

**General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life.**

**Submission to the Committee on Civil and Political Rights**

**By**

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1. I welcome the inclusion of persons with albinism in the revised draft of General Comment No. 36 of the Human Rights Committee at paragraphs 27 and 64 as well as the opportunity to make a contribution to your interpretative work as it refers to the enjoyment of the right to life by persons with albinism in the context of the International Covenant on Civil and Political Rights.

1. In this submission, I briefly describe the specific intersection of grounds of discrimination and the extreme forms of discrimination against persons with albinism, in particular ritual killings. Next, I submit a few reflections on the draft General Comment. Finally, I conclude with a brief reflections and drafting suggestions.
2. **Introduction**
3. First, let me acknowledge the work undertaken by the Committee in recent years. Since 2009, the Committee has addressed the situation of persons with albinism under the provisions of the Covenant, in particular articles 2 (equality and non-discrimination), 6 (right to life), 7 (freedom from torture) and 26 (Equality before the law).
4. The Committee has recognized the stigmatization, negative stereotyping and discrimination against persons with albinism in various African countries: Ghana and Ivory Coast in 2016, Burundi and Malawi in 2014, Kenya in 2012 and the United Republic of Tanzania in 2009[[1]](#footnote-1).
5. In the case of Burundi, the Committee specifically expressed concern regarding the threats to and attacks on the physical integrity of persons with albinism and recommended that the State party “continue its efforts to protect persons with albinism against all forms of discrimination, including attacks on their physical integrity”[[2]](#footnote-2).
6. However, it was during the review of Kenya and Tanzania that the Committee expressed concern for the situation of persons with albinism under article 6. In the case of Kenya, the Committee stressed its concern regarding “continuing reports of trafficking in persons for labour, sexual exploitation and for body parts, particularly of people with albinism” while, in the case of Tanzania, the Committee adopted a recommendation tackling the issue of attacks and killings of persons with albinism: “The State party should, as a matter of urgency, strengthen its efforts to put a halt to incidents of mutilation and killings of persons with albinism, and to ensure the timely and efficient conduct of investigations and prosecution of the perpetrators. It should also strengthen its public awareness-raising campaign with a view to preventing future attacks”[[3]](#footnote-3).
7. Relevant to the enjoyment of the right to life, the Committee also recommended to Ghana in 2016 that it “ensure that persons with albinism are protected against discrimination and find lasting solutions that will give them access, without discrimination, to health care, social services, employment and education”[[4]](#footnote-4). Similar recommendation has been made to Burundi and Malawi.
8. These recommendations on issues pertaining to economic, social and cultural rights are of high relevance for persons with albinism. The stigmatization and discrimination represent barriers in accessing health care, social services, employment and education that cause reduced life expectancy.
9. More specifically and in all regions, the right to life of persons with albinism is threatened by the lack of awareness and adequate measures regarding their vulnerability to skin cancer which causes a shortened life-expectancy whereby only 2% live beyond the age of 40 in several countries – most succumbing to this preventable disease. Reduced life-expectancy may also be due to other factors such as the lack of reasonable accommodation regarding vision impairment which impairs employability and forces outdoor work which in turn catalyses skin cancer and early death. Other factors leading to reduced life-expectancy include induced isolation due to stigmatization and discrimination and the related vulnerability to attack, barriers in accessing health services and reduced opportunities for adequate living conditions.
10. **Life-threatening forms of discrimination: ritual attacks, mutilations and trafficking of body parts**
11. Persons with albinism experience stigmatization and discrimination in every region of the world on the intersecting prohibited grounds of disability (visual impairment) and colour. In this regard, the Committee on the Elimination of Racial Discrimination has recognized that persons with albinism are discriminated against on the basis of their colour, albeit often being of the same race, descent, national and ethnic origin as those who persecute them. In this regard, discrimination against persons with albinism is not entirely captured by the grounds of disability or colour, but by the specific intersection of both[[5]](#footnote-5).
12. The manifestation and forms of discrimination are extremely violent in Sub-Saharan Africa. Cruel attacks, mutilations and trafficking of body parts against persons with albinism, in particular children, girls and women, have been reported across the region. Civil society reports, complemented by information received by the Independent Expert from government officials during country visits, indicate over 600 attacks across 28 African countries since 2006[[6]](#footnote-6).These are reported cases alone. In addition, the reporting cases is hindered by weak monitoring capacity in civil society, increased barriers in press freedoms, weak law enforcement institutions and impunity[[7]](#footnote-7).
13. In the past two years, there have been reports of increasing violence including infanticide, mutilation, killing, kidnapping, and trafficking in body parts of persons with albinism for witchcraft purposes. All of those physical attacks appear to be related to myths and misbeliefs linked to witchcraft practices[[8]](#footnote-8). “Witchcraft practice, in particular the use of body parts of persons with albinism for muti or juju, is undeniably one of the main root causes of attacks against persons with albinism”[[9]](#footnote-9). Attacks against persons of albinism are referred to as “ritual killings” owing to their witchcraft dimension[[10]](#footnote-10).

 “Persons with albinism are victims of ritual attacks. It is believed that their body parts can bring, inter alia, wealth and good luck when used in potions made by practitioners of witchcraft, referred to as witchdoctors. Persons with albinism who are victims of such attacks are often dismembered and their body parts stolen, including limbs, genitals and hair. In addition, body parts are often taken from live victims because of the related belief that the intensity of their screams while being dismembered enhances the potency of the muti or juju,”[[11]](#footnote-11).

1. In Malawi, official data indicates that “65 cases of crimes against persons with albinism had been recorded by police since late 2014. As of September 2016, that number had rising to 102”[[12]](#footnote-12). In Mozambique, official data report “there was a sudden surge of physical attacks against persons with albinism, including kidnapping and trafficking in persons, at the end of 2014, which intensified until mid-2015. (…) At the peak of the attacks in 2015, the Independent Expert received reports from civil society of over a hundred attacks during this period.”[[13]](#footnote-13)
2. The lack of reporting of cases is also due to the direct involvement of family members. In the case of Malawi, “The frequent involvement of close relatives in cases of attacks against persons with albinism is highly disturbing. Relatives are often either instrumental in the commission of the crime by providing information on the whereabouts of the victim or by taking part in the commission of the crime. (…) The involvement of relatives increases the danger posed to persons with albinism as they are unable to trust even those who are supposed to care for and protect them.”[[14]](#footnote-14)
3. **Comments on the draft General Comment No. 36 in the light of the specific threats against persons with albinism**
4. My mandate covers the enjoyment of all human rights by persons with albinism recognizing that for those living in Sub Saharan Africa the priority is the protection of their right to life against attacks as the prerequisite for the enjoyment of a life of dignity, as stated in the draft General Comment[[15]](#footnote-15).
5. In the case of attacks against persons with albinism, there are “three types of perpetrators: persons who hunt, attack, kill and dismember persons with albinism and transport their body parts; persons, often presenting themselves as witchdoctors, who prepare the muti or juju using the body parts; and persons who obtain or purchase the muti or juju. (…) However, one of the major challenges in prosecuting attacks has been the inability to identify and prosecute the last two categories of perpetrators” [[16]](#footnote-16).
6. Thus, attacks are committed by individuals while there is in sufficient evidence to determine whether their conducts are attributable to the State, notably due to the secrecy surroundings these crimes. Therefore, the States Parties’ duty to protect the lives of persons with albinism, notably through legislation and positive measures, is as much as important as the duty to respect.
7. With regard to the obligation to undertake reasonable positive measures for the protection of persons with albinism, it is important that these measures do not lead to the infringements of other human rights. For instance, in the case of survivors of attacks, shelters for victims are fundamental. In some cases, children with albinism surviving an attack are placed in residential schools as a protective measure. However, “shelters, such as police stations, schools or centres built for other needs, (…) were neither designed nor prepared for an influx of persons with albinism, nor are they equipped to address the special needs of persons with albinism.”[[17]](#footnote-17) Further, the grouping of persons with albinism in temporary shelters contributes to their long-term stigmatization[[18]](#footnote-18).
8. The report of numerous cases of ritual attacks in Sub Saharan Africa clearly establishes a pre-existing pattern of violence justifying the States parties’ duty to take special measures as elaborated in paragraph 27. While immediate, urgent and effective measures of protection must be taken, the duty to protect the right to life should also require States parties to take medium and long-term measures to address the root causes of acts of deprivation of life.
9. In this regard, a Regional Action Plan to prevent and end attacks in Africa by 2021 has been developed under the auspices of my mandate and subsequently endorsed by the African Commission on the African Commission on Human and People’s Rights in May 2017. It consists of 15 concrete measures of prevention, protection, accountability, equality and non-discrimination, with immediate, medium and long term scope, as a framework for State action, in particular by adopting national plans and policies in conformity with States parties’ obligations to respect and protect life under article 6 of the Covenant.
10. In this line, the recognition of the duty to “take appropriate measures to address the general conditions in societies that give rise to direct threats to life or prevent individuals from the enjoying their right to life with dignity” (paragraph 30) resonates with the issue of root causes while explicitly referring to medium and long term measures. Some general conditions conducive to ritual killings are widespread misbeliefs and harmful practices related to witchcraft. Among the root causes of attacks, “witchcraft is one of the most challenging, owing to its complexity and the inherent barriers to conceptualization of the phenomena. Yet addressing witchcraft remains a priority, as it is at the crux of attacks against persons with albinism.”[[19]](#footnote-19) Therefore, witchcraft related misbeliefs and harmful practices, including ritual killings, constitute a general condition that must be addressed by States parties, to comply with the duty to protect life of persons with albinism.
11. In the case of persons with albinism living in rural areas and tropical climates, the exposure to the sun is almost permanent. In this context and due to the lack of melanin in their skin, persons with albinism are highly vulnerable to skin cancer. Thus, skin cancer is a life-threatening condition for most persons with albinism. “Some reports indicate that most persons with albinism die from skin cancer between the ages of 30 and 40 years”.[[20]](#footnote-20) The prospects of limited access to preventive measures and treatments inevitably lead to premature although preventable death despite the fact that skin vulnerability of persons with albinism has been known worldwide for at least half century and there is ample evidence from nearly every region of the world that measures of prevention can be successfully implemented with limited resources.[[21]](#footnote-21) Here, the lack of access to health services exacerbated by the too often precarious socio economic situation pf persons with albinism,” constitutes a general condition in society to be addressed by States parties according to the nature, scope and limits of their obligations under article 6 of the Covenant.
12. **Concluding remarks and suggestions:**
13. The enjoyment of the right to life must be respected and protected without discrimination of any kind. As stated above, discrimination against persons with albinism is specific, and distinctive to other status taken separately, as it is grounded on the intersection of colour, this is to say racial discrimination, and disability. The explicit inclusion of albinism as a specific prohibited ground in the enjoyment of the right to life in paragraph 64 should be understood in the light of its intersecting nature and its extremely violent and often deadly manifestation.
14. Considering the cruel nature of ritual attacks and the urgency of the situation, the mention of persons with albinism among the persons in situation of vulnerability whose lives are placed at particular risk because of pre-existing patterns of violence represents a significant milestone in increasing visibility and recognition of the situation of persons with albinism, Therefore, the inclusion of “persons with albinism” in paragraph 27 and “albinism” in paragraph 64 should remain in the final draft.
15. In paragraph 24, I would welcome the inclusion of “ritual attacks and ritual killings” as well as “killings due to accusation of witchcraft”[[22]](#footnote-22) in the list of instances of forms of arbitrary deprivations of life by individuals that require effective criminal prohibitions in legal framework.
16. In paragraph 30, I would also welcome the inclusion in the list of general conditions in society, witchcraft-related misbeliefs and harmful practices, not only because it concerns persons with albinism, but also “alleged witches” (paragraph 27).
17. Finally, in paragraph 64, I would suggest adding a sentence referring to “ritual killings” at the end of the paragraph as follows: “Similarly, ritual attacks and ritual killings also constitute an extreme form of discrimination against persons with albinism, considering the extreme violence and cruelty suffered by victims leading to death”.

**APPENDIX**

**For further information.**

What is Albinism?

Albinism is relatively rare genetically inherited condition that is non-contagious, and affects people worldwide regardless of ethnicity or gender. It results from a significant deficit in the production of melanin and is characterized by the partial or complete absence of pigment in any of the skin, hair and eyes. The absence of normal quantities of melanin means that most persons with albinism are vulnerable to bright light, skin cancer and have various degrees of vision impairment.

In order for a person to be affected by albinism, both parents must carry the gene and, in that case, there is a 25 per cent chance that a child will be born with albinism at each pregnancy. The proportion of persons affected by albinism in the world differs from region to region. For example, in North America and Europe, it is estimated that 1 in 17,000 to 20,000 people have the condition. In sub-Saharan Africa, 1 in 5,000 to 15,000 could be affected with various tribes and sub-groups showing rates as high as 1 in 1,000. While all reports of physical attacks to date have come from the Africa region, reports of gross stigmatisation and exclusion have been reported from nearly all other regions of the world.

1. CCPR/C/GHA/CO/1 (CCPR, 2016); CCPR/C/CIV/CO/1 (CCPR, 2015); CCPR/C/BDI/CO/2 (CCPR, 2014); CCPR/C/MWI/CO/1/Add.1 (CCPR, 2014); CCPR/C/KEN/CO/3 (CCPR, 2012); CCPR/C/TZA/CO/4 (CCPR, 2009). [↑](#footnote-ref-1)
2. CCPR/C/BDI/CO/2 (CCPR, 2014), paragraph 9. [↑](#footnote-ref-2)
3. CCPR/C/KEN/CO/3 (CCPR, 2012), paragraph 17; CCPR/C/TZA/CO/4 (CCPR, 2009), paragraph 15. [↑](#footnote-ref-3)
4. CCPR/C/GHA/CO/1 (CCPR, 2016), paragraph 14. [↑](#footnote-ref-4)
5. CERD/C/ZAF/CO/4-8 [↑](#footnote-ref-5)
6. Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 1 January 2017. A/HRC/34/59. Paragraph 30. [↑](#footnote-ref-6)
7. Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 18 January 2016. A/HRC/31/63. [↑](#footnote-ref-7)
8. Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 1 January 2017. A/HRC/34/59. [↑](#footnote-ref-8)
9. Idem, paragraph 91. [↑](#footnote-ref-9)
10. Report of the Office of the United Nations High Commissioner for Human Rights. Persons with albinism. 12 September 2013. Paragraphs 19-32. [↑](#footnote-ref-10)
11. Idem, paragraph 28. [↑](#footnote-ref-11)
12. Report of the Independent Expert on the enjoyment of human rights by persons with albinism on her mission to Malawi, 14 Dec. 2016, paragraph 43. [↑](#footnote-ref-12)
13. Report of the Independent Expert on the enjoyment of human rights by persons with albinism on her mission to Mozambique, 14 Dec. 2016, paragraph 30. [↑](#footnote-ref-13)
14. Idem, paragraph 46. [↑](#footnote-ref-14)
15. Human Rights Committee General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life. Revised draft prepared by the Rapporteur. paragraph 2. [↑](#footnote-ref-15)
16. Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 1 January 2017. A/HRC/34/59. Paragraph 31 and 32. [↑](#footnote-ref-16)
17. General Assembly, Report of the Independent Expert on the enjoyment of human rights by persons

with albinism. A/HRC/31/63, paragraph 27. [↑](#footnote-ref-17)
18. Contribution of the OHCHR on the situation of persons with albinism in Burundi to the study of the

Human Rights Council Advisory Committee. Accessible at:

http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/AttacksAgainstPersonsWithAlbinism.

aspx [↑](#footnote-ref-18)
19. Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 1 January 2017. A/HRC/34/59. Paragraph 14. [↑](#footnote-ref-19)
20. Report of the Independent Expert on the enjoyment of human rights by persons with albinism, 18 January 2016. A/HRC/31/63. Paragraph 37. [↑](#footnote-ref-20)
21. Idem. [↑](#footnote-ref-21)
22. Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices. Paragraph 9. [↑](#footnote-ref-22)