

# *The Legal Language of the Culture of Death in Europe*

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*Abstract.* By its central terms, the language of the culture of death sends signals that produce life-accepting associations and at the same time mask its intentions against life. On the one hand, the culture of death includes certain behaviors. On the other hand, it includes those social and legal structures that strive to make killing socially acceptable by camouflaging it as a medical service or a social assistance. The culture of death wants to remove killing from condemnation, so that it is no longer cursed as a crime. In the center of the culture of death is the battle for the legalization of abortion, euthanasia, and embryonic stem cell research. *National Catholic Bioethics Quarterly* 14.4 (Winter 2014): 647–657.

The legal language of the culture of death is full of ambivalences. By its central terms, it sends signals that sound life-affirming while at the same time masking its intentions against life. In the pontificate of Pope St. John Paul II, and especially in his encyclical about the value and the inviolability of human life, *Evangelium*

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*vitae*, the term “culture of death” plays a key role.<sup>1</sup> The term is a sort of hermaphrodite. It unites seemingly incompatible subjects. Everybody who uses it must reckon with the objection that the better term might be the “unculture of death.”

The term *culture*, from the Latin term *colere* (to cultivate, care for), means “formed by man,” in contrast to the uncultivated nature which often is opposed to man. But the term goes far beyond cultivation. It also means the humanization of society and the refinement of social relationships. In Catholic social doctrine, culture includes all human activity in politics, science, the economy, and the arts. By this cultivation, the Second Vatican Council declares in *Gaudium et spes* that man unfolds the work of the Creator and pursues and develops not only things and society but also himself.<sup>2</sup>

Death, in contrast, is the opposite of culture. It is a part of nature that cannot be surmounted by human activity. So “culture of death” is a dense term. It combines incompatible things—culture (human activity and development) and death (the end of all activity). The term has nothing to do with *ars moriendi*, the art of dying, undertaken by a mature person who faces death in a conscious and calm manner or even welcomes death as a sister, as St. Francis of Assisi did. And it has nothing to do with murder or manslaughter, which have existed among people since Cain killed Abel, and which have always been rightly cursed as crimes. “Culture of death” rather means certain behaviors, on the one hand, and social and legal structures, on the other, that strive to make killing socially acceptable by camouflaging it as a medical service or as social assistance or by justifying it as promising research.

The culture of death wants to remove killing from condemnation, so that it is no longer cursed as a crime. Over the last forty years, the culture of death has emerged and grown in Western societies. It encompasses bioethical issues that have existed since man existed, such as abortion and euthanasia, as well as newer problems that have arisen since the development of artificial insemination in the 1970s, such as embryonic stem cell research, cloning, preimplantation genetic diagnosis, and assisted reproduction. It uses ambiguous language that has a sedating effect on society.

The examples of the ambiguity in what follows are taken from the German language, but the culture of death acts in a similar way in other languages. It uses terms that produce positive associations at first glance, terms like human rights, dignity, freedom, choice, assistance, solidarity, health, therapy, and self-determination. The positive associations produced by these terms are used to make killing acceptable. Only under scrutiny does it become clear that these terms are used as sleights of hand to hide their opposites: disregard for the right to life and for the dignity of those who do not have a voice, assertion of the will of the strong against the weak, and clinical removal of the unborn and those who are dying, who are deemed burdens on society. Not only are activist groups like the abortion lobby using these deceptive terms, but also the legislatures and the courts.

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<sup>1</sup> John Paul II, *Evangelium vitae* (March 25, 1995), nn. 24, 26, 28, 50, 64, 87, and 95; Post-Synodal Apostolic Exhortation *Familiaris consortio* (November 22, 1981); and *Ecclesia in Europa* (June 28, 2003), nn. 9 and 95.

<sup>2</sup> Vatican Council II, *Gaudium et spes* (December 7, 1965), nn. 34, 35, and 53.

## Abortion

The legalization of abortion in the free part of Europe began in 1967 in Great Britain, a few years after the introduction of contraceptive hormone preparations (1960). The German Bundestag has made four major reforms of the criminal law on abortion (in 1974, 1976, 1992, and 1995), with the expressed objective of strengthening the protection of life and reducing the number of abortions. The last two reforms were called the Pregnant Women and Family Assistance Act (1992) and the Pregnant Women and Family Assistance Amendment Act (1995).

The titles of these reforms were misnomers, as both laws failed to offer any assistance to pregnant women, families, or unborn children. They only served the purpose of legalizing the priority of the “right” to abort over the right of the child to live. The same occurred in Ireland: passed in July 2013, a law that legalized abortion for the first time was called the Protection of Life during Pregnancy Act. The fact that all the reforms in Germany failed to meet the expressed objective to improve the protection of life and to reduce the number of abortions is shown by the abortion statistics, introduced in 1972 in the German Democratic Republic and in 1976 in the Federal Republic of Germany, and by the increasing social and judicial acceptance of abortion since the first reform forty years ago.<sup>3</sup>

In German society, the abortion lobby includes an organization that calls itself Pro Familia, which is part of the worldwide pro-abortion organization Planned Parenthood. These names are misnomers, too. The objective of these organizations is not to help families or support planned and responsible parenthood, but to legalize and promote abortion. Pro Familia, for example, disseminates leaflets that describe the medical procedure of an abortion in language that avoids any mention of the child or embryo. The procedure of the abortion is described as suctioning “pregnancy tissue,” as removing “the contents of the uterus,” or, in relation to chemical abortion, as expelling “the pregnancy.”<sup>4</sup> This language is stultification in the guise of information.

The German criminal law on abortion takes a special form in order to actualize the culture of death. In § 218, it prohibits abortion as a criminal offense, but in § 218a, it regulates the decriminalizing exceptions. The exceptions defeat the rule. A person who wants to have an abortion has no difficulties finding a physician willing to perform the procedure, which is funded by taxes. At the center of these exceptions is so-called pregnancy counseling. Abortion is not an offense during the first twelve weeks after conception if a woman provides the physician with a certificate that she has received counseling at least three days before having the abortion.

The dialectical cleverness of this counseling regulation consists in the fact that the certificate documents advise in favor of protecting the life of the unborn child even as they serve as the necessary condition for a legal abortion. The fact that the

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<sup>3</sup> Manfred Spieker, *Der verleugnete Rechtsstaat: Anmerkungen zur Kultur des Todes in Europa*, 2nd ed. (Paderborn: Ferdinand Schöningh, 2011), 17ff.

<sup>4</sup> Familienplanungszentrum Pro Familia Hamburg, eds., *Ich will noch kein Kind: Infos zum Schwangerschaftsabbruch* (Hamburg: Pro Familia Hamburg, 2004), 6 and 13–15. There are similar brochures by Pro Familia Bremen and Pro Familia Frankfurt.

pregnant woman has a right to receive the advice certificate even without having received the necessary counseling has been established by the German Federal Constitutional Court in a judgment from October 27, 1998.<sup>5</sup> The advice certificate converts the criminal act of killing an innocent person into a medical service, and serves as a contract under civil law between the abortionist and the pregnant woman. So for the abortionist, it is a license to kill. It grants priority to the self-determination of the pregnant woman over the right of her unborn child to live. In society's perception, the criminal law against abortion has become a law permitting it.

The abortion statistics, also a particularity of German criminal law, serve more to camouflage facts than provide information. They are published once a quarter and every March for the previous year, mostly with a reassuring undertone that the number of abortions has decreased again. The culture of death knows how to avoid discussing the demographic reasons for the reduction and how to ignore the abortions not included in the statistics. The total number of abortions reported to the Federal Office for Statistics since statistics have been kept (until September 30, 2014) is 5,662,299.

This dialectical regulation of pregnancy counseling has brought the Catholic Church in Germany into a state of deep conflict. The majority of the German bishops and Catholic lay people defended this regulation against the concerns of John Paul II and the prefect of the Congregation for the Doctrine of the Faith, Cardinal Josef Ratzinger, by arguing that it offered the chance to convince a pregnant woman considering abortion to have her baby. The critics of the counseling regulation objected that by participating in this counseling system the Church was drawn into the culture of death: the Church must not provide counseling as a legal condition for abortion.

In September 1999, after a four-year struggle with the German bishops, John Paul II ordered that the Church's counseling offices could no longer issue the certificate.<sup>6</sup> But the conflict and the continuing provision of pregnancy counseling with the certificate, still offered by the association of Catholic lay persons *Donum Vitae*, is paralyzing the Catholic Church in Germany today. There are no pro-life secretaries, no cooperation with the European pro-life-movement, and no support for the yearly March for Life in Berlin. The Week for Life, celebrated every year together with the Lutheran Church in Germany, has degenerated into a simple invitation to "be friendly to each other." Public support for the petition "One of Us," organized all over the European Union to improve the legal protection of the embryo—and promoted by Pope Benedict XVI on February 3, 2013, and by Pope Francis on May 12, 2013<sup>7</sup>—was not of interest to the German Bishops' Conference.

On the international level, the legalization of abortion is propagated by several sub-organizations of the United Nations. Here, the culture of death hides under the "right to reproductive health." This term was used for the first time in the program of action proposed in the report of the 1994 International Conference on Population

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<sup>5</sup> BVerfGE 98, 324f.

<sup>6</sup> Manfred Spieker, *Kirche und Abtreibung in Deutschland: Ursachen und Verlauf eines Konflikts*, 2nd ed. (Paderborn: Ferdinand Schöningh, 2008), 132ff.

<sup>7</sup> Benedict XVI, Regina Caeli message (February 3, 2013); and Francis, Regina Caeli message (May 12, 2013).

and Development in Cairo, Egypt. The 1995 World Conference on Women in Beijing, China also took it up. But it is also true that both conferences still retained the statement that abortion is not a method of family planning. The programs of action of these conferences do not have the character of binding international law, but only that of recommendations.

Nevertheless, several sub-organizations of the UN and nongovernmental organizations are active in the fight to legalize a “right to reproductive health,” which includes the right to abortion, in international law. These are the Human Rights Council, the United Nations Population Fund, the World Health Organization, and the Committee on the Elimination of Discrimination against Women, the last of which plays a central role in the fight to legalize abortion, as does a new organization, UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women, founded on July 2, 2010. And like an engine behind these organizations stands the International Planned Parenthood Federation, whose action program gives absolute priority to that fight.

The argumentation of these organizations uses deceptive terminology, namely, “maternal mortality.” They claim that maternal mortality is especially high if abortion is “unsafe.” Unsafe abortions are illegal abortions; that is why they say that the reduction of maternal mortality requires the legalization of abortion. At the UN General Assembly on October 24, 2011, these demands were controversially discussed and rejected, not least by the representative of the Holy See, Archbishop Francis Assisi Chullikatt.<sup>8</sup>

### **Euthanasia**

During the National Socialist dictatorship, euthanasia was realized to a large extent. It was aimed at the removal of the disabled, the incurably ill, and the weak, whose lives were considered “unworthy of life” and a burden on the people’s community. The killing of these people was declared an act of love and compassion or, as Adolf Hitler himself described it in a decree of 1939, mercy death.

If it is not called euthanasia but “active assisted dying,” surveys show this form of killing is regularly supported by about two thirds of the German population. At the beginning of 2013, the German Bundestag for the first time discussed draft legislation concerning assisted suicide. The liberal minister of justice wanted to “prohibit” commercial assistance in suicide. Such a partial prohibition would have legalized every non-commercial assistance—a typical strategy of the culture of death under the guise of prohibiting killing. Commercial organizations in favor of assisted suicide would simply change their legal status to charitable associations. As of 2014, however, no law has been passed. But the German Bundestag started a new discussion in fall 2014. Gian Domenico Borasio, Ralf Jox, Jochen Taupitz, and

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<sup>8</sup> Manfred Spieker, “Missbrauch der UNO—Der globale Kampf um die Legalisierung der Abtreibung,” in *Abtreibung—ein neues Menschenrecht?*, 2nd ed., ed. Bernward Büchner, Claudia Kaminski, and Mechthild Löhr (Krefeld, Germany: Sinus, 2014): 111ff.

Urban Wiesing presented a bill in August 2014 to legalize assisted suicide by medical doctors, close relatives, and friends in a new § 217 StGB (German criminal code).<sup>9</sup>

The main argument the culture of death uses to promote euthanasia is the right of self-determination: everybody has the right to decide his own death. Hans Küng and Walter Jens call that “dying with dignity.”<sup>10</sup> Nobody, the liberal deputy Dick Marty from Switzerland said at the Council of Europe, has “the right to impose the duty to continue life under unbearable suffering or agony on a terminally ill or dying person, if he himself had insistently expressed his wish to end it.”<sup>11</sup> Peter Hintze, a Christian Democrat deputy in the German Bundestag, argues that assisted suicide should be legalized because it becomes a “violation of human dignity” if the protection of human life is changed into a state compulsion to suffer.<sup>12</sup>

Euthanasia is a logical consequence of assisted suicide.<sup>13</sup> The culture of death suggests that euthanasia relieves suffering and promotes the right of self-determination. The Parliamentary Assembly of the Council of Europe has not followed this suggestion up to now. To the contrary, euthanasia eliminates suffering by eliminating the suffering person. It ignores the prohibition of killing innocent persons and so undermines one of the conditions of legitimacy of constitutional democracy.

In order to present euthanasia as an exercise of self-determination and even as a service to the common good, the culture of death also uses some auxiliary arguments. The first has an anthropological character: the capacity to communicate is declared a constituting characteristic of human existence. If the ability to communicate has been extinguished or is no longer perceptible at first sight, as in those in a vegetative state or with certain forms of dementia, those persons are no longer considered human beings, and their killing is no longer considered the killing of human beings. That is why every adult, as a sociologist says, should fill out “a living will” in case of total or partial loss of his capacity to communicate, by which the persons responsible for his care will be bound.<sup>14</sup> Another anthropological auxiliary argument is their definition of patients who are not able to communicate as “human non-persons” or “sentient property.”<sup>15</sup> This allows “non-persons” to be dealt with as one deals with objects.

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<sup>9</sup> Gain D. Borasio et al., *Selbstbestimmung im Sterben—Fürsorge zum Leben, Ein Gesetzesvorschlag zur Regelung des assistierten Suizids* (Stuttgart: Kohlhammer, 2014).

<sup>10</sup> Walter Jens and Hans Küng, *Menschenwürdig sterben* (Munich: Piper, 1995).

<sup>11</sup> Social, Family, and Health Affairs Committee of the Parliamentary Assembly of the Council of Europe, *Euthanasia*, doc. 9898, September 10, 2003 (rapporteur Dick Marty), n. 1.

<sup>12</sup> Peter Hintze et al., “Sterben in Würde—Rechtssicherheit für Patienten und Ärzte.” Paper presented at the Federal Press Conference, Berlin, October 16, 2014.

<sup>13</sup> Manfred Spieker, “Die Logik des assistierten Suizids,” *Zeitschrift für Lebensrecht* 24 (2014), 90ff.

<sup>14</sup> Klaus Feldmann, *Tod und Gesellschaft: Eine soziologische Betrachtung von Sterben und Tod* (Frankfurt: Peter Lang, 1990), 236.

<sup>15</sup> Wesley J. Smith, “‘Human Non-Person’: Terri Schiavo, Bioethics, and Our Future,” *National Review Online*, March 29, 2005, <http://www.nationalreview.com/articles/214019/human-non-person/wesley-j-smith>.

Finally, the culture of death uses additional demographic and financial arguments when talking about euthanasia and assisted suicide. With a really brutal frankness, they invite the vulnerable to commit an “altruistic suicide” and declare it a “last human act of solidarity.” They say it is true that a person willing to commit suicide should take the negative consequences of self-killing on his social surrounding into consideration. But it could be expected from him that “in case of an incurable and highly care-intensive disease he senses the emotional burden, the utilization of time and financial burden of his existence for his family and friends. We are not only responsible for the negative social consequences when we depart this world, but of course also for those of continuing our life.”<sup>16</sup>

Such invitations to commit socially beneficial suicide destroy the relationship between physician and patient. The patient turns from a suffering subject who receives compassion and solidarity from society into an object that burdens society. So it is not the patient who can expect compassion from society, but society which expects compassion from the patient. “Who wants to continue life under those circumstances? That way, the right to self-killing inevitably becomes a duty to do it.”<sup>17</sup> “Where living-on is only one of two legal options, everybody is forced to justify why he places the burden of his living-on on someone else’s shoulders.”<sup>18</sup>

The practice of euthanasia in the Netherlands and Belgium shows that the idea that euthanasia is available only in cases of a voluntary, informed, and insistent wish expressed by a patient is an illusion, as is the idea that the physicians would fulfill the legal duty to inform the regional controlling commissions about all euthanasia cases. Although the percentage of patients who have been killed without their consent—in 2001, still about 20 percent—seems to have decreased according to the latest inquiry in 2010 by about half, it is a great problem.<sup>19</sup> And the fact that euthanasia also is administered without any consent is shown by the Groningen Protocol of 2004, which

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<sup>16</sup> Dagmar Fenner, “Ist die Institutionalisierung und Legalisierung der Suizidbeihilfe gefährlich? Eine kritische Analyse der Gegenargumente,” *Ethik in der Medizin*, 19.3 (September 2007), 210; and Manfred von Lewinski, *Ausharren oder gehen? Für und wider die Freiheit zum Tode* (Munich: Olzog, 2008), 186–204.

<sup>17</sup> Robert Spaemann, “Es gibt kein gutes Töten,” in *Töten oder sterben lassen? Worum es in der Euthanasiedebatte geht*, ed. Robert Spaemann and Thomas Fuchs (Freiburg: Herder: 1997), 20.

<sup>18</sup> Johannes Rau, “Wird alles gut? Für einen Fortschritt nach menschlichem Maß,” speech, Berlin, May 18, 2001, n. 27, [http://www.bundespraesident.de/SharedDocs/Reden/DE/Johannes-Rau/Reden/2001/05/20010518\\_Rede\\_Anlage.pdf?\\_\\_blob=publicationFile&v=2](http://www.bundespraesident.de/SharedDocs/Reden/DE/Johannes-Rau/Reden/2001/05/20010518_Rede_Anlage.pdf?__blob=publicationFile&v=2).

<sup>19</sup> Bregje D. Onwuteaka-Philipsen et al., “Trends in End-of-Life Practices before and after the Enactment of the Euthanasia Law in the Netherlands from 1990 to 2010: A Repeated Cross-Sectional Survey,” *Lancet* 380.9845 (September 8, 2012): 908–915. The authors say 9 percent, but nearly a quarter of the physicians killing patients by euthanasia have discussed their decisions neither with the patients nor with relatives or other medical doctors. See Spieker, *Der verleugnete Rechtsstaat*, 54f.

allows the killing of severely disabled newborn and seriously ill children in their first year of life.<sup>20</sup> Here, the culture of death uses the term “after-birth abortion.”

This example highlights two facts. First, the term maintains the illusion that the killing of newborn children is not euthanasia because legal euthanasia requires consent, which newborn babies are *eo ipso* not able to give, and second, it relies on the acceptance of abortion. In 2012, Alberto Giubilini and Francesca Minerva argued the case for extending the “after-birth abortion” to healthy newborn babies because they still do not have the moral status of a person. “Merely potential people cannot be harmed by not being brought into existence. . . . Since non-persons have no moral rights to life, there are no reasons for banning after-birth abortions.”<sup>21</sup> These experiences from the Netherlands show how euthanasia changes the self-conception of health professions and destroys the confidence of the patient toward the physician.

Physicians and nurses who become “killing engineers”—a new profession for which the Swiss Academy of Medical Sciences recommends separate professional training for the purpose of quality assurance—encounter distrust among the patients. Already in 2001, when the draft legislation was discussed in the Dutch Parliament, the Dutch Bishops had warned against this development.<sup>22</sup> The so-called “Credo-Card”<sup>23</sup> demonstrates this distrust. Instead of extending the radius of self-determination, the legalization of euthanasia increases the fear of heteronomy.

### **Embryonic Stem Cell Research, Preimplantation Genetic Diagnosis, and Prenatal Diagnostics**

In 2000, a wide bioethical debate started concerning problems of biomedicine arising from artificial insemination, after James Thomson at the University of Wisconsin-Madison in 1998 for the first time succeeded in isolating embryonic stem cells. The aim of this research was to develop from embryonic stem cells, which are able to develop in an appropriate media into tissue and organs, therapies for up-to-now incurable diseases. But extracting a stem cell line means the destruction of the embryo.

Embryonic stem cell research uses the so-called spare or orphaned embryos produced during assisted reproduction. The objection of bioethics and constitutional law that no therapy, not even the most promising, may justify the killing of an embryo,

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<sup>20</sup> Eduard Verhagen and Pieter J. J. Sauer, “The Groningen Protocol—Euthanasia in Severely Ill Newborns,” *New England Journal of Medicine* 352.10 (March 10, 2005): 959–962.

<sup>21</sup> Alberto Giubilini and Francesca Minerva, “After-Birth Abortion: Why Should the Baby Live?,” *Journal of Medical Ethics* 39.5 (May 2013): 263.

<sup>22</sup> See, for example, the statement of the chairman of the Dutch Bishops’ Conference on April 7, 2000: Adrianus Simonis, “Care during Suffering and Dying,” in *Euthanasia and Human Dignity: A Collection of Contributions by the Dutch Catholic Bishops’ Conference to the Legislative Procedure 1983–2001*, ed. P. Kohnen and G. Schumacher (Leuven, Belgium: Peeters, 2002), 152.

<sup>23</sup> The Credo-Card is a card with the name of the owner and the inscription “*Maak mij niet dood, Dokter*” (“Do not kill me, Doctor”) that informs the physician of the card carrier’s desire to live if they have lost the ability to speak.

even one with little chance of being transferred into the uterus, encounters opposition. The culture of death uses not only the promise of new therapies for incurable diseases but also some linguistic distinctions that give the impression that spare embryos are not legal subjects protected by the constitutional warranty of human dignity and the right to life, but objects that are available to serve society and research as a resource.

The embryo in vitro (that is, an embryo outside the uterus) is “human life” but not a human being, not even a “becoming human.”<sup>24</sup> According to this view, it is not an embryo but a “pre-embryo.” It has an “abstract” possibility but no “concrete” possibility of becoming a human being.<sup>25</sup> All these distinctions serve the purpose of denying to embryos the dignity of human life and the protection of their right to live, and they create from that basis property claims by society for research and therapeutic projects.

As in the debate about euthanasia, the culture of death uses anthropological auxiliary arguments: the abilities to communicate and to feel or develop personal interests are declared the constituting characteristics of human existence. The embryo in vitro, they say, does not live under communicative circumstances, is no “partner for discourse,”<sup>26</sup> has no interests,<sup>27</sup> and has no feelings.<sup>28</sup> Consequently, it is not a person and has no rights. The result: we are allowed to consume embryos as a resource, which means to kill them.

The European Court opposed a pioneering effort of the culture of death in its judgment *Brüstle v. Greenpeace*, in which it denied an attempt to patent embryonic stem cells for scientific research because every fertilized human ovum is a human embryo. Therefore, a procedure that requires the destruction of a human embryo is not patentable.<sup>29</sup>

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<sup>24</sup> Johannes Fischer, “Pflicht des Lebensschutzes nur für Menschen: Eine theologische Betrachtung der Embryonenforschung,” *Neue Züricher Zeitung*, December 9, 2001; Johannes Fischer, “Vom Etwas zum Jemand: Warum Embryonenforschung mit dem christlichen Menschenbild vereinbar ist,” *Zeitzeichen* 3.1 (2002), 11ff; and Hartmut Kreß, “Präimplantationsdiagnostik, der Status von Embryonen und embryonale Stammzellen,” *Zeitschrift für evangelische Ethik* 45 (2001), 230ff.

<sup>25</sup> Brigitte Zypries, “Vom Zeugen und Erzeugen: Verfassungsrechtliche und rechtspolitische Fragen der Bioethik” (lecture, Humboldt University, Berlin, October 29, 2003), 6.

<sup>26</sup> “*Der Embryo ist kein Diskurspartner*—ein Gespräch mit dem Philosophen Volker Gerhardt,” by Matthias Kamaan, *Die Welt*, July 5, 2001, <http://www.welt.de/print-welt/article461148/Der-Embryo-ist-kein-Diskurspartner.html>.

<sup>27</sup> Wolfgang Kersting, “Hantiert, wenn es euch frei macht,” *Frankfurter Allgemeine*, March 17, 2001.

<sup>28</sup> Reinhard Merkel, “Rechte für Embryonen?,” in *Biopolitik: Die Positionen*, ed. Christian Geyer (Frankfurt: Suhrkamp, 2001), 64.

<sup>29</sup> EuGH [*Europäischer Gerichtshof*] Urteil C-34/10, October 18, 2011. See Klaus Ferdinand Gärditz, “Der Europäische Gerichtshof als Hüter der Menschenwürde: Embryonenschutz und Stammzellforschung,” in *Die Würde des Embryos. Ethische und rechtliche Probleme der Präimplantationsdiagnostik und der embryonalen Stammzellforschung*, ed. Manfred Spieker, Christian Hillgruber, and Klaus Ferdinand Gärditz (Paderborn: Ferdinand Schöningh, 2012), 87ff.

Preimplantation Genetic Diagnosis (PGD) allows embryos produced in the laboratory to be examined for certain dispositions to disease or disabilities, and in case of positive findings, to exclude them from being transferred into a uterus. PGD thus opens the door to a deadly de-selection of undesired embryos. It is permitted in many countries. When legalized in Germany on July 7, 2011, the culture of death used many deceptive phrases to hide the objective nature of this deadly act.

First of all, they spoke of the “ethics of helping.”<sup>30</sup> PGD, they say, is “an instrument in the scope of artificial insemination which gives information about diseases of the fertilized ovum before it is implanted into the uterus.”<sup>31</sup> They claim it is a modern medical diagnosis to reduce severe health risks.<sup>32</sup> It gives parents with inherent genetic defects the opportunity to “have a healthy baby.”<sup>33</sup> That is why the legislature does not have the right to refuse the couples in question from accessing PGD because we do not “just (tolerate) other forms of suffering but treat them and find therapies against them.”<sup>34</sup>

The ethics of helping or curing ignores the price we have to pay for this “diagnosis”: the deadly de-selection of the embryos. It ignores the constitutional protection which grants every embryo after conception the protection of human dignity, the right to life, and the prohibition of discrimination.

Since 1970, developments in prenatal diagnostics (PND) also full of linguistic deceptions have changed the experience of pregnancy for many women.<sup>35</sup> According to an inquiry of the German Federal Center for Health Education, about two thirds of pregnant women accept PND because they believe that the PND contributes to having a healthy baby.<sup>36</sup> They do not accept their child until the PND has certified that their child is medically normal. They suppress their natural tendency to be happy and to protect the child and so distance themselves from their own pregnancy. “A life under the delusion of optimization. From the beginning. At any cost. Especially parents feel this pressure. They shall be perfect parents of perfect children.”<sup>37</sup>

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<sup>30</sup> Peter Hintze in the parliamentary debates [*Bundestagsdebatten*] on April 14, 2001 and July 7, 2011, Berlin, transcript [*Plenarprotokoll*] 17/105, 11948–11949, and transcript [*Plenarprotokoll*] 17/120, 13876.

<sup>31</sup> Ulrike Flach in the parliamentary debate [*Bundestagsdebatte*] on April 14, 2001, Berlin, transcript [*Plenarprotokoll*] 17/105, 11945.

<sup>32</sup> Sabine Leutheusser-Schnarrenberger in the parliamentary debate [*Bundestagsdebatte*] on April 14, 2011, Berlin, transcript [*Plenarprotokoll*] 17/105, 11970.

<sup>33</sup> This was the justification for the bill to legalize the PGD, in *Bundestagsdrucksache* 17/5451, 8.

<sup>34</sup> Carola Reimann and Ursula von der Leyen in the parliamentary debate [*Bundestagsdebatte*] on July 7, 2011, Berlin, transcript [*Plenarprotokoll*] 17/120, 13879 and 13909.

<sup>35</sup> Manfred Spieker, “Von der zertifizierten Geburt zur eugenischen Gesellschaft,” *Imago Hominis* 19.4 (2012), 261ff.

<sup>36</sup> Bundeszentrale für gesundheitliche Aufklärung (BZgA) [Federal Center for Health Education], *Schwangerschaftserleben und Pränataldiagnostik: Repräsentative Befragung Schwangerer zum Thema Pränataldiagnostik* (Cologne, Germany: BZgA, 2006), 41.

<sup>37</sup> Monika Hey, *Mein gläserner Bauch: Wie die Pränataldiagnostik unser Verhältnis zum Leben verändert* (Munich: Deutsche Verlags-Anstalt, 2012), 14.

PND supposedly averts threats to the life and health of mother and child. Not uncommonly, it “serves a eugenic mentality.”<sup>38</sup> Often, the only possibility of averting any dangers for the health of the child is an abortion. The culture of death generally hides that fact behind terms like prevention, prophylactic measures, avoidance of genetic anomalies, and induced birth.<sup>39</sup> It is not permitted to speak about abortion.

That is why an abortion after PND because of a severe disability of the embryo in the twenty-third week of pregnancy must be called a delivery, according to a judgment of the German Federal Labor Court from December 15, 2005. The court agreed with a mother who had brought a suit against the dismissal by her employer with the argument that inducing a premature labor was a delivery.<sup>40</sup> She thus had the right to receive maternal protection and, in consequence, protection against dismissal. The employer referred to the fact that an abortion was not a delivery and so the dismissal was legal. The court forced him to revoke the dismissal.

### The Culture of Life

“Walk as children of light!” This will create a cultural change. This invitation is the title of the final paragraph in the encyclical *Evangelium vitae*, which is dedicated to the culture of life. Of course, at the beginning of this process of renewal we have to expose the deceptions of the culture of death. But then further steps must follow.

In the fight between a culture of death and the culture of life we must “develop a deep, critical sense.” It is an illusion “to think that we can build a true culture of human life if we do not help the young to accept and experience sexuality and love and the whole of life according to their true meaning and in their close interconnection.”<sup>41</sup> If the the treatment of sexuality as something banal, against which Pope Paul VI’s *Humanae vitae* had already warned, started our disregard for unborn life and began a culture of death, then the testimony of the beauty and richness of sexuality as a mutually complete gift, the observance of the biological laws that are inscribed in the human person, education in natural methods of regulating fertility, and the discovery of the coherence between charity and truth stand at the beginning of the culture of life.

Self-giving, not self-determination, is the key to achieving a fruitful life. This is valid not only for married couples, but more generally for all humanity. Jesus Christ lived in that exemplary manner two thousand years ago. In the Eucharist, He becomes present every day. That is what the Second Vatican Council underlined in *Gaudium et spes*.<sup>42</sup> This truth guided the pontificates of Pope St. John Paul II and Pope Benedict XVI, and now guides the still young pontificate of Pope Francis. “Do not be afraid” to proclaim this truth!

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<sup>38</sup> John Paul II, *Evangelium vitae*, n. 63.

<sup>39</sup> Elisabeth Beck-Gernsheim, Genetische Beratung im Spannungsfeld zwischen Klientenwünschen und gesellschaftlichem Erwartungsdruck, in *Welche Gesundheit wollen wir? Dilemmata des medizintechnischen Fortschritts* (Frankfurt: Suhrkamp, 1995), 124.

<sup>40</sup> Bundesarbeitsgericht, 2 AZR 462/04, December 15, 2005.

<sup>41</sup> John Paul II, *Evangelium vitae*, n. 97.

<sup>42</sup> Vatican Council II, *Gaudium et spes*, n. 24: “man, who is the only creature on earth which God willed for itself, cannot fully find himself except through a sincere gift of himself.”