

Submission to the UN Universal Periodic Review

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1.0 Introduction:

- 1.1 As human rights defenders, we provide information about a human rights condition in Belgium to the Universal Periodic Review Working Group with respect to Item B in the General Guidelines for the Preparation of Information under the Universal Periodic Review. (HRC Decision 6/102, 27 September 2007).
- 1.2 Our objective is to protect the human rights of all persons who are coerced to support the use of lethal military force and the scourge of war in violation of conscience.
- 1.3 The issue raised by this submission with respect to Item B involves the lack of equal protection for freedom of conscience rights in Belgium.
- 1.4 We make a concluding recommendation for the improvement of this specific human rights condition in Belgium at the end of the following section.

2.0 Issue with respect to Item B:

Lack of Equal Protection for Freedom of Conscience Rights in Belgium

- 2.1 Freedom of conscience rights are guaranteed to Belgians by the International Covenant on Civil and Political Rights (ICCPR).¹ Belgium signed this Covenant in 1968; it was approved by parliament in 1981; and it was ratified by the crown in 1983.
- 2.2 Belgium also endorsed the first optional protocol of the Covenant in 1994, and thus country nationals have the opportunity to advance violation of conscience claims through the international tribunal process provided by the United Nations Human Rights Committee.
- 2.3 Although the Belgian Constitution mentions the freedom of worship² it fails to protect freedom of conscience rights for individuals, in contrast to the constitutions of many other Nation-States.
- 2.4 Nevertheless, Belgium has clearly and consistently demonstrated an intention to honor its international human rights treaty obligations. The accommodation of a freedom of conscience claim made by a past monarch provides a specific example.
- 2.5 In 1990, King Baudouin was confronted with a crisis of conscience. The Belgian king is constitutionally required to sign all laws that are passed by parliament. However, a new statute legalizing abortion violated Baudouin's own moral and ethical beliefs concerning the right to life.

1 **International Covenant on Civil and Political Rights, Article 18, (1):**

“Everyone shall have the right to freedom of thought, conscience and religion.”

“Toute personne a droit à la liberté de pensée, de conscience et de religion.”

2 **Belgian Constitution, Title II, Article 19:**

“Freedom to worship, its public practice and freedom to demonstrate one's opinions on all matters are guaranteed, but offences committed when this freedom is used may be punished.”

“La liberté des cultes, celle de leur exercice public, ainsi que la liberté de manifester ses opinions en toute matière, sont garanties, sauf la répression des délits commis à l'occasion de l'usage de ces libertés.”

- 2.6 King Baudouin realized that his personal duty to conscience required his absolute refusal to sign the law, and he also realized that forced abdication of the throne might be the consequence.
- 2.7 In a written communication to the Prime Minister,³ Baudouin explained how “[t]his bill poses a grave problem of conscience for me,”⁴ and then asserted his own human rights by stating: “I know that by acting in this way I have not chosen any easy path and that I risk not being understood by many of my fellow citizens. To those who may be shocked by my decision, I ask them: Is it right that I am the only Belgian citizen to be forced to act against conscience in such a crucial area? Is the freedom of conscience sacred for everyone except for the King?”⁵
- 2.8 The Prime Minister and the Belgian government acknowledged the right of King Baudouin to manifest his sincere beliefs in practice, and acted to resolve the problem. The throne was declared vacant due to the inability of the king to govern and parliament proceeded to use its own constitutional powers in order to ratify the law. On the following day, Baudouin was declared capable of governing again and reinstated because his dilemma of conscience was resolved.
- 2.9 King Baudouin framed his moral position in the language of universal human rights. The former Prime Minister and the peoples of Belgium can be congratulated for acknowledging the importance of a sincere expression of conscience and for taking positive action with respect to a human right that is protected for each individual by the ICCPR.

3 Provided in French, in its entirety, in the *Martens* reference, at pages 177-178.

4 “**Ce projet de loi soulève en moi un grave problème de conscience.**”
(English translation provided in the *Conley* reference, at page 117)

5 “**Je sais qu’en agissant de la sorte, je ne choisis pas une voie facile et que je risque de ne pas être compris par bon nombre de concitoyens. Mais c’est la seule voie qu’en conscience je puis suivre. À ceux qui s’étonneraient de ma décision, je demande: Serait-il normal que je sois le seul citoyen belge à être forcé d’agir contre sa conscience dans un domaine essentiel? La liberté de conscience vaut-elle pour tous sauf pour le Roi?**”
(English translation provided in the *Conley* reference, at page 117).

- 2.10 In a 1991 report to the Human Rights Committee on the implementation of the ICCPR in Belgium, the government explained that the highest judicial body, the Court of Cassation, affirmed that provisions of the Covenant had direct applicability and also produced direct effects in internal law for individuals.⁶
- 2.11 The Committee noted with satisfaction the Court's practice of affirming the applicability of the Covenant to the human rights of individuals in Belgium during the period of the review.⁷
- 2.12 Belgian citizens may directly invoke the ICCPR because national courts hold most of its provisions to be self-executing, and this commendable practice has assisted in setting a high standard of treaty implementation.
- 2.13 Freedom of conscience rights are sacred for every Belgian, including the reigning monarch, but there are outdated laws and regulations that continue to force certain individuals to support government activities that employ the use of lethal force.
- 2.14 For some persons, any form of coerced support or participation in the procurement of military armament or in the conduct of warfare is a fundamental violation of conscience.
- 2.15 Recommendation:
The lack of equal protection for freedom of conscience rights in Belgium can be remedied. Some people are unable in good conscience to provide material support for government sanctioned taking of human life. The fundamental rights of these individual Belgians can be respected and protected by lawful reference to the provisions of the ICCPR and by the formulation of a progressive accommodation, as was once extended to their king.

6 **CCPR/C/57/Add.3**

7 **UN Doc. CCPR/C/79/Add.3**

3.0 Conclusion:

We appreciate the opportunity to make this submission to the Universal Periodic Review Working Group, and we are willing to work in concert with the States party, Belgium, to promote further respect for the duties, rights, and freedoms of conscience, and by progressive measures to secure an effective recognition and observance of the same.

4.0 References:

- 4.1 Roi Baudouin, "Lettre au Premier Ministre Wilfried Maertens" (30 Mars 1990).
In: Memoires pour mon pays, by Wilfried Martens, Editions Racine, (2006).
Adapte en francais par Guy Daloze. (Pages 177-178).

- 4.2 Remembering King Baudouin, Witness to Life, by John J. Conley, S.J.
In: Life and Learning XIV, Proceedings of the fourteenth University Faculty for Life Conference at the University of St. Thomas Law School, (2004).
Edited by: Joseph W. Koterski (Pages 113-119).