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**Contribution to the General Discussion on the preparation for General Comment
No.36 Article 6 of the ICCPR: Right to life**

Submitted by Priests for Life
Special Consultative Status ECOSOC

Introduction

Priests for Life believes that the right to life is the foundation of human rights and extends to all members of the human family from conception to natural death; no one ought to arbitrarily lose their right to life. Priests for Life works to advance respect for the dignity of life and to ensure its protection at every stage of development and welcomes the opportunity to participate in the discussion of Article 6 of the International Covenant on Civil and Political Rights (ICCPR) on the preparation for General Comment No.36- "Right to life".

The recognition that the inalienable rights of all members of the human family "derive from the inherent dignity of the human person" is the foundation of the work of Priests for Life.

This submission addresses select issues as presented in the note for General Comment No. 36 as they relate to our work to promote respect and protection for human dignity and the right to life for all.

Scope and nature of the duty to respect and ensure the right to life

The Universal Declaration of Human Rights (UDHR) begins with the words: *“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”* The UDHR does not classify any member of the human family as “an exception” to these inalienable rights and asserts in Article 3, *“Everyone has the right to life.”* The right to life is the most fundamental right, since no other rights can be exercised if one does not exist.

Similarly, the ICCPR declares in the first line of the Preamble, *“Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,”* followed by, *“Recognizing that these rights derive from the inherent dignity of the human person.”*

Both treaties recognize that human beings have “inherent dignity”. Governments, and international bodies, can neither bestow nor remove human dignity from a human being, but rather, they exist to preserve and protect rights that are inherent, that is, rights which reside by definition within the human being precisely because he or she is a human being, and not because he or she has earned or been awarded those rights by some outside entity.

The ICCPR recognizes a duty in the Preamble that applies to all: *“Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant.”*

It is our duty to ensure that no one is left out and that all are assured of their right to life. This includes unborn children who, as the youngest and most vulnerable members of the human family, represent the most at risk group in the world today.

Abortion—Possible exception to the duty to protect life by law?

Article 6.1 states, *“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.”* The recognition of the “Right to life” for every human being ought not to exclude the unborn or consider their right to life “an exception” to the Article. Globally, more countries protect the unborn in law and restrict access to abortion than allow abortion on demand. The 2014 report “Abortion laws and other reproductive rights policies and data around the world” reveals that “only about one third of countries (36 per cent) permitted abortion for economic or social reasons or on request.”¹ Numerous countries provide constitutional protection for the right to life from the moment of conception.

The American Convention on Human Rights in Article Article 4:1 states, *“Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.”*

¹ United Nations, Department of Economic and Social Affairs, Population Division. Abortion policies and reproductive health around the world, 2014. <http://www.un.org/en/development/desa/population/publications/pdf/policy/AbortionPoliciesReproductiveHealth.pdf>

Abortion by its very nature is in conflict with the right to life. The lives of preborn children as members of the human family are deserving of protection and ought not to be considered expendable or “exceptions” to the duty to protect life.

Selective exclusion of the “right to life” for any member of the human family impacts the right to life of all by bestowing an arbitrary status to an inalienable right that is dependent on the subjective views of others rendering the unborn child’s right to life contingent on whether or not she is “wanted” by another, considered “worthy of life”, or deemed “perfect” enough.

It can also be argued that government’s and society’s failure to provide a pregnant woman with the necessary support she needs to choose life for her child, failure to provide access to critical maternal health care, nutrition, and skilled birth attendance to ensure that both mother and child survive and thrive, is a failure to adequately protect the right to life of both.

This failure manifests in the high rate of child mortality, especially newborn mortality, in the world today that ends the lives of over 2.9 million newborns a year. More than 800,000 babies — one in four newborns — die each year because they are born too soon or too small as a result of poor maternal nutrition.²

General Comment No.6 on the “Right to life” expressed concern for failure of States to sufficiently provide for the survival of infants and for what it described as a too narrow interpretation of the “inherent right to life” stating: *“Moreover, the Committee has noted that the right to life has been too often narrowly interpreted. The expression ‘inherent right to life’ cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.”*

Today, there is awareness that health and well-being for a lifetime, begins during the critical first 1000 days of life from conception to the second birthday. Actions to ensure adequate nutrition during this “window of opportunity” are yielding success as malnutrition and stunted growth are being reduced and cognitive and physical development are improving with lifelong impact on individuals’ health, and their ability as healthy adults to contribute to community and country.

Relationship to other Articles that protect human life and the unborn

The protection of the right to life of the unborn child appears in Article 6.5 of the ICCPR which states that the *“sentence of death... shall not be carried out on pregnant women”*. This prohibition demonstrates concern for the unborn child and his or her own unique right to life and to legal protection.

Clearly the covenant recognizes the preciousness of a distinct life residing within the condemned woman’s womb and seeks to protect that separate individual.

² “Levels & Trends in Child Mortality”, United Nations Inter-agency Group for Child Mortality Estimation (UN IGME), 2013. http://www.data.unicef.org/fckimages/uploads/1410869227_Child_Mortality_Report_2014.pdf

The American Convention on Human Rights also protects the child's right to life and prohibits the death penalty for pregnant women. While addressing state obligations, the Convention acknowledges the right to life of the child existing from conception: "*Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.*" The Convention bans application of capital punishment to pregnant women: "*Capital punishment shall not be ... applied to pregnant women.*"

In addition, the Third Committee of the General Assembly on November 12, 2012 approved a draft resolution calling for a moratorium on executions with a view to abolishing the death penalty that calls on States to not impose capital punishment on pregnant women.³

Priests for Life opposes the death penalty as part of its consistent respect for life and suggests that the elimination of abortion can help lead to the elimination of the death penalty noting that as long as we deny the right to life to the innocent, it is quite hard to convince people not to deny the right to life to the guilty.

Relationship to other international human rights instruments

The preamble of the Convention on the Rights of the Child (CRC) affirms the need to protect children before birth, including by law: "*Bearing in mind that, as indicated in the Declaration of the Rights of the Child, 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.'*"

The CRC also defines a child in Article 1 as a human being under age 18 but does not limit the definition with a minimum age: "*...a child means every human being below the age of eighteen years unless under the law applicable to the child*". In Article 6:1, "*the inherent right to life*" is recognized for every child and Article 6:2 instructs States Parties that they "*shall ensure to the maximum extent possible the survival and development of the child.*"

The inclusion of the child before birth and his or her "inherent right to life" is clear. The American Convention on Human Rights also affirms in explicit terms the right to life beginning at conception in Article 4:1: "*Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.*"

The International Covenant on Economic, Social and Cultural Rights in Article 12:1 recognizes the "*right of everyone to the enjoyment of the highest attainable standard of physical and mental health*" and specifically seeks actions by States Parties in 12:2 "*to achieve the full realization of this right*" including those necessary for "*the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child*".

Reduction of the stillbirth-rate depends in large part on ensuring that infants have the highest attainable standard of physical health while in the womb. Here, again, international law recognizes that

³ General Assembly, Department of Public Information, November 19, 2012.
<http://www.un.org/News/Press/docs/2012/gashc4058.doc.htm>

everyone, including children before birth, has a right to enjoy “*the highest attainable standard of physical... health.*”

Applicability of the Article to other forms of human existence

Life is a continuum beginning with the first spark of new life as egg and sperm unite, regardless of how or where it takes place. Science and reproductive technologies have breached new ethical grounds that affect the innate dignity of human beings produced in the sterile setting of science lab. Newly created embryos frozen in fertility clinics and cloned individuals created and destroyed in the name of science present ethical dilemmas. Reproductive technology is breaking new ground, but just because something can be done, should it be done?

The United Nations does not think it should be done and in the Declaration on Human Cloning calls upon states to prohibit all forms of human cloning, exploitation of women for life sciences, and genetic engineering techniques that are “*incompatible with human dignity and the protection of human life.*”⁴

Article 6.1, Right to life, ought to apply to all human beings.

Relationship of abortion to Article 7 on torture

Article 7 states in part: “*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*”

Abortion is a violent act that by its very nature is cruel, inhuman and degrading; it is a denial of human dignity and a violation of the right to life. Abortion methods dismember the developing human being inflicting excoriating pain when imposed on an unborn child past 20 weeks gestation who is capable of feeling pain. Dilation and Evacuation abortions tear the child limb by limb. Abortion imposes torture upon children.⁵

Forced abortion is torture for women who seek protection for their child and instead are forced by the State to undergo torturous abortions.

Moreover, Priests for Life recognizes the pain of post abortion grief and regret that many women endure following induced abortion and offers them an opportunity for post abortion healing.⁶

⁴United Nations Declaration on Human Cloning, G.A. Res. 59/280, U.N. Doc. A/RES/59/280 (Mar. 8 2005).
http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/59/280

⁵The Dilatation and Evacuation (D&E) Abortion Procedure
<http://www.priestsforlife.org/resources/medical/demore.htm>

⁶Rachel's Vineyard <http://www.rachelsvineyard.org/>

Cross-cutting issue—Discrimination in the application of the right to life

The child is recognized as a valued member of the family in Article 24:1 which states: *“Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”* Tragically, particular groups of children are marginalized and denied their right to life based on their sex and status at birth.

Tens of millions of preborn infant girls have lost their right to life through sex selection abortion which discriminates against girls who are identified in the womb and marked for death. Sex discrimination resulting in sex selective abortion and infanticide has resulted in over 200 million missing girls in the world today, who were denied their right to life simply because they were female.

Children who survive abortion and are born alive are often denied medical care and assistance, left to die alone, cold and abandoned. Such treatment constitutes torture. Others may be killed to avoid the “dreaded consequence of abortion”—a live baby. This is a problem that affects all countries that allow late term abortions.⁷

All infants deserve medical attention and basic human kindness, regardless of the circumstances of their birth. The CRC, after affirming that every child has a right to life, stipulates in Article 6:2 that States Parties *“shall ensure to the maximum extent possible the survival and development of the child.”*

This includes palliative care for infants who are born with a fatal condition and who ought not to suffer discrimination by being denied humane care.

The same respect for the innate dignity of life needs to be extended to those facing the end of life who are in need of care and attention. Article 26 of the ICCPR states: *“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*

Individuals in the final days of their lives are deserving of medical care that treats them with respect and dignity; not actions that end their lives prematurely.

Conclusion

Priests for Life strongly recommends General Comment No.36—“Right to life” affirms a non-discriminatory application of the right to life that applies to all members of the human family. The right to life is the foundation of human rights and extends to all individuals from conception to natural death; no one ought to arbitrarily be denied their right to life.

⁷ Late term abortionist Kermit Gosnell was convicted of three counts of first degree murder in Philadelphia resulting from his actions to kill infants who survived abortion. *Philadelphia Abortion Doctor Guilty of Murder in Late-Term Procedures* http://www.nytimes.com/2013/05/14/us/kermit-gosnell-abortion-doctor-found-guilty-of-murder.html?_r=0