## Submission of Be’ad Chaim Pro-Life Israel to the Call for Comment on the Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights – Right to life

## Dear Members of the Human Rights Committee,

## Be’ad Chaim Pro-Life Israel is grateful for the opportunity to comment on the draft General Comment on Article 6 of the International Covenant on Civil and Political Rights (ICCPR) – Right to life.

##### Be’ad Chaim Pro-Life Israel (www.beadchaim.com) is a non-profit organization that assists women in Israel who are struggling with crisis pregnancies. We seek to inform about alternatives to abortion. We provide counseling, education, and practical provision for the support of babies. All women are eligible for assistance, regardless of nationality or religious belief.

In this context we limit our comments on the Draft General Comment to **paragraph 52** of the Committee’s Draft General Comment, dealing with article 6(5) of the ICCPR, and to **paragraph 9** of the Committee’s Draft General Comment, dealing with abortion.

Comments on Paragraph 52 of the Committee’s Draft General Comment

The Committee informs that Article 6(5) of the ICCPR “prohibits the application of the death penalty for crimes committed by persons below the age of 18 **and on pregnant women**.”

1. We note with concern that, while the committee aims to provide significant guidance on ICCPR Right to Life provisions, it is *silent* on the provision that pregnant women may not be executed.

Indeed, having quoted Article 6(5), the committee proceeds to discuss the execution of minors in some detail - but says nothing about the execution of pregnant women.

1. We submit the Committee must highlight and address the prohibition on the execution of pregnant women to at least the same extent the committee discusses other provisions in Article 6.
2. In addressing the provision that pregnant women may not be executed, we submit the Committee should use the *ordinary meaning* rule of the Vienna Convention on the Law of Treaties (VCLT) and affirm the following in its General Comment:
3. That a pregnant woman may not be executed necessarily implies her unborn child is separate from her and may not be sentenced to death for her crime. The ICCPR therefore protects the right to life of the unborn.
4. Accordingly, state measures that provide for abortion must protect the interests of the unborn child, as well as those of the mother, considering that the unborn child is one of the most vulnerable members of the human family.
5. This necessitates that States parties to the ICCPR specifically regulate abortion in accordance with provisions such as those outlined in the Committee’s own statement at paragraph 23 of this Draft General Comment:

“The duty to protect by law the right to life entails that any substantive ground for deprivation of life must be prescribed by law, and defined with sufficient precision to avoid overly broad or arbitrary interpretation or application. Since deprivation of life by the authorities of the State is a matter of the utmost gravity, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities and the States parties must ensure full compliance with all of the relevant legal provisions.”

Comments on Paragraph 9 of the Committee’s Draft General Comment

1. The Committee attests at the start of paragraph 9: “Although States parties may adopt measures designed to regulate terminations of pregnancy, such measures must not result in violation of the right to life of a pregnant woman or her other rights under the Covenant.”

We submit that the wording “Although States parties may adopt measures designed to regulate terminations of pregnancy…” implies only a *concession –* rather than a *duty –* for States to adopt measures designed to regulate terminations of pregnancy.

We therefore submit that the Committee must affirm and **specify** that the entirety of its paragraph 23 comments referred to above relate **also** to measures designed to regulate the termination of pregnancy.

Thus, in addition to the paragraph 23 statement quoted above, the following statement also made by the Committee in paragraph 23 would be *specifically* applied to provisions for the termination for pregnancies:

“The duty to protect by law the right to life also requires States parties to organize all State organs and governance structures through which public authority is exercised in a manner consistent with the need to respect and ensure the right to life, including establishing by law adequate institutions and procedures for preventing deprivation of life, investigating and prosecuting potential cases of unlawful deprivation of life, meting out punishment and providing full reparation.”

1. The Committee writes: “States parties must provide safe access to abortion to protect the life and health of pregnant women, and in situations in which carrying a pregnancy to term would cause the woman **substantial pain or suffering**, most notably where the pregnancy is the result of rape or incest or when the foetus suffers from fatal impairment.”

We submit that the wording “substantial pain or suffering” highlighted above is inconsistent with the Committee’s own recommendations in paragraph 23 referred to above that “any substantive ground for deprivation of life must be prescribed by law, and defined with **sufficient precision to avoid overly broad or arbitrary interpretation or application.”**

We submit that the Committee must abide by its own assertion in paragraph 23 that “deprivation of life by the authorities of the State is a matter of the utmost gravity.”

The Committee must therefore seek to ensure that abortion legislation is precisely defined such that abuse of its measures does not lead to arbitrary deprivation of life.

The Committee should also specify that those who provide abortion illegally should expect to be investigated and prosecuted.

1. The Committee claims that States parties should not introduce “humiliating or unreasonably burdensome requirements on women seeking abortion.”

We submit that measures regulating abortion should not be described as “humiliating” or “burdensome.”

The termination of a pregnancy is a weighty decision which demands time and consideration. Women deserve the right to be fully informed and educated about the consequences and possible repercussions of abortion. Studies have shown that abortion hurts women emotionally and psychologically, and may affect their ability to bear children in the future.

When a patient is facing surgery their doctor is required to inform them of all the possible consequences and risks of proceeding with the treatment. Likewise, women considering the termination of their pregnancy must be given all information about their condition, including the developmental stage of their foetus and the alternatives to abortion. This will enable them to make an informed choice.

Therefore, measures taken toward the end of fully informing women about abortion and its alternatives should not be described as humiliating or burdensome. The issue is not the ease of the deliberation process but whether or not the woman has been informed of all her options.

Moreover, this terminology has no definition and may be so widely interpreted as to result in the arbitrary deprivation of life. It therefore should not be included in a passage dealing with measures that regulate abortion.

Conclusion

We respectfully request that the Committee accepts the views represented here as having such value as to be incorporated in the General Comment. The Committee will be aware that these views represent those of pro-life advocates and men and women around the world who have the the lives of the unborn, and their mothers, at heart. More importantly, we submit these views reflect the intention of the ICCPR.

We encourage you to understand that we make these remarks with women’s interests at heart. Indeed, we count women who have desperately regretted abortions that were conducted in haste, and without informed consent, among our number.

We note that, in dealing with assisted suicide in paragraph 10 of the draft General Comment, the Committee acknowledges that “individuals planning or attempting to commit suicide may be doing so because they are undergoing a momentary crisis which may affect their ability to make irreversible decisions, such as to terminate their life.”

We urge you to consider that this same standard can, and should, be applied to women facing abortion because they “may be undergoing a momentary crisis which may affect their ability to make irreversible decisions, such as to terminate their [baby’s] life.”

Accordingly, provisions for abortion should ensure the prevention of arbitrary loss of life, for the woman’s sake as well as for the sake of the unborn.