



EQUALITY NOW

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Human Rights Committee
Human Rights Treaties Division
Office of the United Nations High Commissioner for Human Rights Secretariat
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Re: Human Rights Committee – Preparation of General Comment No. 36 on the Right to Life

26 June 2015

Distinguished Committee Members,

Equality Now is an international human rights organization working for the protection and promotion of the rights of women and girls around the world. We are grateful for the opportunity to make a written contribution to the Human Rights Committee (the Committee) ahead of its 14 July half-day of general discussion on the preparation of General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights (the Covenant).

We support and reaffirm the arguments made by the Center for Reproductive Rights (CRR) in its submission in advance of your preparation of General Comment No. 36.¹ Accordingly, we respectfully request the Committee to interpret Article 6, paragraph 1:

1. As protecting the right to life starting from birth²;
2. With clarification that any measures to protect a foetus must comply with the Covenant³ and may not infringe upon the fundamental rights of pregnant women and girls, particularly their right to life; and
3. Clarifying that States Parties must take all efforts to address the risks to life that women and girls face, including by reforming laws to ensure women and girls can access safe abortion services,⁴ particularly when there is a risk to the life of a woman or girl who is pregnant as a result of sexual violence.

In addition, we would ask the Committee to interpret Article 6, paragraph 1 with a request that States Parties develop clear and transparent protocols for determining when termination of pregnancy is permitted under law, particularly in order to protect the life or health of the pregnant woman or girl.

¹ Center for Reproductive Rights (CRR) Submission, *available at* www.ohchr.org/Documents/HRBodies/CCPR/Discussion/2015/CenterReproductiveRights.doc. Please note that while the Center for Reproductive Rights uses in their submission the term “prenatal life,” we do not endorse this term and it is not a concept recognized under international law.

² See e.g., *id.* at pp. 1-3 (Section I).

³ See e.g., *id.* at pp. 3-5 (Section II).

⁴ See e.g., *id.* at pp. 5, 6-7 (Section III.B).

We wish to highlight to the Committee an example of the risks to life too many girls face, particularly when they are pregnant as a result of sexual abuse and denied life-saving abortions. “Mainumby” is an 11-year-old girl⁵ in Paraguay who became pregnant as a result of alleged sexual abuse by her stepfather. When doctors first diagnosed her pregnancy at 21 weeks, they determined that her life may be at risk if she carried the pregnancy to term, and recommended an abortion. However, though Paraguayan law permits abortions when a woman or girl’s life is at risk, the Ministry of Health intervened and prevented her from obtaining one and imprisoned Mainumby’s mother. Paraguay is prioritizing protecting the foetus over Mainumby’s right to life⁶, who now faces a greater risk of death with each day that her pregnancy advances. As a still developing child, Mainumby, who is now around 30 weeks pregnant, has been extremely ill and is seriously undernourished. The current risk to her life could have been prevented had Paraguay protected her from sexual violence, after complaints to the police by her mother went unheeded, and provided her access to a safe, therapeutic abortion earlier in her pregnancy.

This case is only one such example, and is representative of many girls around the world. Sexual violence is disproportionately committed against girls, and an estimated 150 million girls under age 18 have experienced rape or other forms of sexual violence.⁷ Many girls, like Mainumby, who suffer from sexual abuse become pregnant as a result. Adolescent girls are two to five times more likely to die during pregnancy or childbirth than women in their twenties.⁸ Complications during pregnancy and childbirth are the second leading cause of death among girls aged 15-19 globally.⁹ Girls who are pregnant as a result of rape must have their right to life protected so that they may grow up to enjoy all their human rights. Systematic lack of access to therapeutic abortion and prioritization of an interest in protecting a foetus at the expense of the right to life of a pregnant girl can lead to grave violations of the Covenant.¹⁰ We hope General Comment No. 36 will echo the language of the Committee in its March 2013 recommendations to Paraguay, that a **“State party should revise its legislation on abortion by making further exceptions to the ban on abortion, including when the pregnancy is the result of rape or incest”** to address the Committee’s “concern at the criminalization of abortion, including in cases of rape or incest, which forces pregnant women to seek clandestine abortion services that put their lives and health at risk.”¹¹

The *travaux préparatoires* of the Covenant confirm that Article 6 does not apply before birth.¹² It is also well-established under international law that any interest in protecting a foetus cannot infringe

⁵ Available at www.equalitynow.org/take_action/paraguay_action.

⁶ See www.mre.gov.py/v2/Noticia/2876/comunicado-de-prensa.

⁷ World Health Organization, *A Recommendation for Poverty Alleviation: Adolescent Girls, the UN Millennium Development Goals and the Post-2015 Development Agenda* (2013), available at www.who.int/pmnch/media/press_materials/pr/2013/adolescent_girls_post2015.pdf.

⁸ Violence against Women and Reproductive Rights in the Americas, Center for Reproductive Rights (May 2015), available at [www.reproductiverights.org/sites/crr.civicactions.net/files/documents/\(EN\)%20Advocacy%20Doc%20for%20OAS%20Convening.pdf](http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/(EN)%20Advocacy%20Doc%20for%20OAS%20Convening.pdf).

⁹ World Health Organization Fact Sheet No. 364 on Adolescent Pregnancy (September 2014), available at www.who.int/mediacentre/factsheets/fs364/en/.

¹⁰ See United Nations Human Rights Committee, *General Comment No. 6: Article 6 (Right to Life)* (16th Sess.), para. 1, U.N. Doc. HRI/GEN/1/Rev. 9 (Vol. I) (1982) (“[The right to life] is a supreme right from which no derogation is permitted. . .”).

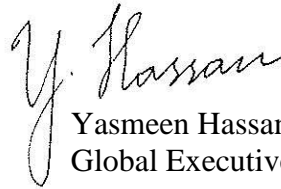
¹¹ Human Rights Committee, Concluding Observations on the Third Periodic Report of Paraguay, ¶13 CCPR/C/PRY/CO/3 (29 Apr. 2013) (emphasis in original).

¹² See e.g., U.N. GAOR Annex, 12th Sess., Agenda Item 33, at 113 U.N. Doc. A/C.3/L.654 (1957); U.N. GAOR, 12th Sess., Agenda Item 33, at 199(q), U.N. Doc. A/3764 (1957) (rejecting the text “the right to life is inherent in the human person from the moment of conception.”); see also CRR submission, supra note 1 at p. 2, available at www.ohchr.org/Documents/HRBodies/CCPR/Discussion/2015/CenterReproductiveRights.doc.

upon the fundamental rights of women and girls including their right to life.¹³ In this regard, we echo the submission made by the CRR and the many sources of authority they have outlined under international law.¹⁴ We respectfully urge you to interpret Article 6, paragraph 1 in line with these international standards and in accordance with the four considerations we highlighted on the first page of our submission.

Thank you very much for your attention.

Sincerely,

A handwritten signature in black ink that reads "Y. Hassan". The signature is written in a cursive style with a large, stylized initial "Y".

Yasmeen Hassan
Global Executive Director

¹³ See e.g., Case of *Artavia Murillo (In Vitro Fertilization) v. Costa Rica*, Inter-American Court of Human Rights, No. 257, 28 Nov. 2012 (Preliminary objections, merits, reparations and costs), para. 263; Case of *Paton v. United Kingdom*, Application No. 8416/79, European Commission of Human Rights, Decl. & Rep. 244 (1980), para. 20; Case of *Vo v. France*, (No. 53924/00), GC, Judgment of 8 July 2004, paras. 75, 82, 84-85.

¹⁴ Available at www.ohchr.org/Documents/HRBodies/CCPR/Discussion/2015/CenterReproductiveRights.doc.