Submission of Berend de Boer on the End of Life Choice Bill

About the Submitter

This submission is made by Berend de Boer in a personal capacity. I would like to appear before the Committee to speak to my submission.

Given my Dutch background, I'm able to read original material in Dutch, and will therefore focus substantially on the differences between the Dutch law and this bill.

Contents

The Dutch law of 2002 1

No demand from practitioners in New Zealand 2

Dutch law in practice 2

How the New Zealand bill differs from the Dutch law 3

Reaction of Dutch doctors after 2002 4

Reaction of the Dutch after 2002 4

Honest words 4

Deficiencies of this bill 5

Conclusion 8

The Dutch law of 2002

What struck me after reading this bill was how far beyond the Dutch law[1] it goes. This bill is very close to self-murder on-demand unlike the Dutch euthanasia laws.

There is a superficial similarity between Dutch law and the proposed NZ law[1]. One could perhaps claim that at best euthanasia remains punishable, except

[1] In what follows I will rely on original Dutch sources to support my argument. See references at the last page.

when a doctor follows a certain procedure: consult another doctor and file paperwork.

14 But Dutch law consolidated years of jurisprudence. How doctors treated and stopped treating patients was seen as the domain of the medical profession, and self-regulated[2]. But doctors were regularly prosecuted if prosecutors were not satisfied they had followed established practices. In 1984 the Dutch medical organisation (KNMG) published a position statement[2, ch. 6, p. 156] saying:

15 **a.** The distinction between euthanasia and self-murder is not valid.
16 **b.** If possible the patient should take the euthanatica[2] themselves.
17 **c.** Solving the euthanasia question belongs to the doctor and patient relationship.

18 To give more certainty to doctors to avoid prosecution, the Dutch euthanasia bill was proposed and became law in 2002.

No demand from practitioners in New Zealand

19 In New Zealand the situation is very much different: there are very few reports in the media that New Zealand doctors practise euthanasia, few prosecution cases appear in the media, and the New Zealand Medical Association opposes euthanasia[3]:

20 > *"The NZMA is opposed to both the concept and practice of euthanasia and doctor assisted suicide."*

Dutch law in practice

21 One would almost think the Dutch law would be far more liberal at this point, but the opposite is the case. Reports based just on what is written in Dutch law are insufficient to understand the complex relation between the Dutch euthanasia law, the Dutch medical organisation KNMG, and Dutch case law.

22 According to Dutch law, and according to Dutch medically accepted practise, euthanasia is possible under extra-ordinary circumstances: it is allowed in cases where suffering has become unbearable and the physician has no medical options left to reduce the patient's suffering[4]. There is no right to be euthanized.

---

[2] The Dutch plural word for self-murder medication, which the English language should import.

How the New Zealand bill differs from the Dutch law

23 The Dutch law allows euthanasia when the doctor has reached the limits of his ability to reduce suffering. The proposed bill does not ask a doctor to wait such limits are reached. It allows euthanasia under a large number of circumstances:

24 **a.** What does "*likely to end his or her life within 6 months"* even mean? How reliable are such opinions? Is the doctor allowed to choose the shortest life span after a diagnosis as recorded in medical literature?

25 This seems to easily cover cases where a patient would live many years pain free.

26 Euthanasia would definitely not be allowed in The Netherlands under such circumstances: the patient is not yet suffering in a manner that can not be alleviated by a medical practitioner.

27 **b.** The condition "*a grievous and irremediable medical condition"* repudiates the first clause: it does away with the time limit, and the seriousness of that condition.

28 We all suffer from a grievous and irremediable medical condition: it is appointed unto men once to die. There is currently no cure.

29 This clause allows anyone with some kind of physical or mental illness which cannot yet be satisfactorily cured and which the patient considers grievous to ask the state to end his life. Even though the patient, with the standard of care NZ can provide, could live many years.

30 Paralysis is most definitely grievous and irremediable. Is it the intention of the select committee to propose a law allowing a quadriplegic to ask the state to end his life?

31 **c.** Can the second opinion be reached by a medical practitioner without even having seen the patient? That's not very clear. Section 11 clause 3b uses the word `examine', but this clearly preclude remote examination. The Dutch law clearly states that a second opinion can only be reached by someone who has physically seen the patient[1, section 2.1.e].

32 Summary: the proposed bill reads like euthanasia on-demand with few limitations.

Reaction of Dutch doctors after 2002

33 Much soul searching was done by doctors even before the Dutch bill became law in 2002. The city of Amsterdam had a voluntary SCENZ, a group of doctors giving a second opinion. They were the avant garde of doctors in favour of euthanasia. Some quotes from general practitioners from a 2001 article[5]:

34 **a.** "*Euthanasia has become too easy.*"

35 **b.** "*The law requires we have investigated all other options before euthanasia. But that doesn't happen enough.*"

36 **c.** "*A few people where euthanized, which would not have happened if I had known about palliative care what I know now.*"

37 **d.** "*Patients now claim the right to euthanasia, they don't ask, but claim. We never intended that.*"

38 **e.** "*Thanks to my vastly increased palliative knowledge I have not had to euthanize a single patient in three years.*"

Reaction of the Dutch after 2002

39 Unlike the doctors, it appears the Dutch themselves became more enthusiastic about self murder.

40 A 2018 article in the same newspaper 2018[6] discusses the new frontier: 20,000 dutch citizens have formed the group Cooperation Last Will:

41 > *"If we have learned one thing in euthanasia land it is that beyond every pale a new category demands that it too is eligible for an overdose. …There is a new group of citizens who demand euthanasia on-demand for everybody over 18."*

Honest words

42 What disgusts me about this bill is that it is full of weasel words. It's trying to hide what is really happening. It uses the word `medication' but not in the dictionary definition:

43 > *"A drug or other form of medicine that is used to treat or prevent disease."*

The right word is poison.

It talks about medical practitioner, but I believe the right word is executioner.

Proponents of this bill are not shy to use clear words when needed. When they need to describe deaths they try to be as graphic as possible.

So what if I do what they do, and rewrite section 15 with words that actually describe what is going on?

---

15. Being killed chosen

1. This section applies after section 14 is complied with.
2. When the person wishes to exercise the option of being shot, he or she must tell the attending executioner.
3. The attending executioner must—
  a. tell the person about the following methods of being killed:
    i. putting a gun to his or her head, and triggering this himself:
    ii. let the executioner put the gun to his or her head, and let the executioner pull the trigger; and
  b. ask the person to choose one of the methods; and
  c. ask the person to choose the time at which he or she wishes to be shot; and
  d. ensure that the person knows that he or she can change his or her mind at any time.
4. At least 48 hours before being shot, the attending executioner must—
  a. fill in the checkout form of the chosen gun for the person; and
  b. advise the registrar of the method and time chosen; and
  c. provide the registrar with the identification of the chosen gun.
5. The registrar must check that the process in sections 8 to 14 has been complied with.
6. If the registrar is satisfied that the process in sections 8 to 14 has been complied with, the registrar must—
  a. co-sign the checkout form for the chosen gun; and
  b. provide the co-signed checkout form to the executioner.

When using honest words, doesn't one recoil when hearing about a society with such laws?

Deficiencies of this bill

While writing this submission I noted many deficiencies in the bill:

68 **a.** The bill should not use the word medication: the patient does not receive medication, he or she receives a poison. I suggest this word gets replaced by poison, or the Dutch words get adopted. The Dutch use the word euthanaticum (plural euthanatica).

69 **b.** Clause c section ii covers clause i and removes the time limit. If this is the intention, remove section i. If a time limit is intended, section ii should be removed.

70 **c.** If a time limit of 6 months is intended, it should be defined. Is this the median time of patients receiving such a diagnosis? Or simply whatever two doctors happen to think? They do have to average their diagnoses?

71 **d.** Despite many claims in the media, this bill does not allow euthanasia only in cases where doctors have no medical intervention left. If it is the intention to allow only euthanasia in such cases, like the Dutch law, clause c should read:

72 *"suffers from an irremediable physical medical condition causing unbearable physical pain; and"*

73 **e.** Section 11 and section 12 should clearly state that the examination be in person.

74 **f.** The bill does not specify any minimum criteria of competence of those who are asked for a first, second or third opinion. The law should specify that they are not just medical practitioners, but also that they have kept up-to-date with advances in palliative care and alternatives to euthanasia.

75 This is a concern as retired intensive care specialist Dr Jack Havill says[7]:

76 *"It is obvious from these accounts that palliative care standards are very patchy and facilities are not readily available to patients, especially in rural areas. It is also clear that there is an acute shortage of experienced doctors and nurses in rest homes, where the death rate is more than four times that in hospices."*

77 So how can such doctors honestly sign of on the opinions as per section 10–12? This will lead to situations where the doctor kills the patient as he was not up to par with his art!

78 **g.** Section 16 says that the medication (poison) has to be administered. The poison should be taken by the patient themselves (best practice in The Netherlands).

79 **h.** Section 16 clause 3a only covers the case where the poison has to be removed if the patient does not wish to receive it. Section 16 should also cover that all remaining poison has to be removed after the patient has been murdered.

80 **i.** Section 16 does not cover when the poison can be brought into the patient's room, only when it has to be removed. There was a case in The Netherlands where a doctor had brought the poison already at a patient's place for some time, but not used it. Her husband used it to commit suicide[2, ch. 9, pp. 301–302].

81 **j.** The SCENZ should annually publish a public report on the numbers euthanized. The requirement in section 21.5 is only to sent a report to the minister. This should be public.

82 **k.** The SCENZ annual report should include statistics per location, hospital, hospice, rest home, or home, of where euthanasia has taken place.

83 **l.** The SCENZ annual report should also include anonymous statistics on doctors who have practised euthanasia in this format:

How many doctors in this group	Cases of euthanasia per doctor
5	55
14	5
9,000	0

84 This allows the public, and ministry of justice, to see if there are doctors who do a lot of euthanasia cases, compared to others.

85 **m.** Ministry of Justice should report annually on doctors who have practised euthanasia, but not according to the bill, what prosecutions have been undertaken, and the result of these prosecutions.

86 Given the radical nature of this bill, the select committee should commission a report that highlights the differences between this bill, and bills of this nature in other countries.

Conclusion

87 Therefore I oppose this bill:

88 **a.** Doctors should not kill patients: they should use their art only to safe the life of their patients, not to destroy it.

89 Inevitably the relation between doctor and patient will change.

90 **b.** The state should never kill citizens on requests. That is abhorrent. It has not been granted that power.

91 **c.** There is no end of suffering in this world: any state ending some kind of suffering by killing will soon hear the clamour of its citizens to end more suffering by more killing.

References

[1] Wet toetsing levensbeëindiging op verzoek en hulp bij zelfdoding. 2014 http://wetten.overheid.nl/BWBR0012410/2014-02-15.

[2] Helena Alfonsa Maria Weyers. *Euthanasie: Het proces van rechtsverandering*. PhD thesis, 2002.

[3] Position statement on euthanasia. 2005 https://www.nzma.org.nz/__data/assets/pdf_file/0004/16996/Euthanasia-2005.pdf.

[4] Royal Dutch Medical Association (KNMG). Euthanasie. 2005 https://www.knmg.nl/advies-richtlijnen/dossiers/euthanasie.htm.

[5] NRC. Spijt. 2001 https://www.nrc.nl/nieuws/2001/11/10/spijt-7564782-a403400.

[6] NRC. Vrij verkrijgbaar: humane dood. 2018b https://www.nrc.nl/nieuws/2018/02/16/vrij-verkrijgbaar-humane-dood-a1592551.

[7] Jack Havill and David Barber. *Dying Badly - New Zealand Stories*. End-of-Life Choice Society of New Zealand, 2017.