Comment on draft General comment 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life, revised draft

World Youth Alliance (WYA) is a global coalition of young people dedicated to the promotion and defense of human dignity in policy and culture. We have over 135,000 individual members between the ages of 10 and 30 in over 160 countries around the world. WYA has had accreditation with the United Nations Economic and Social Council since 2004.

 Our commitment to human dignity drives our interest in the full realization of the right to life of Article 6 of the International Covenant on Civil and Political Rights (ICCPR). We agree with the Rapporteur that this right applies to all human beings, must be interpreted broadly, and that States must take special care to protect the rights of the most vulnerable. Unfortunately, paragraphs 9 and 10 in the draft General Comment on Article 6 support policies that violate these foundational elements of the right to life. We therefore offer the following analysis and recommendations.

*Paragraph 9: All human beings have value and deserve protection, including those who have not yet been born.*

Article 6 reflects the inherent dignity of all human beings, upon which all rights are predicated, as recognized in the Universal Declaration of Human Rights and subsequent international instruments. Human beings have dignity simply by virtue of their humanity. Any basis other than our common humanity is arbitrary, and may be turned against some members of the human family. History has proven the dangers of excluding some humans from equal value, and the burdens of such exclusions have often fallen hardest on the marginalized, weak, and vulnerable.

Article 6, which protects the right to life of all human beings, is non-derogable (ICCPR art. 2). Without life, no other rights can be enjoyed, and where other violations of rights in the Covenant may be remedied, however imperfectly, there is no way to restore a human life once lost. Therefore, as the Rapporteur notes, the right to life “should not be interpreted narrowly” (¶ 2). Similarly, it must be enjoyed without discrimination on any basis (¶ 64). Just as no human is more human than any other, so too no one has any greater right to life than any other person.

Yet the Draft Comment on Article 6 does in fact promote the exclusion of some members of the human family from the full protections of the treaty, and suggest that their right to life may be derogated from on the basis of age, birth, or disability, in paragraph 9, despite its later rejection of discrimination on those very grounds (¶ 64), and recognition that any distinction on such grounds is “arbitrary in nature” (*id.*). Under the Covenant, each of us enjoys an *equal* right to life; conflicts between two individuals in terms of rights and interests must never be resolved in a way that violates the right to life of either. Thus the promotion of abortion in paragraph 9 of the General Comment is fundamentally at odds with the purpose of article 6 as a whole and must be rejected.

Pregnant women have intrinsic dignity that must be respected. Societies should support pregnant woman, ensure that they have appropriate healthcare, and not stigmatize pregnancy. Pregnancy should not prevent a woman from receiving necessary medical care for any condition, related or unrelated to her pregnancy, even if it poses a risk to her child. In cases, such as ectopic pregnancy, that pose a grave risk to both mother and child, no right to life is violated by taking action to save the mother, even if done so with knowledge that the child will not survive. This differs from a “deliberate or otherwise foreseeable and preventable life-terminating harm or injury, caused by an act or omission” (¶ 6) because the intention is to preserve the life which can be saved, not end one that is inconvenient or unwanted. Thus such measures are consistent with respect for human dignity.

The same cannot be said for the recommendations in the General Comment, which promote discrimination on the basis of age, birth, and disability. The ICCPR states that *all human beings* deserve protection and have rights; the very young age of pre-birth humans should not put them outside this protection. The ICCPR requires equal treatment of all human beings in articles 2, 3, and 4, and suggests that children of all ages are included in this by singling them out for protection in article 24 and prohibiting the execution of pregnant women in article 18. To fail to protect the smallest members of our human family is to privilege the strong over the weak.

Women who have been the victims of sexual violence deserve compassion and support, including medical care, mental healthcare, and robust judicial remedies. Those who become pregnant as a result of rape or incest deserve particular support and sensitivity. Yet abortion will not undo these sufferings; it will only visit violence upon a child whose existence is not of her own making. Respect for dignity requires care for both the victim of rape and the child created through the rape, affirming that their inherent value remains despite experiencing painful violations.

Under normal circumstances, the fact that someone has an impairment that is highly likely to cause an early death is not used to justify ending that life. Yet the General Comment says that States must allow deliberate pre-birth termination of children who have “fatal impairments,” despite other paragraphs reaffirming that people with disabilities have the right to life on an equal basis as everyone else (¶ 64). Such a policy would give pre-birth children with disabilities less legal protection than those without disabilities, in direct contravention of the ICCPR’s guarantees of equal treatment, the General Comment’s own affirmation of the prohibition of discrimination on the basis of disability, and several other international human rights instruments. Parents facing difficult prenatal diagnoses should receive compassionate support and care to help them navigate these heartbreaking circumstances without suggesting that their child is worth less than other children due to a terminal condition.

Paragraph 9 claims that prohibitions on abortion may force women to undergo unsafe abortions. Yet legality alone is no guarantee of safety. A country that has a poor health care infrastructure will still have poor health care infrastructure even if abortion is legalized. And countries that prohibit abortion but have strong healthcare systems do not have high numbers of women dying from illegal abortions. Rather than focus on legalizing abortion, we should focus on building better healthcare infrastructures, and eliminating conditions where women feel like they have to have an abortion.

For the foregoing reasons, World Youth Alliance recommends that the paragraph be removed entirely or amended to reflect respect for all human beings, regardless of age, birth, or disability, from their earliest moments.

*Paragraph 10: Human beings have human dignity even when their circumstances are “undignified.”*

The inclusion of support for assisted suicide in paragraph 10 is deeply troubling. Most Member States ban assisted suicide; only six countries and a handful of states from the United States allow it (although the U.S. Supreme Court explicitly rejected any right to assisted suicide in *Washington v. Glucksberg*, 521 U.S. 702 (1997)). The endorsement of assistance in hastening death as inherent in the right to *life* is novel in international law. It is not reflected in the plain meaning of the text, nor can it be said to be part of customary international law. For those reasons alone, its inclusion is inappropriate.

Yet more troubling is the assumption undergirding the paragraph’s main thrust: that dignity is lessened by difficult circumstances. If pain, suffering, embarrassment and anguish cause a loss of dignity, then there is no reason to oppose assisted suicide. Yet if dignity is not inherent in all humans and unalterable by circumstances, then, as the General Comment notes, it is utterly arbitrary (¶ 64), and none of our rights that flow from that dignity can be protected. It also directly contradicts the support for suicide prevention efforts in that same paragraph.

Many disability rights activists and groups strongly oppose assisted suicide. They recognize that the conditions cited as being so terrible as to require assisted suicide are ones many people with disabilities live with: pain, loss or lack of autonomy, and extensive and expensive medical support. Using these conditions to justify permitting healthcare providers to end life implies strongly that certain lives simply are not worth living. This undermines the idea that everyone has an equal right to life because it suspends that right under certain conditions.

Laws adopted initially for those close to death have already given way to non-terminal cases and even medical approval of and assistance in suicide for children, infants with disabilities, and those suffering with depression. “Robust legal and institutional safeguards” (¶ 10) are sufficient in theory but difficult to monitor in practice. A presumption that certain circumstances make suicide logical and helping the suicidal person ethical will undercut those who wish to examine other options and may create social pressure to end one’s life to spare *others* from the burden of caring for an ill family member.

No human being will live a life without difficulty or suffering. But how we respond, at the personal, community, national and international levels can affirm the difficulty or affirm the value of the person experiencing it. When vulnerable people request help to end their lives, the correct response is to demonstrate that we do value them, so much that we will accompany them in their suffering. We need not preserve life at any cost, but we cannot claim to respect dignity or the right to life that flows from it when we are prepared to end lives. For these reasons, World Youth Alliance recommends that paragraph 10 of the General Comment be removed in whole or after the first sentence (in brackets).