

Written contribution to the Human Rights Council's Universal Periodic Review of Belgium

Minnesota Citizens Concerned for Life Education Fund
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Minnesota Citizens Concerned for Life Global Outreach (MCCL GO), a program of the Minnesota Citizens Concerned for Life Education Fund, is an international non-governmental organization working to secure full human rights for all human beings from conception to natural death. MCCL has consulted and advised like-minded non-profit organizations in nearly 60 countries. MCCL enjoys consultative status with the United Nations Economic and Social Council and is a civil society organization registered with the Organization of American States.

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1. Belgium is one of only a handful of countries with legalized active euthanasia. It allows the euthanasia of patients with mental disorders and dementia, and it has recently pioneered the legalization of child euthanasia. In a substantial number of cases, Belgian doctors intentionally end the lives of patients without their explicit request. These practices, however, have received little scrutiny in light of Belgium's human rights obligations. The Minnesota Citizens Concerned for Life Education Fund encourages the Human Rights Council to consider the serious human rights concerns raised by euthanasia in Belgium.

An Overview of Euthanasia in Belgium

2. Euthanasia was legalized in Belgium in 2002. The Belgian law authorizes euthanasia for adults (or minors with adult legal status) who are deemed competent and who make a voluntary request. They must also experience physical or psychological suffering that cannot be alleviated. The patients need not be terminally ill or near the end of life. Unconscious patients may be euthanized if they have signed a declaration in advance requesting it. In early 2014, Belgium extended its policy to authorize euthanasia for terminally ill children (with parental consent) with no age restrictions, becoming the first nation to adopt such a policy.

3. Physicians who perform euthanasia must report to the Federal Commission for the Control and Evaluation of Euthanasia, which reviews cases for possible violations of the law. The Commission also issues a report every two years. Its reports show that the number of euthanasia deaths in Belgium has increased every year since legalization, reaching 2,655 in 2019¹—a 179 percent increase since 2010.² Among the reported euthanasia patients in 2019, 62.5 percent had cancer. A total of 1.8 percent (49 patients) had mental or behavioral disorders, and 4.3 percent (115) of the euthanasia patients suffered only psychologically, not physically. In 16.9 percent of cases, the patient was not considered terminally ill.³

4. The Commission has acknowledged that some euthanasia deaths are unreported. One study found that about half of euthanasia cases are never reported, and the doctors who don't report such deaths are more likely to lack a written patient request for euthanasia and to not consult a palliative care specialist.⁴ Moreover, the conditions deemed sufficient to justify euthanasia have expanded over time.⁵ A 2015 study found that in 25 percent of euthanasia

¹ "Euthanasie – Chiffres de l'année 2019," Federal Commission for the Control and Evaluation of Euthanasia (March 3, 2020), <https://organesdeconcertation.sante.belgique.be/fr/documents/euthanasie-chiffres-de-lannee-2019>.

² *Huitième rapport aux Chambres législatives années 2016 - 2017*, Federal Commission for the Control and Evaluation of Euthanasia (July 17, 2018), <https://organesdeconcertation.sante.belgique.be/fr/documents/cfcee-rapport-euthanasie-2018>.

³ "Euthanasie – Chiffres de l'année 2019," Federal Commission for the Control and Evaluation of Euthanasia (March 3, 2020), <https://organesdeconcertation.sante.belgique.be/fr/documents/euthanasie-chiffres-de-lannee-2019>.

⁴ Tinne Smets et al., "Reporting of Euthanasia in Medical Practice in Flanders, Belgium: Cross Sectional Analysis of Reported and Unreported Cases," *British Medical Journal*, Vol. 341 (2010).

⁵ *Euthanasia in Belgium: 10 Years On*, European Institute of Bioethics (April 2012), <https://www.ieb-eib.org/ancien-site/pdf/20121208-dossier-euthanasia-in-belgium-10-years.pdf>.

cases, Belgian doctors said being “tired of life” was an important reason why they granted the patient’s euthanasia request.⁶

Euthanasia and the Right to Life

5. The Universal Declaration of Human Rights (UDHR) affirms “the inherent dignity and ... equal and inalienable rights of all members of the human family” (preamble). It also states, “Everyone has the right to life, liberty and security of person” (Article 3). The International Covenant on Civil and Political Rights (ICCPR) declares, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life” (Article 6.1). The European Convention on Human Rights states, “Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally” (Article 2.1).

6. Euthanasia is the intentional killing of an innocent human being. This is a straightforward violation of the right to life. The right to life is *inherent* and belongs to all human beings, regardless of age, illness, and disability. Moreover, the right to life is *inalienable* and cannot simply be forfeited or waived by the one who bears the right. Euthanasia patients, therefore, have a right to life and may not be intentionally killed. This right must be protected by law.

7. Violations of the right to life are more flagrant, however, when the killing is not voluntary—and euthanasia in Belgium is not always voluntary. A 2015 study of the Flanders region of Belgium found that, in 2013, 1.7 percent of all deaths (or about 1,000 deaths) were intentionally hastened using life-ending drugs without an explicit request from the patient.⁷ (These are not reported as euthanasia deaths.) Among the patients whose deaths are hastened without their consent, most are comatose and some have dementia. An analysis in the *Journal of Medical Ethics* puts the problem clearly: “The Belgian population should be aware of the present situation and know that if their lives may come to the point where physicians think they are not worth living, in the absence of specific living wills advising physicians what to do then, they might be put to death.”⁸

8. Euthanasia in Belgium also endangers the right to life of individuals who have mental health problems. Euthanasia is permitted on patients who have only psychological, not physical, pain; 115 such cases were reported to the Federal Commission in 2019.⁹ But mental disorders such as depression can inhibit a patient’s autonomy and ability to provide consent. A statement from a group of Belgian psychiatrists has strongly criticized the practice of euthanizing mental

⁶ Sigrid Dierickx, “Comparison of the Expression and Granting of Requests for Euthanasia in Belgium in 2007 vs 2013,” *JAMA Internal Medicine*, Vol. 175, No. 10 (August 2015).

⁷ K. Chambaere et al., “Recent Trends in Euthanasia and Other End-of-Life Practices in Belgium,” *New England Journal of Medicine*, Vol. 372, No. 12 (March 19, 2015).

⁸ Raphael Cohen-Almagor, “First Do No Harm: Intentionally Shortening Lives of Patients without Their Explicit Request in Belgium,” *Journal of Medical Ethics*, Vol. 41, No. 8 (August 2015).

⁹ “Euthanasie – Chiffres de l’année 2019,” Federal Commission for the Control and Evaluation of Euthanasia (March 3, 2020), <https://organesdeconcertation.sante.belgique.be/fr/documents/euthanasie-chiffres-de-lannee-2019>.

health patients. The psychiatrists note the impossibility of judging that purely mental suffering is “incurable.”¹⁰

9. Finally, euthanasia in Belgium endangers the right to life of children. The United Nations Human Rights Committee has expressed concern about the euthanasia of children in the Netherlands, where the practice has been permitted for children as young as 12 years old: “The Committee considers it difficult to reconcile a reasoned decision to terminate life with the evolving and maturing capacities of minors. In view of the irreversibility of euthanasia and assisted suicide, the Committee wishes to underline its conviction that minors are in particular need of protection.”¹¹ Likewise, the United Nations Committee on the Rights of the Child wrote in 2015 that it “remains concerned that euthanasia can be applied to patients under 18 years of age” in the Netherlands.¹² These concerns should be even greater in Belgium, where children of any age whatsoever may be eligible for euthanasia.

Euthanasia and Nondiscrimination

10. The legalized intentional killing of some categories of people is problematic under international human rights instruments that require equality and non-discrimination. The UDHR guarantees the rights and freedoms of everyone “without distinction of any kind” (Article 2) and states, “All are equal before the law and are entitled without any discrimination to equal protection of the law” (Article 7). The ICCPR also prohibits discrimination (Article 26). The Convention on the Rights of Persons with Disabilities (CRPD) considers “discrimination against any person on the basis of disability ... a violation of the inherent dignity and worth of the human person” (preamble). Parties to the CRPD “reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others” (Article 10).

11. Yet Belgium authorizes the killing of patients who meet certain criteria. Often these persons are not able to engage in certain activities, have maladies characteristic of old age, and have lives deemed “not worth living” by others. By legalizing the killing of these human beings based on their age, disability, or disease, Belgium’s law creates a distinction in how it treats different classes of people. It also sends a message to society about the kind of lives that are worth living and the kind that are not. This discrimination should be rejected as a human rights violation.

Euthanasia and the Right to Health

¹⁰ Ariane Bazan and Willem Lemmens, “Belgian Doctors Call for End to Euthanasia for Mental Suffering,” *Mercatornet* (December 10, 2015), <https://mercatornet.com/belgian-doctors-call-for-end-to-euthanasia-for-mental-suffering/19945/>.

¹¹ U.N. Human Rights Committee, “Concluding Observations of the Human Rights Committee, The Netherlands,” U.N. doc CCPR/CO/72/NET, 2001.

¹² U.N. Committee on the Rights of the Child, “Concluding Observations on the Fourth Periodic Report of the Netherlands,” U.N. doc CRC/C/NDL/CO/4, June 8, 2015.

12. The International Covenant on Economic, Social, and Cultural Rights protects “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (Article 12.1). The legalization and facilitation of euthanasia may prevent patients from receiving the health care to which they are entitled. One prominent Belgian professor and doctor notes that euthanasia has driven away palliative care nurses and social workers who “were disappointed that they could no longer offer palliative care to their patients in an appropriate way” and who “were upset that their function was reduced to preparing patients and their families for lethal injections.” He says that he has some cancer patients who are afraid to go to the hospital because of concerns about being killed without their consent or through coercion.¹³

13. Moreover, research has indicated that requests for death—even among terminally ill patients—are closely associated with depression that is potentially treatable.¹⁴ And Belgium’s euthanasia policy allows the killing of patients with solely psychiatric problems. The statement from Belgian psychiatrists (referenced earlier) notes that the killing of such patients represents a failure of the mental health profession—and a closing off of the potential for successful treatment.¹⁵ Another Belgian psychiatrist has concluded: “I’m convinced that in Belgium, people have died where there were still treatment options and where there was still a chance for years and even decades of (quality) life.”¹⁶ All patients deserve the highest standard of health.

Recommendations

14. Belgium is committed to human rights instruments that protect the right to life, the right to health, and equality and non-discrimination. But the nation’s practice of euthanasia undermines all of those rights. Compounding these concerns is the fact that the oversight of euthanasia in Belgium is demonstrably inadequate to protect against abuse. A large percentage of euthanasia deaths are not reported to the Federal Commission, and the reported cases—even ones in which some of the euthanasia protocols are not followed—are virtually never investigated.¹⁷ The Commission, which includes many leading practitioners of euthanasia, has been accused (including by former members) of gross negligence.¹⁸

15. To fulfill its international human rights obligations, Belgium should revise its law to prohibit euthanasia and safeguard the lives and health of all patients.

¹³ Simon Caldwell, “Palliative care nurses quit ‘houses of euthanasia,’” *Catholic Herald* (January 18, 2018), <https://catholicherald.co.uk/palliative-care-nurses-quit-houses-of-euthanasia/>.

¹⁴ H.M. Chochinov et al., “Desire for Death in the Terminally Ill,” *American Journal of Psychiatry*, Vol. 152, No. 8 (1995), 1185-91.

¹⁵ Ariane Bazan and Willem Lemmens, “Belgian Doctors Call for End to Euthanasia for Mental Suffering,” *Mercatornet* (December 10, 2015), <https://mercatornet.com/belgian-doctors-call-for-end-to-euthanasia-for-mental-suffering/19945/>.

¹⁶ Maria Cheng, “‘What Could Help Me to Die?’ Doctors Clash over Euthanasia,” *AP News* (October 26, 2017), <https://apnews.com/article/4b6877fab2e849269c659a5854867a7b>.

¹⁷ *Euthanasia in Belgium: 10 Years On*, European Institute of Bioethics (April 2012), <https://www.ieb-eib.org/ancien-site/pdf/20121208-dossier-euthanasia-in-belgium-10-years.pdf>.

¹⁸ “Ethics Dispute Erupts in Belgium over Euthanasia Rules,” *VOA News* (February 16, 2018), <https://www.voanews.com/science-health/ethics-dispute-erupts-belgium-over-euthanasia-rules>.