

among the cultural elite in the roaring seventies. The center-right populist coalition that took over from Balkenende in 2010 does not advocate a policy change in this area.

Author-psychiatrist Theodore Dalrymple reproaches the progressive elites for having raised an underclass of people who no longer take responsibility for their lives and their mistakes.<sup>3</sup> The soft leftist ideology of the seventies ("it's not your fault if you end up as a criminal; societal structures have made you what you are") has made them helpless and irresponsible. Dalrymple – not very popular in his native England – is a media star in the Netherlands. Whenever he pays a visit to the country, he is followed around by avid readers, among them several civil servants at the Ministry of Justice.

The Dutch attempts to change their high school educational system so as to make it more "student oriented," allowing students more leeway to study subjects of their choice and acquire certain competencies in their own way, while starkly reducing the number of regular teaching hours, was recently evaluated by a parliamentary investigative committee. The Dijsselbloem Committee concluded that the educational system had deteriorated rapidly, putting Dutch students at a disadvantage in international rankings.<sup>4</sup>

Dutch multicultural policy as it was practiced in the 1970s and 1980s is widely considered a huge mistake.<sup>5</sup> Economist Pieter Lakeman calculated that importing guest workers during the 1960s and 1970s (rather than letting ailing industries disappear), and subsequently importing their wives and children, has cost native Dutch taxpayers a lot of money.<sup>6</sup> The sons and daughters of former immigrants do not do as well as one might hope. Many of them still feel more connected to their parents' home country than to the Netherlands. Many of them attend primary and secondary schools frequented by a lot of other former immigrant children. School segregation is rampant in the Netherlands. It puts former immigrant children at a substantial language disadvantage, despite the fact that "black schools" get almost twice as much money per pupil as schools frequented by native Dutch students.<sup>6,7,8</sup>

The Dutch self-image with regard to international affairs suffered serious blows in 1995 when Srebrenica, the Bosnian capital (in the former Yugoslavia), was conquered by Serbian soldiers. Eight thousand Muslim men and boys were deported and massacred while they were supposedly being protected by Dutch United Nations soldiers. Although this genocide (the worst in Europe since World War II) could not be attributed solely to mistakes or cowardice on the part of Dutch politicians and the Dutch military (the primary culprits obviously being the Serbs, while part of the drama was caused by the international community, i.e., the UN), Dutch politicians were put to shame. The notion of the Netherlands as a guiding example for the rest of the world to follow has virtually disappeared from public discourse.

Buruma describes the present mood in the Netherlands as "hysteria," "panic," and "resentment"; the Dutch are "affronted by their own shattered dreams."<sup>9</sup> Political parties and citizens are seriously divided about all their

## No Regrets

### Margo Trappenburg

Jan Buruma (author of several books on Japan and China and one on Occidentalism, co-authored with Avishai Margalit) was born in the Netherlands in 1951 and left the country in 1975, "at the height of its good times."<sup>10</sup> The Netherlands in the 1970s was a smug country, proud of its many accomplishments. It was a generous welfare state, taking care of the old, the sick, the disabled and the unemployed. It was a liberal progressive nation where people could be openly homosexual, sell pornography, commit prostitution, and smoke marijuana. It was a country where teachers tried to be progressive in schools, employing modern methods and allowing students room to follow their interests. It was a multicultural society in the making where immigrants from Surinam, Turkey, and the Maghreb were allowed to integrate while hanging onto their own cultural backgrounds, the then-government providing their children with language classes in their native tongue. Inhabitants of the Netherlands felt no qualms in lecturing the world: Americans about the war in Vietnam and about nuclear armament, South Africans about apartheid, South American countries about reigning dictatorships, and many Western countries about not contributing enough to the Third World. The Dutch saw their country as a shining example for all the world to follow.

Jan Buruma returned to the Netherlands in 2004, just after movie director and columnist Theo van Gogh had been murdered in Amsterdam by a Muslim fundamentalist. Buruma came back to a totally different country.

The welfare state of the 1970s has been dismantled. Although it is still more generous than the U.S. or the UK system, it now resembles the Anglo-Saxon model much more than it did 30 years ago.

The liberal policy with regard to prostitution, pornography, and recreational drugs is being reconsidered. The cabinets chaired by Prime Minister Jan Pieter Balkenende (holding office since 2002), and especially the fourth Balkenende cabinet (2007–2010) consisting of Christian democrats, Social democrats, and ministers belonging to one of the orthodox Christian parties, advocate a lifestyle that is much more chaste and disciplined than the dominant way of life



former sources of pride. There is a general uncertainty about how to go on from here: what to do about the welfare state; whether and how to transform the reigning policy with regard to prostitution, pornography, and recreational drugs; and how to handle ethnic and cultural tensions.

The only heritage from the 1970s that is still widely cherished in the Netherlands is the Dutch policy with regard to medical ethical issues: euthanasia and—albeit to a lesser extent—abortion. In this closing chapter, I will try to assess whether this last bastion is a legitimate source of pride for the Dutch.

#### THE DUTCH DEBATE AND THE DUTCH SOLUTION

In 1993, the American philosopher Ronald Dworkin published a book on abortion and euthanasia, entitled *Life's Dominion*.<sup>5</sup> Its central message was that "rights talk" isn't always right. Rights talk can prevent us from understanding each other. It can make us focus on our differences instead of our shared understandings; it can prevent us from ever reaching consensus; it can lead to polarization, and it can trigger violence.

According to Dworkin, the American debate on abortion and euthanasia was clouded by rights talk. Pro-choicers talked about women's rights to end their pregnancy as they saw fit. Pro-lifers talked about the fetus's right to life. Americans advocating euthanasia talked about one's individual right to end one's life, and Americans opposing euthanasia talked about individuals' inalienable right to life. To Dworkin, this rights discourse has unnecessarily distanced Americans from one another and has led to serious polarization about both issues, an observation that has since been confirmed by Margaret Battin, who also notices a tendency to up the ante in American debate.<sup>6</sup> Dworkin argues that it would be much better to talk about comprehensive issues instead of rights. Pro-lifers and pro-choicers who disagree vehemently in terms of rights might find one another if they were to talk about "responsible parenting." Pro-choicers might explain that their wish to end an unwanted pregnancy does not sprout from selfishness but is closely connected to the way they want to raise a child: They feel that they owe their child a father, a home, some financial security, or a stable mother, and this is the reason why they cannot have a baby at age 17, in an insecure relationship, when they still need to be educated themselves. This is something pro-lifers might relate to, because wanting the best for one's children is an ideal that they probably share.

Similarly, advocates of euthanasia should not simply state that their lives are their own and that they should be allowed to take life or give it up as they see fit; they should explain why. For many advocates of euthanasia, this would entail talking about the wholeness of human life lived according to certain values. If one has always been independent, one can explain that becoming infirm and unable to perform even the most simple activities oneself would be abhorrent. If one has always been intelligent, articulate, and funny, the prospect

of losing one's wits and one's mind because of a brain tumor is extremely scary. If one has always been lovely and beautiful, losing one's looks because of a disfiguring disease is especially terrible. Most people do not want to die, but if death is inevitable they would prefer to end their lives in accordance with the way they have lived: independent, intelligent, elegant, and lovely until the end. Again, this might be something that opponents of euthanasia can understand and discuss, and is much better than a mere referral to one's right to self-determination.

If we look at the Dutch euthanasia debate from this perspective, we may say that it comes close to the ideal propagated in *Life's Dominion*. The Dutch debate has been amply described by James Kennedy.<sup>7</sup> It did not start with rights talk at all. The debate started with *breaking taboos*: Death should be part of life, it should not be put away in hospitals, we should be able to die at home, amid our relatives, and we ought to think about our funeral arrangements, and so on. Furthermore, euthanasia was seen as a possible answer to the ever-increasing possibilities of medical technology; it was to be an antidote for the power of physicians to keep people alive indefinitely, when their lives were no longer worth living for themselves. Finally, the debate was about openness. The Dutch were unhappy with a medical practice that took place in the dark. They intended to find out what was happening between doctors and patients and they wanted to establish some sort of control.<sup>8,9</sup>

Dying at home, the technological imperative, and openness were issues that could be debated without rights talk, and without much polarization. Although a large majority of Dutch citizens endorse a right to self-determination, self-determination did not become the leading principle in the euthanasia law.<sup>10</sup> Self-determination (or a well-considered request) is an important element in the euthanasia regime but it has never become a sufficient condition. The euthanasia regime has developed from jurisprudence about physicians' conflicting duties: Doctors want to keep their patients alive but they also want to alleviate suffering, and sometimes they cannot fulfill both duties simultaneously. Doctors who perform euthanasia have to be convinced that their patients suffer unbearably without prospect of improvement, and if this is not the case in the doctors' opinion, they should not perform euthanasia, no matter how serious and well considered the patients' requests.<sup>11</sup>

Self-determination has never become a sufficient condition; it has never been a necessary condition either. As Agnes van der Heide points out in Chapter 8: "Physicians feel that the obligation to relieve suffering sometimes takes precedence over their obligation to preserve life,"<sup>12</sup> and on occasion this may lead to the termination of life without a request (for patients who are

<sup>5</sup> See Chapter 4 in this volume.

<sup>6</sup> See Chapters 3, 4, and 23.

<sup>7</sup> See Chapter 8.



comatose, for severely handicapped newborns,<sup>44</sup> and sometimes for patients who are too sick to utter a request).

#### THERE ARE LIMITS

The Dutch debate on abortion (roughly from the 1960s till 1982 when the abortion law was passed) was much more polarized than the debate on euthanasia. Political scientist Joyce Outshoorn, who wrote a dissertation about the struggle for free abortion in the Netherlands, found that at first, doctors tried to establish criteria for a morally defensible pregnancy termination. Later, however, the debate was captured by women's rights groups, who changed the terms of the debate. They argued that only one person could be in charge of a woman's belly and this person was the woman herself. Despite the subsequent polarization (abortion clinics were closed by the Christian democratic minister of justice and women's rights groups showed their bare stomachs in Parliament, indicating that they were boss of their own bellies), in the end the Dutch abortion law was a compromise text. The law, which has not been changed since the early 1980s, now states that a doctor can terminate a pregnancy if the woman is in an emergency situation, after an obligatory five-day waiting period during which the woman has time to reconsider the request.<sup>45</sup>

One might say that although the debate did not look like the nonpolarized, comprehensive ideal described in *Life's Dominion*, the end result did. The law did not establish a right to self-determination for pregnant women; it legitimized abortion as a way out in a situation of utter distress.

In daily practice, however, pregnant women in the Netherlands can get an abortion if they so choose. Some of them are indeed in despair; to others the decision to terminate their pregnancies has to do with their vision of responsible parenthood: They do not want their child to grow up in a single-parent family, without a residence permit, without prospect of staying in the Netherlands, and so on. Foreign women who come to the Netherlands can fairly easily get an abortion as well.<sup>46</sup>

Although there are good reasons to consider the Dutch abortion regime a success – the number of abortions is low compared to numbers in many other countries, presumably because of the easy access to birth control means, and many of the abortions that do take place are for foreign women, who come from less liberal countries – for Christian politicians in the Netherlands, the abortion regime is, in a way, unsatisfactory. With regard to abortion, they feel that they got the wording of the law, whereas the secular, liberal-minded moral majority got the practice of abortion. An orthodox Christian television company from time to time broadcasts a program showing Dutch abortion clinics in action. An undercover journalist posed as a pregnant woman who wanted

to have an abortion because she did not want to be pregnant during her winter holiday trip; she met no opposition from the clinic's physician. In another documentary, a doctor who was interviewed about his abortion policy famously answered: "If a woman declares that she wants an abortion because it's raining, I will respect her wishes."<sup>47</sup>

By contrast, with regard to euthanasia, the principle of self-determination did not end up in the law, nor is it the only leading principle in daily practice. Many authors in this volume are witness to that fact. Gerrit Kimsma and Chalmers Clark describe the struggle of doctors who have to establish that it is "unbearable suffering" of their patients.<sup>48</sup> Henri Wijsbek emphasizes that it is in fact the political community that determines that we "don't require you to bear this any longer."<sup>49</sup> Ron Berghmans writes about the difficulties in establishing unbearable suffering in Alzheimer patients who wrote advance directives when they were still competent.<sup>50</sup> Mette Rurup discusses the fate of the very old who are weary of life.<sup>51</sup> Both Rurup and Marije van der Lee discuss the fate of depressed patients, suffering from a psychiatric disease. All of these groups will meet severe opposition from doctors and none of them will see their request granted without further ado.<sup>52</sup> Roeline Pasman shows that only 3 or 4 out of 10 requests for euthanasia or assisted suicide are granted in the end. Although sometimes the requests were not fulfilled because the patient died before a procedure could be started, in other cases the physician considered the request unfounded, because the patient was not fully competent or because there were other ways to alleviate the patient's suffering. Pasman shows that these figures have remained fairly constant over the past 15 years, thus providing some reassurance for critics who worry about slippery slopes.<sup>53</sup>

To date, the orthodox Christian television company in the Netherlands has never been able to find a physician to say that if a patient wished to die on account of the rain, his or her services would be offered. Euthanasia in practice is much stricter than abortion in the Netherlands.

Moreover, with regard to euthanasia, a system of control and regulation has been installed that functions rather well. Although not every case of euthanasia is reported to the proper authorities, the reporting rate is improving,<sup>54</sup> and according to Donald van Tol<sup>55</sup> and Govert den Hartogh,<sup>56</sup> the reporting rate for clear-cut cases of euthanasia is about 100%. According to these authors, doctors do not report some cases of unnatural death because they genuinely believe that those are not cases of euthanasia (they should be qualified as pain

<sup>47</sup> See Chapter 17 by Kimsma and Clark and Chapter 22 by Kimsma.

<sup>48</sup> See Chapter 21 by Wijsbek.

<sup>49</sup> See Chapter 15 by Berghmans.

<sup>50</sup> See Chapter 16 by Rurup.

<sup>51</sup> Chapter 16 by Rurup and Chapter 18 by van der Lee.

<sup>52</sup> Chapter 9 by Pasman.

<sup>53</sup> Chapter 7 by Onwutekaka-Philipsen.

<sup>54</sup> See Chapter 19.



or symptom relief with death as a side effect, or as terminal sedation). Judges are very severe on laypersons who set out to provide help in dying to people who are not eligible for euthanasia. In 2009, Cécile Schellekens, counsellor at a foundation called Voluntary Living, was put in prison because he had provided pills for an elderly woman who suffered from old-age deficiencies and who was weary of life.<sup>20</sup>

Whereas women do come to the Netherlands to get an abortion that they cannot obtain in their home country, patients do not come to the Netherlands to acquire medical aid in dying. It is simply too difficult to meet the eligibility criteria for euthanasia. One cannot build a proper relationship with a physician overnight. The novel *Amsterdam* by Ian McEwan describes two healthy (if unlucky) Englishmen who engage in a mutual suicide pact to be carried out by progressive Dutch physicians and nurses. Apparently, the two British men just have to fill in a form and hand over some money, and a deadly potion is provided.<sup>21</sup> It is probably not a coincidence that no such novel has ever been written in the Netherlands. Not many Dutch novelists write about euthanasia at all,<sup>22,23</sup> but if they do, they do not use it in a thriller-like plot. For example, they describe it as a minor detail in an otherwise heartbreaking story about a young mother dying of breast cancer<sup>24</sup> or as a source of consolation for family members who can think of their relative as dying a dignified or even beautiful (albeit untimely) death.<sup>25</sup> Or they express metaphysical, religious, or philosophical doubts about the whole enterprise.<sup>26</sup>

Whenever patients in other countries make the front pages because they seek euthanasia – patients like Chantal Sebire in France, whose face was completely disfigured because of a huge, painful, and inoperable tumor growing behind her eyeball, or Diane Pretty in the UK, who suffered from a progressive muscle disease that would cause her to suffocate in the end – Dutch commentators express some relief that this could not happen here. In the Netherlands, these patients would have been able to get medical help because they clearly suffered unbearably. Commentators usually strike a rather self-congratulatory or even smug note. But this is just about the only thing that the Dutch still feel smug about. We have our doubts about almost everything else. These are trying times in which many policy choices are considered unwise with the benefit of hindsight. Perhaps we should be allowed to be smug about our euthanasia policy, as something we managed to accomplish, something we really did right.

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