of similar developments in euthanasia advocacy in the United States. That this specific case prompted abortion-related debates, rather than those about euthanasia—despite numerous foreign articles linking the trial to euthanasia discourse—is likely explained by two key factors in Belgian society at the time: first, the presence of acti-

ve groups advocating for abortion rights (in contrast to the near-total absence of euthanasia advocacy groups), and second, the conceptual confusion surrounding euthanasia itself. Advocating for a “right” to a practice that had yet to be clearly defined was, to put it mildly, problematic. In conclusion, a right to die did exist to some extent; the trials did inform broader debates; and societal acceptance—and toleration within the legal system—were evident in Belgium during the 1960s and 1970s. But advocacy and political change had not yet emerged.

From the 1980s onward, however—as we have shown in earlier work (De Nutte, 2025)—Belgian proposals for living wills (now more broadly referred to as Advance Care Directives) and associated draft legislation aimed, quite successfully in our view, to prevent court cases related to euthanasia altogether. These documents, along with the proposed laws in which they were embedded, were clearly oriented toward enhancing patients’ rights while also offering a degree of legal and moral protection to physicians willing to engage in end-of-life care practices, including euthanasia. Though lacking formal legal status until the euthanasia depenalization law of 2002, these documents were designed both as instruments of patient autonomy and as practical tools for communication between patients and their healthcare providers. They allowed individuals to articulate their wishes about treatment refusal, pain relief, and—in some cases—requests for life-ending interventions, thus asserting control in situations where they might later become incapacitated.

The dual function of these living wills is particularly noteworthy. On the one hand, they were framed as instruments to ensure the patient’s voice would be respected in clinical settings, addressing widespread concerns about *acharnement thérapeutique* (therapeutic obstinacy). On the other hand, they implicitly served as safeguards for physicians by demonstrating the consistency and sincerity of a patient’s end-of-life wishes. In theory, this provided doctors with moral and professional cover should they choose to act in accordance with those wishes—particularly in an environment where active euthanasia remained technically illegal but was increasingly practiced within a legal grey zone.

In this way, Belgian living wills and early legislative proposals bridged the gap between patient-centered care and physician accountability—elements that were still absent in the 1960s and 1970s, but which aligned with the global emergence of right-to-die societies from the mid-1980s onwards. They anticipated the integrated approach formalized in the 2002 euthanasia law, which sought not to frame end-of-life care as a site of moral conflict, but rather as one of negotiated dignity and mutual trust.

References

- Ariès, P. (1974). The reversal of death: Changes in attitudes toward death in Western societies. *American Quarterly*, 26(5), 536-560.
- Ariès, P. (1975). *Essais sur l'histoire de la mort en Occident*. Paris: Le Seuil.
- Ariès, P. (1977). *L'homme devant la mort*. Paris: Éditions du Seuil.
- Ariès, P., & Brooks, M. (1969). At the point of origin. *Yale French Studies*, 43, 15-23.
- Association Belge pour le Droit de Mourir dans la Dignité. (1981). *Bulletin de l'Association Belge pour le Droit de Mourir dans la Dignité*, no. 1.
- Baker, R. B., & McCullough, L. B. (2008). What is the history of medical ethics? In R. B. Baker & L. B. McCullough (Eds.), *The Cambridge world history of medical ethics* (p. 16). Cambridge: Cambridge University Press.
- Carol, A. (2004). *Les médecins et la mort, XIXe-XXe siècle*. Paris: Aubier.
- Casier, I., Gutwirth, S., Distelmans, W., & De Herdt, P. (2014). Rechtszekerheid van de arts bij heelkundige ingrepen en euthanasie: Een kwestie van wettelijke voorschriften. *Huisarts Nu*, 43(3), 126-131.
- Chamboredon, J.-C. (1976). Sociologie et histoire sociale de la mort: Transformations du mode de traitement de la mort ou crise de civilisation? *Revue Française de Sociologie*, 17(4), 665-676.
- Chatillon, F. (1977). *La mort et le droit pénal* (PhD dissertation). Université de droit d'économie et de sciences sociales de Paris (Paris-2).
- Cormann, G. (2018). Sartre, medicine, and the infanticide trial in Liège: From life towards history. *Phainomenon*, 28(1), 203-238.
- Crossard, L. (1976). Faut-il réglementer l'euthanasie? Vers un testament de vie. *Bulletin de la Société de Thanatologie*, 10(32).

- De Nutte, N. (2020). So to live, that one has also at the right time one's will to death? Humanist euthanasia advocacy in Flanders between the 1970s and 1990s. *Essays in the Philosophy of Humanism*, 28, Article 29p.
- De Nutte, N. (2022). In the face of death: Societal attitudes and popular opinion on medical aid and dying in Belgium. In C. De Spiegeleer, N. De Nutte, & J. Tyssens (Eds.), *Secularity and Belgium's death system, 1850-1950 (Secular Studies*, 4, pp. 71-92).
- De Nutte, N. (2025). Dealing with the ambiguity of end-of-life decision-making. In P. Dhondt, S. Aalto, A. K. Kleberg Hansen, & S.-M. Kontyuri (Eds.), *Dealing with medical uncertainty in and through the history of medicine (Clio Medica Vol. 108*, pp. 231-252). Leiden: Brill.
- Deliens, L. (2001). HALP-onderzoek: Methode en gegevens: Methode van het HALP-onderzoek. *Ethiek & Maatschappij*, 4(1), 12-16.
- Dierkens, R. (1976). Orthothanasie. In C. Vanhoudt & J. d'Haenens (Eds.), *Strafwetenschappen. Post-universitaire lessenreeks ingericht door het seminarie voor strafrecht en strafvordering R.U.G.* (pp. 386-396). Gent: Rijkuniversiteit.
- Dijon, X. (1982). *Le sujet de droit et son corps: Une mise à l'épreuve du droit subjectif* (PhD dissertation). Université Catholique de Louvain.
- Dirlewanger, D. (2020). Autour de l'affaire Hæmmerli: Débats suisses, européens et transnationaux sur l'euthanasie (1974-1977). 20 & 21. *Revue d'histoire*, 3(147), 105-117.
- Dowbiggin, I. (2003). *A merciful end: The euthanasia movement in modern America*. Oxford: Oxford University Press.
- Fletcher, J. (1973). Ethics and euthanasia. *The American Journal of Nursing*, 73(4), 670-675.
- Graven, J. (1964). Le procès de l'euthanasie. *Schweizerische Zeitschrift für Strafrecht*, 80, 121-258.

- Grysolle, M. (1979, December 6). *Euthanasie* [Conference paper]. Personal archive. De jonge Balie te Dendermonde.
- Gunzinger, P.-A. (1978). *Sterbehilfe und Strafgesetz*. Bern: Juris Druck und Verlag.
- Hooghe, M. (1990). De liberalisering van abortus als strijdpunt in de Belgische politiek 1971-1990. *Res Publica*, 32(4), 489-509.
- Kenis, Y. (1986). Du refus de l'acharnement thérapeutique à la demande d'euthanasie. *La Pensée et les Hommes*, 29(3), 60-67.
- Kutner, L. (1969). Due process of euthanasia: The living will—A proposal. *Indiana Law Journal*, 44(4), 536.
- Le Soir. (1983, January 14). La loi ne fait pas de nuances: elle qualifie d'assassinat tout acte d'euthanasie active. *Le Soir*.
- Lust, A. (1973). Over euthanasie. *Rechtskundig Weekblad*, 36(24), 121-132.
- McBride, W. (1961). Thalidomide and congenital abnormalities [Letter to the editor]. *The Lancet*, (2), 1358.
- Mitchell, A. (1978). Philippe Ariès and the French way of death. *French Historical Studies*, 10(4), 684-695.
- New York Times. (1962, August 8). Mother held, Liège, for killing deformed baby.
- Nypels, J., & Servais, J. (1938). *Code pénal interprété*, vol. I. Brussels.
- Parliamentary Assembly, Council of Europe. (n.d.). *Right of the sick and dying*.
<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16026&lang=en>
- Pieters, D. (1982). Juridische benadering van de euthanasie. *Vlaams Tijdschrift voor Gezondheidsrecht*, 2(6), 237-244.
- Ramsey, P. (1974). The indignity of "death with dignity." *The Hastings Center Studies*, 2(2), 47-62.
- Ricot, J. (2016). Histoire et éthique des soins palliatifs. *Cités*, 66(2), 49-58.

- Schoysman, R., & Schoysman-Deboeck, A. (1980). Present status of donor insemination in Belgium. In D. G. Price & G. David (Eds.), *Human artificial insemination and semen preservation* (pp. 27-29). New York: Plenum Press.
- Triche, C. W., & Triche, D. S. (1975). *The euthanasia controversy, 1812-1974: A bibliography with selected annotations*. New York: The Whitston Publishing Company.
- Van den Enden, H. (1984). Euthanasie in België vanuit juridisch en deontologisch oogpunt. In E. G. H. Kenter (Ed.), *Het leven verlaten: Over euthanasie* (pp. 101-117). Haarlem: De Toorts.
- Vanhoudt, C., & Calewaert, W. (1976). *Belgisch strafrecht* (2nd ed., Vol. 2). Gent: E. Story Scientia.
- Vansweevelt, T., & Delbeke, E. (2023). *De euthanasiewet 20 jaar*. Antwerpen: Larcier-Intersentia.
- Vovelle, M. (1980). Rediscovery of death since 1960. *The Annals of the American Academy of Political and Social Science*, 447, 89-99.
- Weyers, H. (2004). *Euthanasie: Het proces van rechtsverandering*. Amsterdam: University Press.
- Wilkin, R., & Wilkin, B. (2022). *Encyclopédie des homicides en province de Liège, vol. 2 (1941-1980)*. Liège: Noir Dessin Productions.
- Witte, E. (1990). Twintig jaar politieke strijd rond de abortuswetgeving in België (1970-1990). *Res Publica*, 32(4), 427-487.
- Young, R. (2011). Medically assisted dying. *Philosophy*. Oxford University Press.
<https://doi.org/10.1093/oxfordhb/9780199541430.003.0010>