



## **UN HUMAN RIGHTS COMMITTEE'S PROPOSED GENERAL COMMENT ON THE RIGHT TO LIFE**

General Discussion on Article 6 of the International Covenant on  
Civil and Political Rights, Geneva, 14th July 2015

Contribution of the European Humanist Federation

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The European Humanist Federation, based in Brussels, was created in 1991 and unites more than 60 humanist and secularist organisations from about 20 European countries. It is the largest umbrella organisation of humanist associations in Europe, promoting a secular Europe, defending equal treatment of everyone regardless of religion or belief, fighting religious conservatism and privilege in Europe and at the EU level.

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The European Humanist Federation (EHF) welcomes the opportunity to contribute to the discussion on Article 6 and will focus on the scope of Article 6 paragraph 1 and on the ethical questions it underlines.

**Article 6**

*1. 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.*

*2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.*

*3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.*

*4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.*

*5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.*

*6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.*

As a matter of introduction, the EHF would like to emphasize the need to understand and interpret the right to life widely so as to include a number of principles which are of most importance to meet basic needs and lead to a dignified life: living in a context of peace, without constant threats or fear; access to a number of socio-economic rights including work, housing, food water, sanitation but also social security and education; living a dignified life with full enjoyment of freedom of choice, including choice to terminate one's life when needed; equality and non-discrimination on any ground including sexual orientation; sexual and reproductive health and rights including access to sexual education and to safe and legal contraception and abortion.

In this perspective, we support the position of the Committee according to which the right to life "should not be interpreted narrowly"<sup>1</sup>.

### **1. No prenatal right to life**

Understanding Article 6 widely does not mean that its scope should apply prenatally. International and regional human rights instruments protecting the right to life do not extend this protection to fetuses but apply it only to persons after birth. This is also the position of the Committee which rejected amendments proposing to apply the right to life before birth during the drafting of the Covenant on Civil and Political Rights<sup>2</sup>.

Despite this clear international consensus, numerous anti-choice advocacy groups keep on demanding to extend the right to life to fetuses even though this would dramatically undermine women's rights and be at odds with international instruments and commitments:

- The protection of women's sexual rights as defined by the Beijing UN Fourth World Conference on Women as the rights of women to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence (1995, par. 96)

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<sup>1</sup> Human Rights Committee, General Comment 6, Article 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994).

<sup>2</sup> "Human Rights Begin at Birth: International Law and the Claim of Fetal Rights", Reproductive Health Matters 2005

- The protection of women's reproductive rights as defined by the ICPD programme of Action Cairo as their rights to decide freely and responsibly the number, spacing and timing of their children; to have the information and means to do so; to attain the highest standard of sexual and reproductive health and to make decisions on reproduction free of discrimination, coercion and violence. (5-13 September 1994, Para 7.2)
- Tackling discriminations between men and women: in its General Comment No. 14, the Committee on Economic, Social and Cultural Rights emphasized that eliminating discriminations against women could not be done without promoting their right to health, especially their sexual and reproductive health. The Committee explained further that this strategy implied to remove all barriers interfering with access to reproductive healthcare services<sup>3</sup>. In addition, in its General Comment No. 28 on art.3, the Human Rights Committee also emphasized the States' responsibility to reduce maternal mortality from clandestine abortions<sup>4</sup>.
- Reduction of stillbirth rate and of infant mortality which implies to work towards better sexual and reproductive health for women including access to family planning and pre- and post-natal care<sup>5</sup>.

**The EHF therefore respectfully invites the Committee to clarify in its comment that the right to life applies only after birth.** This would also make clear that no right to life is granted to frozen embryos that can legally be used in the framework of embryonic stem cells research on degenerative diseases<sup>6</sup>.

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<sup>3</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4 Par. 21

<sup>4</sup> Human Rights Committee, General Comment No. 28 on Article 3 (The equality of rights between men and women) (Replaces general comment No. 4), Sixty-eighth session Adopted: 29 March 2000 (1834th meeting) par. 10.

<sup>5</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4 Par. 14

<sup>6</sup> After explicit consent of couples who undergo *in vitro fertilisation* to grant their extra frozen embryos for research purposes.

## 2. The right to die in dignity

According to some, the right to die in dignity contradicts the protection of the right to life. In EHF view, this position reveals a narrow interpretation of the right to life which should respect the human dignity of people suffering and their freedom to end their life as they wish to. Including the right to die in dignity into the right to life would also protect the right to respect private life as defined in Article 17 of the Covenant and in Article 8 of the European Convention on Human Rights.

Individuals should have the right, in agreed circumstances, to determine how and when they can seek assistance to die. In accordance with the manifesto of the World Federation of Right to Die Societies<sup>7</sup>, the EHF believes that the manner and time of dying should be a matter of decision for the individual and that it is part of the act of living.

In Europe, the Belgian, Dutch, Luxembourg and Swiss parliaments have already debated and introduced legislation that supports a right to assistance to die. Other parliaments, in France and the UK, are debating these matters.

The term *euthanasia* is generally used where a doctor administers a lethal substance. When the doctor's role is limited, for example to prescribing but not administering the lethal dose, the term *assisted dying* is generally used to describe the help provided.

Voluntary euthanasia and assisted dying embrace the notion that a mentally competent person can receive help to die, without that help being considered illegal.

In both situations the person who wants to die must make it clear that they want help to die, either at the time of the request, or when a specified event is judged to have occurred (in the event of the person no longer having the mental capacity).

The EHF supports legal provisions for voluntary euthanasia or assisted dying subject to necessary safeguards in circumstances where people are suffering unendurable pain or loss of faculties and where there is no hope of cure or improvement. In taking such a decision, one must take account of the effects the decision may have on others – which includes not just the burden that caring for

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<sup>7</sup> Available at <http://www.worldrtd.net/manifesto>

them places on others but also the possibly devastating effect of their loss on close family and friends.

It can only be a highly personal decision but it is one people should be free to take, with measures to guard against real or imagined pressure from family and against the effects of clinical depression.

Individuals should be able to receive help to die, on their request, either if they experience or in a number of situations, including but not limited to:

- a disease which will lead to death (terminal illness), and/or
- an unendurable incapacitating disability (mental or physical), and/or
- unbearable pain and/or
- an irreversible loss of dignity (or the threat of it) (This would be for a doctor to determine in relation to a person with mental incapacity).

EHF supports the provision of safeguards, to protect both people wishing to die, and those providing assistance to die.

The safeguards for people receiving help to die should include:

- help to enable them to cope with their problems if they prefer to continue living;
- access to advice and support independent of family, friends and associates;
- clear procedures for confirming the wish to die;
- opportunities to access alternative support in the event of their own doctor not wanting to participate in a scheme.

The safeguards for people who are asked to provide assistance should include:

- opportunities to withdraw from participation in a scheme, without consequence;
- clear assurances of freedom from prosecution where a scheme's procedures have been followed.

**In the General Comment on Article 6, the EHF calls on the Committee to ensure that the right to life is not turned into an obligation to live, even in a situation of unbearable pain with no hope of improvement. We also respectfully invite the Committee to include the right to die in dignity as the manifestation of one's freedom to choose over one's own life.**