**Written Contribution to the Human Rights Committee**

**Revised draft of General Comment 36 on Article 6 (Right to Life)**

**October 6, 2017**

The undersigned civil society organizations, are grateful for the opportunity to make a written contribution to the Human Rights Committee on the revised draft of General Comment on Article 6 of the International Covenant on Civil and Political Rights (the Covenant). We believe this general comment offers the Committee an opportunity to fully examine the right to life, including through the consideration of the principles of gender equality and nondiscrimination, and to further elaborate on states’ obligations to ensure the realization of every human being right to life.

We commend the work done by the Human Rights Committee towards the respect, protection and fulfillment of human rights and fundamental freedoms without discrimination of any kind worldwide. In general, we support this draft General Comment and the revisions made so far, including the deletion of references to rights before birth. There are however important areas where the Committee could further improve the draft and support States to respect, protect and fulfill the right to life, also in line with the Committee Concluding Observations and other Human Rights Treaty Bodies General Comments:

1. **Interdependence of the right to life with other human rights**

We welcome the recognition outlined in the current draft of the interdependence of the right to life with other human rights, including the right to freedom from torture, cruel, inhuman, or degrading treatment or punishment. Nevertheless, there are other human rights to which the right to life is inter-related to which are important to recognize in this draft general comment, including the rights to non-discrimination and the right to privacy. Additionally, the Committee on Economic Social and Cultural Rights (CESCR), in its General Comment 22, recognized that the right to sexual and reproductive health is intimately linked to civil and political rights underpinning the physical and mental integrity of individuals and their autonomy, such as the right to life; liberty and security of person; freedom from torture and other cruel, inhuman or degrading treatment; privacy and respect for family life; and non-discrimination and equality.[[1]](#endnote-1) More recently, the Committee on the Elimination of Discrimination Against Women (CEDAW), in its General Recommendation 35, also recognized the interdependence of the right to life and the right to a life free from gender-based violence.[[2]](#endnote-2)

1. **Right to Life and Women’s Rights**
2. **Access to Abortion and other Sexual and Reproductive Health Services**

The Human Rights Committee has consistently recognized the link between restrictive abortion laws, unsafe abortions and high rates of maternal mortality,[[3]](#endnote-3) as well as the threat that barriers to access to abortion present to women’s right to life. A recent study by the World Health Organization (WHO) and the Guttmacher Institute estimates that each year around 25 million unsafe abortions take place worldwide; that between 4.7% – 13.2% of maternal deaths can be attributed to unsafe abortions; and that in countries where abortion is completely banned or permitted only to save the woman’s life or preserve her physical health, only 1 in 4 abortions were safe.[[4]](#endnote-4) In contrast, in countries where legislation decriminalizing abortion was adopted, such as Uruguay, a dramatic reduction in maternal mortality has occurred. According to Pan-America Health Organization (PAHO)–WHO ranks, Uruguay now has the second lowest maternal mortality ratio in the region (14 per 100 000 live births), after Canada (11 per 100 000).[[5]](#endnote-5)

The Committee has long recognized that criminalization, third party authorization requirements, refusal to perform legal operations on the basis of conscientious objection[[6]](#endnote-6) and other barriers to access force women to seek dangerous and unsafe abortions, which constitutes a violation of the right to life under Article 6, the right to be free from torture or cruel, inhuman or degrading treatment[[7]](#endnote-7) and their right to non-discrimination.[[8]](#endnote-8) This is also corroborated by other Treaty Bodies and Special Procedures.[[9]](#endnote-9) The CEDAW goes even further and recognizes that criminalization of abortion, denial or delay of safe abortion and post abortion care are “forms of gender based violence that … may amount to torture or cruel, inhuman or degrading treatment.”[[10]](#endnote-10)

Throughout the years in its Concluding Observations, this Committee has repeatedly emphasized the importance of sexual and reproductive health to women’s right to life, urging States to ensure access to reproductive health services for all women, including adolescents.[[11]](#endnote-11) Other Treaty Bodies Committees also reiterate this call, as the CESCR’s General Comment 22 demonstrate: “health facilities, goods, information and services related to sexual and reproductive health care should be accessible to all individuals and groups without discrimination and free from barriers; should be sensitive to gender, age, disability, sexual diversity and life-cycle requirements; must be affordable to all; all individuals and groups, including adolescents and youth, have the right to evidence-based information on all aspects of sexual and reproductive health, including maternal health, contraceptives, family planning, sexually transmitted infections, HIV prevention, safe abortion and post-abortion care while respecting their privacy and confidentiality.”; as well as General Comment 20 of the Rights of the Child Committee.[[12]](#endnote-12) Global consensus on this matter is also reflected in the 2030 Agenda for Sustainable Development, adopted by Heads of State and Government in 2015, which includes goals and targets to be achieved by all countries in the area of sexual and reproductive health services and reproductive rights.[[13]](#endnote-13)

In order to provide clear guidance to State Parties on the realization, protection and fulfillment of women’s right to life, we suggest the inclusion of a strong call to repeal or reform discriminatory laws, policies and practices to guarantee that all individuals, without discrimination, and respecting the principles of confidentiality and privacy, have access to affordable and quality sexual and reproductive health services and comprehensive sexuality education;[[14]](#endnote-14) liberalize restrictive abortion laws and guarantee women and girls access to safe abortion services and quality post-abortion care; decriminalize abortion; ensure that conscientious objection[[15]](#endnote-15) is not used as a barrier preventing women from accessing safe abortion;[[16]](#endnote-16) and respect the right of women to make autonomous decisions about their sexual and reproductive health.[[17]](#endnote-17)

1. **Gender Based Violence against women**

As outlined in the draft general comment, the duty to protect the right to life by law also includes an obligation for State Parties to take all appropriate legal measures to protect life from all foreseeable threats, including from threats emanating from private persons and entities.

As recognized in CEDAW’s General Recommendation 19, violence against women puts their health and lives at risk.[[18]](#endnote-18) The Declaration on the Elimination of Violence Against Women (the Declaration) affirms that violence against women constitutes any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life; and recognizes that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms, including the right to life, to equality, liberty and security of person, equal protection under the law, free from all forms of discrimination, the highest standard of physical and mental health, just and favourable conditions of work, and not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.[[19]](#endnote-19)

We welcome the request made in this draft general comment for State Parties to take positive measures to protect women from certain forms of violence under the chapter “The Duty to Protect Life”. However, the forms of violence against women identified in the current draft do not encompass all forms of violence that might threaten or pose a risk to a woman’s right to life and which have been identified in the Declaration mentioned above, e.g. physical, sexual and psychological violence occurring in the family, community or perpetrated or condoned by the state, including marital rape, female genital mutilation and other traditional practices harmful to women, sexual abuse, rape, trafficking in women and forced prostitution.[[20]](#endnote-20)

Considering the recent agreement by CEDAW in its General Recommendation 35,[[21]](#endnote-21) a broader term referring to gender-based violence against women could be used throughout the text, and thus ensure that all forms of violence against women are included as they may constitute a threat or a risk to a woman’s right to life. It should also contain a call on State Parties to develop and/or implement legislative and other measures to prevent and combat discrimination and gender based violence against women, including integrating gender equality content and evidence-based and scientifically accurate comprehensive sexuality education into school curricula at all levels; conducting awareness-raising campaigns; ensuring that victims/survivors have access to free or low-cost high-quality legal aid, compassionate medical, psychosocial and counselling services, including timely and comprehensive mental, sexual and reproductive health services, including emergency contraception and HIV Post Exposure Prophylaxis (PEP),[[22]](#endnote-22) and addressing impunity in cases of violence and discrimination threatening the life of women.

1. **Right to Life and Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons Rights**

We welcome the reference to LGBTI persons in the list of vulnerable groups to whom the State Party has the duty to protect and the call to adopt special measures to guarantee their right to life. We also support the recognition that the death penalty should never be applied, under any circumstances, based on an individual’s sexual orientation. However, the General Comment falls short in addressing discrimination and violence against LGBTI persons, in particular discriminatory laws, prosecution and punishments, including the death penalty, “conversion therapy,” negative stereotypes, prejudices and hate speech against them that may constitute a threat or a risk for their lives, recognized in various Committee Concluding Observations.[[23]](#endnote-23) As the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity summarizes in his report to the UN General Assembly, “The criminalization of consensual same-sex relations between adults of the same sex violates States’ obligations under international law, including the obligation to protect privacy and to guarantee non-discrimination. Such violations occur even when the law is not enforced. As such, arrests and detentions on the basis of sexual orientation, gender identity or expression are to be considered arbitrary. The imposition of the death penalty for offences related to homosexuality violates the right to life as it does not pass the qualification criteria of ‘most serious crimes’, as provided for in article 6 of the International Covenant on Civil and Political Rights. Criminalization of same-sex relations also fuels stigma, legitimizes prejudice and exposes people to family and institutional violence and further human rights abuses such as hate crimes, death threats and torture”.[[24]](#endnote-24)

For these reasons, the General Comment should include a strong call for States Parties to decriminalize same-sex relations between adults and take all necessary measures in law and in practice to ensure protection, respect and fulfillment of the right to life of LGBTI persons.

***List of Civil Society Organizations Signatories to***

***Written Contribution to the Human Rights Committee***

***Revised draft of General Comment 36 on Article 6 (Right to Life)***

***International Planned Parenthood Federation (IPPF),***

***Asian-Pacific Resource and Research Center for Women (ARROW),***

***CHOICE for Youth and Sexuality,***

***Danish Family Planning Association (DFPA),***

***Development Alternative with Women for a New Era (DAWN)***

***International Humanist and Ethical Union (IHEU),***

***Rutgers,***

***Swedish Association for Sexuality Education (RFSU)***

1. See Committee on Economic, Social and Cultural Rights general comment No.22 (2016), para 10. [↑](#endnote-ref-1)
2. See Committee on the Elimination of Discrimination Against Women general comment No.35 (2017), para.15. [↑](#endnote-ref-2)
3. See, e.g., Bolivia, 22, U.N. Doc. CCPR/C/79/Add.74 (1997); Colombia, 24, U.N. Doc. CCPR/C/79/Add.76 (1997); Costa Rica, 11, U.N. Doc. CCPR/C/79/Add.107 (1999); Ecuatorial Guinea, 9, U.N. Doc. CCPR/CO/79/GNQ (2004); Gambia, 17, U.N. Doc. CCPR/CO/75/GMB (2004); Guatemala, 19, U.N. Doc. CCPR/CO/72/GTM (2001); Kenya, 14, U.N. Doc. CCPR/CO/83/KEN (2005); Mali, 14, U.N. Doc. CCPR/CO/77/MLI (2003); Mongolia, 8(b), U.N. Doc. CCPR/C/79/Add.120 (2000); Paraguay, 208, 219 U.N. Doc. CCPR/C/79/Add.48; A/50/40 (1995); Paraguay, 10, U.N. Doc. CCPR/C/PRY/CO/2 (2006); Peru, 15, U.N. Doc. CCPR/C/79/Add.72 (1996); Peru, 20, U.N. Doc. CCPR/CO/70/PER (2000); Poland, 11, U.N. Doc. CCPR/C/79/Add.110 (1999); Senegal, 12, U.N. Doc. CCPR/C/79/Add 82 (1997); Sudan, 10, U.N. Doc. CCPR/C/79/Add.85 (1997); United Republic of Tanzania, 15, U.N. Doc. CCPR/C/79/Add.97 (1998); Zambia, 9, U.N. Doc. CCPR/C/79/Add.62 (1996). [↑](#endnote-ref-3)
4. # [WHO and Guttmacher Institute Study on Global, regional, and sub-regional classification of abortions by safety, 2010–14: estimates from a Bayesian hierarchical model, The Lancet](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)31794-4/fulltext), 27 September 2017; and [WHO press release](http://www.who.int/mediacentre/news/releases/2017/unsafe-abortions-worldwide/en/).

   [↑](#endnote-ref-4)
5. [From risk and harm reduction to decriminalizing abortion: The Uruguayan model for women’s rights](http://onlinelibrary.wiley.com/doi/10.1016/j.ijgo.2016.06.003/full), Leonel Briozzo, in International Journal of Gynecology and Obstetrics, vol. 134 (2016), Issue S1, Pages S3-S6. [↑](#endnote-ref-5)
6. See, e.g., Poland 23, U.N. Doc. CAT/C/POL/CO/5-6. [↑](#endnote-ref-6)
7. See, e.g., Chile, 15, U.N. Doc. CCPR/C/79/Add.104 (1999); El Salvador, 14, U.N. Doc. CCPR/CO/78/SLV (2004); Guatemala, 19, U.N. Doc. CCPR/CO/72/GTM (2001); Kenya, 14, U.N. Doc. CCPR/CO/83/KEN (2005); Mauritius, 9, U.N. Doc. CCPR/CO/83/MUS (2005); Paraguay, 10, U.N. Doc. CCPR/C/PRY/CO/2 (2006); Peru, 15, U.N. Doc. CCPR/C/79/Add.72 (1996); Peru, 20, U.N. Doc. CCPR/CO/70/PER (2000); United Republic of Tanzania, 15, U.N. Doc. CCPR/C/79/Add.97 (1998); Trinidad and Tobago, 18, UN Doc. CCPR/CO/70/TTO (2000); Venezuela, 19, U.N. Doc. CCPR/CO/71/VEN (2001); Vietnam, 15, U.N. Doc. CCPR/CO/75/VNM (2002). [↑](#endnote-ref-7)
8. Committee on Human Rights, General Comment No.28: Article 3 (The equality of rights between men and women), 2000, para 10, 11, 20. [↑](#endnote-ref-8)
9. [See Committee on Economic, Social and Cultural Rights general comment No.22 (2016), para 10; Committee on the Elimination of Discrimination Against Women general comment No.24 (1999), Article 12, para.11; and Working Group on Discrimination against Women in Law and in Policy report on health and safety, A/HRC/32/44, para 14 (2016)](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/072/19/PDF/G1607219.pdf?OpenElement) [↑](#endnote-ref-9)
10. Committee on the Elimination of Discrimination Against Women general comment No.35 (2017), para.18. [↑](#endnote-ref-10)
11. Human Rights Committee, Concluding Observations: Cameroon, para. 13, U.N. Doc. CCPR/C/CMR/CO/4 (2010) (urging the state to “step up its efforts to reduce maternal mortality, including by ensuring that women have access to reproductive health services.”). See also, Human Rights Committee on Chile, U.N. Doc. CCPR/C/CHL/CO/6 (2014), para. 15; Costa Rica, U.N. Doc. CCPR/C/CRI/CO/6 (2016), para. 17; Malawi, U.N. Doc. CCPR/C/MWI/CO/1/Add.1 (2014), para. 9; Sierra Leone, U.N. Doc. CCPR/C/SLE/CO/1 (2014), para. 14; Malta, U.N. Doc. CCPR/C/MLT/CO/2 (2014), para. 13; Sri Lanka, U.N. Doc. CCPR/C/LKA/CO/5 (2014), para. 10; Paraguay, U.N. Doc. [CCPR/C/PRY/CO/3 (2013](http://uhri.ohchr.org/document/index/b115063e-9adf-43d4-9bba-3e9586cdd7b7)), para. 13; Peru, U.N. Doc. [CCPR/C/PER/CO/5 (2013)](http://uhri.ohchr.org/document/index/856ab8b6-3025-419b-b4ba-9d43d3f89148), para. 14; Guatemala, U.N. Doc. [CCPR/C/GTM/CO/3 (2012](http://uhri.ohchr.org/document/index/421d8d8c-7e8c-4a7d-8160-bf0fc64dbb32)), para. 20; Jamaica, U.N. Doc. CCPR/C/JAM/CO/3 (2011), para. 14; Dominican Republic, U.N. Doc. CCPR/C/DOM/CO/5 (2012), para. 15. For emergency obstetrics care, see Human Rights Committee, Concluding Observations: Mali, para. 14, U.N. Doc. CCPR/CO/77/MLI (2003). For emergency contraceptives, see Peru, U.N. Doc. [CCPR/C/PER/CO/5 (2013)](http://uhri.ohchr.org/document/index/856ab8b6-3025-419b-b4ba-9d43d3f89148), para. 14. [↑](#endnote-ref-11)
12. Committee on the Rights of the Child general comment No.20 (2016), para.59 and 61 [↑](#endnote-ref-12)
13. [A/RES/70/1 Transforming our world: the 2030 Agenda for Sustainable Development](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E), Targets 3.7 and 5.6 [↑](#endnote-ref-13)
14. Guttmacher Definition of Comprehensive Sexuality Education [here](https://www.guttmacher.org/sites/default/files/report_downloads/demystifying-data-handouts_0.pdf) [↑](#endnote-ref-14)
15. In accordance to the [2012 World Health Organization technical and policy guidance on safe abortion](http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf?ua=1) [↑](#endnote-ref-15)
16. See, e.g., Poland ¶ 23, U.N. Doc. CAT/C/POL/CO/5-6. [↑](#endnote-ref-16)
17. Committee on Economic, Social and Cultural Rights general comment No.22 (2016), para 9 and 28, and Committee on the Rights of the Child general comment 20 (2016), para 3, 59 and 60. [↑](#endnote-ref-17)
18. Committee on the Elimination of Discrimination Against Women general comment No.19 (1992), para.12. [↑](#endnote-ref-18)
19. See Declaration on the Elimination of Violence Against Women (1993), Articles 1 and 3. [↑](#endnote-ref-19)
20. See Declaration on the Elimination of Violence Against Women (1993), Article 2. [↑](#endnote-ref-20)
21. Committee on the Elimination of Discrimination Against Women general comment No.35 (2017). [↑](#endnote-ref-21)
22. See Committee on the Elimination of Discrimination Against Women general comment No.35 (2017), para.35 a) and b); 40 c).

    <http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E> [↑](#endnote-ref-22)
23. Concluding Observations: Swaziland (2017), para 18 & 19; Pakistan (2017), para 11; Honduras (2017), paras 10, 11, 40 & 41; Bangladesh (2017), para 11e) & 12e); Slovakia (2016), para 14&15; Morocco (2016), para 11& 12; Denmark (2016), para 13&14; Mauritania (2013), para 8; Iran (2011), para 10; [↑](#endnote-ref-23)
24. [Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/72/172) (A/72/172), para 32. [↑](#endnote-ref-24)