6 October 2017

The United Nations Human Rights Committee

UNOG-OHCHR

CH-1211 Geneva 10

Switzerland

**Re: Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights – the Right to life**

Dear Honourable Committee Members:

It is with great privilege that we write to you to express our views in response to the Draft General Comment on Article 6 of the International Covenant on Civil and Political Rights - The Right to life. We appreciate that the topic of the right to life can bring about passionate debate and strong views that can make the in-depth engagement of this topic a very arduous endeavour. The difficulty of discussing the topic and the deeply held views on the matter is precisely why the General Comment is necessary. As is abundantly clear with the right to life, further clarity as to the law is vital and needed. We wish to also applaud the Committee for its public consultations and we wish to thank the Committee for the opportunity to present our views.

Before we delve into our response in depth, we wish to make it clear that the purpose of our submission is to further the discussion on this vital topic and to support the mandate of the Committee. Our critique, when raised, should always be read in the context of being constructive criticism with the greatest respect to the committee and written in a manner that aims to see a greater sense of clarity as to the law with regard to the right to life and with the aim of promoting the practical realization of the right to life for the individual. We sincerely hope that our views, based on of our experiences as a human rights NGO, will provide valuable insight for the Committee. As always, we humbly leave ourselves at the disposal of the Committee should there be any need for further clarity or if we can be of any assistance in support of its mandate.

**The Right to Life and the Right of Access to Abortion Services**

We are extremely concerned about the lack of clarity in paragraph 9 of the Draft General Comment. The right of access to competent abortion services should not be subject to such ambiguity as seen in paragraph 9. We are disappointed about even the insinuation that it may be permissible to criminalize abortion. Even leaving the door open to potential criminalisation leaves this open for abuse and by extension open for the infringement of the right of access to abortion services.

We appreciate the fact that the issue of abortion and the right to life raises a lot of controversy and some people may have some deeply held views on the matter based on their respective religious views. While we have nothing but profound respect for the freedom of religion and have had some amazing experiences with faith based organizations that support human rights and humanitarian services, we feel that arguments based on religious texts or interpretations have no place when these religious sources are used as a basis to infringe upon or restrict the rights of another person. The freedom of religion is a shield and not a sword. We also applaud those faith-based organisations that have come out against the criminalisation of abortion services and the right of access to abortion services.

Contra Nocendi International was a proud signatory of the joint CSO statement to the Committee, along with over 285 other organizations on the issue of the right to abortion services. As the statement pointed out, “[p]rohibiting abortion pushes it underground and gives rise to unsafe abortions, violating the rights to life, health and bodily autonomy"[[1]](#footnote-1). This statement is absolutely correct and we urge the Committee to heed the words of over 285 CSOs and stand against the criminalization of abortion and any other efforts that infringes on the right of access to abortion services. If this right to life is the goal, the aim must be to take all necessary steps to minimize needless and unnecessary death. This is why criminalizing abortion should be seen as an act contrary to Article 6.

**Right to life and the right to accurate information regarding abortion**

Within the context of Article 6 and the right to abortion services also comes a need for educational programs and materials aimed at providing information to all interested persons that is based in scientific fact. This includes women who want to gather more information about abortions. As we have seen in countries like the United States, organizations are popping up that appear to present themselves as uncannily similar to an abortion clinic and proceed to provide false and/or misleading information to women. These pseudo abortion clinics cause great harm to the ability of women to make an informed decision regarding abortions and disseminate inaccurate information as if it were fact. This is truly unacceptable and what makes matters worse is that ii some jurisdictions this behaviour is done supported by government funding. While it is important that any discourse on an issue as contentious as abortion embraces as many views as possible, deceptive practices such this have no place. States Parties should be seen as having an obligation to provide scientifically based information on abortion services as well as scientifically based information on the health consequences of abortion. If a woman is to make a decision on something that could impact her life to the extent that obtaining an abortion can, the practical exercise of her right to abortion services in light of Article 6 cannot be possible without factually based information. At the same token, States Parties should take steps to prevent public funds being available for such misleading endeavours and should take steps to restrict such behaviour in line with the freedom of expression.

**Article 6 and the right to reparations for victims**

We are deeply concerned about the standard laid down in paragraph 15 on reparations. We submit that the Committee should embrace the van Boven principles with regard to the right to redress and reparation and the scope of the definition of victim for the purposes of redress and reparations as we have seen from chambers of the International Criminal Court and other sources of international law. It is the opinion of Contra Nocendi International that any articulation of the right to redress and reparations must include the van Boven principles as a minimum starting point. Having a definition that recognizes the impact victimization can have on indirect victims is important. We are also concerned about the fact that the most recent source cited by the Committee is from a decade ago. Given the movement as to the law in the area of reparations, the Committee is encouraged to go back and review the recent developments of the law with regard to the right to redress and reparations to make certain the General Comment is in line with international law.

**Article 6 and the treatment of persons deprived of liberty**

Contra Nocendi agrees with the Committee on its recognition of the positive obligations on the part of States Parties for persons deprived of their liberty. We also agree that this includes the monitoring of the health of persons deprived of their liberty. However, we do believe that the obligation goes beyond monitoring and the General Comment should expressly oblige States Parties to provide medical care, including preventative care, to persons deprived of their liberty. While this issue may be seen by some as a logical extension of monitoring health; including the provision of health services expressly in the General Comment is important to clarity as to the scope of a right to life in this situation. It is our experience, both in practice and in research, that the issue of the lack of proper medical services for persons in detention is a very serious and deeply harmful problem. We hope that the Committee can lend its weight to combat such problems.

**Warmest Regards,**

**Contra Nocendi International**

1. CSO Joint Statement on HRC36: General Debate Item 8, 25 September 2017, https://www.awid.org/sites/default/files/atoms/files/joint\_cso\_statement\_-\_for\_delivery.pdf [↑](#footnote-ref-1)