



UN Human Rights Committee

CONTRIBUTION OF THE EUROPEAN HUMANIST FEDERATION

Draft General Comment No. 36 on Article 6 ICCPR – Right to life

Brussels, 5 October 2017

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The *European Humanist Federation* (EHF) would like to thank the Rapporteur for circulating General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights (ICCPR), on the right to life. We are grateful for the opportunity to make a written contribution ahead of the Human Rights Committee's second reading.

As a matter of introduction, the EHF supports the position of the Committee according to which the right to life « should not be interpreted narrowly » (paragraph 3). We share the Committee's view that the right to life concerns the entitlement of individuals to enjoy a life with dignity, (paragraph 3) and recognizes the central importance of personal autonomy to human dignity (paragraph 10).

We further support the Committee's position that the right to life is the prerequisite for the enjoyment of other rights that are key to one's right to life in dignity, such as the right to the highest attainable health, access to food, water and sanitation (paragraph 30), the right to live in a safe environment free from pollution (paragraph 65) and, beyond, all the rights contained in the ICCPR and in the International Covenant on Economic, Social and Cultural Rights.

It is worth recalling that **interpretating Article 6 widely does not mean that its scope should apply prenatally**. We therefore welcome the Committee's views that the Covenant rights apply to persons, i.e. after birth, which is consistent with the Covenant's own preparatory work and in alignment with relevant regional and international practice¹.

In this contribution, we respectfully invite the Committee to reinforce the protection of three key rights as part of the right to life:

1. the right to sexual and reproductive health of women and girls,
2. the right to die in dignity,
3. the right for the non-religious, non-believers, atheists, agnostics and freethinkers to be free from discrimination and violence.

¹ See R. Copelon, C. Zampas, E. Brusie, J. Devore, "Human Rights Begin at Birth: International Law and the Claim of Fetal Rights", *Reproductive Health Matters* 2005 Nov.13(26):120-9.

1. Reaffirming States parties' obligations to guarantee access to safe and legal abortion (paragraph 9)

The EHF welcomes the wording of paragraph 9. We fully share the Committee's views that the protection of sexual and reproductive health and rights, including access to safe and legal abortion, is not only compatible with but extremely necessary to the very understanding and implementation of women's right to life.

Too often, restrictive legislations on abortion continue to lead to dramatic situations in terms of physical and psychological suffering for women, not even mentioning their risk to die for continuing their pregnancy or undergoing unsafe terminations. As recalled by the World Health Organization², about 21 million women experience an unsafe abortion worldwide each year and 47 000 women of them die from complications of this unsafe practice. Deaths due to unsafe abortion remain close to 13% of all maternal deaths.

We therefore strongly support the positive obligation formulated by the Committee to States parties to "provide safe access to abortion to protect the life and health of pregnant women." However, we would like to suggest the following additions in paragraph 9:

*"States parties must provide safe access to abortion to protect the life, the health, and the **bodily integrity** of pregnant women, and in situations in which carrying a pregnancy to term would cause the woman pain, suffering or **distress, including** where the pregnancy is the result of rape or incest or when the foetus suffers from fatal impairment."*

In many European countries that allow abortion under specific circumstances, we notice increasing attempts to limit its access, like in Italy, Greece or in the UK. This Committee has recognized that barriers to legal abortion services (such as conscientious objection inappropriately applied or third party intervention) threaten women's right to life and has urged States parties to remove them³.

We therefore welcome the Committee's call on State parties not to introduce burdensome requirements on women seeking an abortion. However, we believe that the words "humiliating" and "unreasonably" leave too much room for interpretation by the decision-makers and the medical professionals to maintain or introduce barriers of all sorts limiting women's rights.

Accordingly, we respectfully invite the Committee to amend the wording of the concerned sentence in paragraph 9 by removing "humiliating" and "unreasonably":

"Nor should States parties introduce ~~humiliating or unreasonably~~ burdensome requirements on women seeking to undergo abortion."

2. Highlighting the right to die in dignity as a part of the right to life (par. 10)

We welcome the intention of the Committee to include the difficult issue of the termination of life for specific cases in the realm of the right to life. We believe that individuals should have the right, in agreed circumstances, to determine how and when they can seek assistance to die. This very last decision is a matter of respect of private life (Art. 17 ICCPR) and part of the act of living in dignity.

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

² http://www.who.int/reproductivehealth/topics/unsafe_abortion/magnitude/en/

³ United NationsCCPR/C/POL/CO/, International Covenant on Civil and Political Rights. Distr.: General, Human Rights Committee, Concluding observations on the seventh periodic report of Poland 23 November 2016.

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 persons who want 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 (when the person no longer has 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 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),
- an unendurable incapacitating disability (mental or physical),
- unbearable pain,
- an irreversible loss of dignity (or the threat of it).

The 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 providing assistance to die* should include opportunities to withdraw from participation, without consequence and clear assurances of freedom from prosecution where a scheme's procedures have been followed.

In paragraph 10, we welcome the following sentence:

« At the same time, States parties {may allow} {should not prevent} medical professionals to provide medical treatment or the medical means in order to facilitate the termination of life of afflicted adults, such as the mortally wounded or terminally ill, who experience severe physical or mental pain and suffering and wish to die with dignity » **and we invite the Committee to choose 'should not prevent' over 'may allow'.**

This so as to ensure that States who want to move further by adopting legislations regulating assisted dying, may do so.

3. Reaffirming State parties' obligations to protect non-believers', atheists', agnostics' and free thinkers' right to life (paragraphs 27, 40 and 64)

We strongly welcome the positive obligation formulated by the Committee to State parties to take special measures of protection towards persons in situation of vulnerability. However, **we respectfully call on the Committee to include non-believers in the group of vulnerable people**, and not only religious minorities as it is currently formulated.

Violence against non-believers and people holding philosophical beliefs has dramatically increased across the world. This alarming situation is extensively documented in the *Freedom of Thought Report*⁴ issued by the International Humanist and Ethical Union. From Raif Badawi, who was sentenced to 1000 lashes and 10 years in prison in Saudi Arabia for alleged “blasphemy”; to Mohamed Cheikh Ould M'kheitir, who is facing the death penalty and incitement to murder in Mauritania for alleged “apostasy”; to Basuki Tjahaja Purnama, the mayor of Jakarta who is accused of “blasphemy” amidst an election; to those secular bloggers savagely hacked to death in Bangladesh by extremist religious group, non-believers and free thinkers are being increasingly targeted, persecuted and murdered either by religious fundamentalists or by the States themselves on belief grounds.

As stated by UN Special Rapporteur on Freedom of Religion or Belief, Dr Ahmed Shaheed: *“The right to freedom of religion or belief is a right that is frequently misunderstood by its conflation with narrowly defined views on religious freedom. Such narratives often overlook the fact that the freedom of religion or belief includes the freedom of thought and conscience (...). Moreover, as the Human Rights Committee points out, “religion” and “belief” are to be understood broadly, covering theistic, non-theistic, and atheistic beliefs. Thus, the freedom of religion or belief protects individuals who adhere to traditional as well as new religions and to majority or minority faith communities, and those who are dissenters or who subscribe to no religion or belief at all or who are unconcerned. In fact, international human rights law protects both the freedom of religion and (...) the freedom from religion, for without the latter, the former has no practical meaning at all.”*⁵

We invite the Committee to explicitly include non-believers, humanists, atheists, agnostics, apostates and those who are being critical of religious beliefs in the group of vulnerable people mentioned in paragraph 27.

In the same perspective, we further request the Committee to explicitly mention them in paragraph 40, as recognition of their specific vulnerability when it comes to death penalty. We suggest the following wording:

“Under no circumstances can the death penalty ever be applied as a sanction against conduct whose very criminalization violates the Covenant, including adultery, homosexuality, apostasy, expressing beliefs that are not the ones of the majority, expressing critical views on the religious beliefs of the majority.”

In paragraph 64, we also invite the Committee to replace “religion” by “religion or beliefs” so as to include all beliefs and not only religious ones in the understanding of grounds for discrimination.

⁴ “The Freedom of Thought Report, A global report on discrimination against humanists, atheists and the non-religious”, 2016, available at <http://freethoughtreport.com/>

⁵ Foreword to the 2016 Freedom of Thought Report.

We suggest the following rewording:

“The right to life must be respected and ensured without distinction of any kind, such as race, color, sex, language, religion or beliefs, political or other opinion, national or social origin, property, birth, or any other status, including caste, sexual orientation and gender identity, disability, albinism and age.”