***"Half Day of General Discussion on Article 6”***

**114th Human Rights Committee Session**

**Written contribution**

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**Mexico**

This document offers information for the half-day discussion on General Comment No. 36 on the right to life (Article 6), which will take place on July 14, 2015 and whose objective is to begin the process of developing general comments and expanding on previous comments No. 6 and 14 (between 1982 and 1984), in light of subsequent experience gained in the examination of State reports and communications and the adoption of general comments on related issues.

Given that the purpose of the General Comment is to provide adequate and authoritative guidance to States Parties and other stakeholders on measures to be adopted to ensure full compliance with the rights protected by these provisions, GIRE presents the following considerations on the right to life in relation to women’s reproductive rights.

In Mexico, access for women to effectively exercise their reproductive rights is precarious and insufficient. Of particular concern is the lack of access to information and contraceptive services for young people, resulting in high rates of teenage pregnancy, with two out of ten adolescents aged 15 to 19 having been pregnant more than once. [[1]](#footnote-1) Another issue of concern is the lack of access to legal abortion services. According to information from local prosecutors, from 2007 to 2012 only 39 abortions for women who became pregnant as a result of rape were authorized throughout Mexico. Furthermore, another issue is the lack of regulation for assisted reproductive technologies resulting in discrimination in access to these techniques. No less worrying is the deficient care received by women during pregnancy, childbirth and postpartum that results in frequent cases of obstetric violence and high rates of maternal death. The 2011 maternal mortality ratio was 50.7 per 100,000 births. [[2]](#footnote-2)

Reproductive rights are recognized as human rights in international law as well as the Mexican Constitution, and reiterated by various treaty bodies that analyze human rights violations against women, including the Committee for the Elimination of Discrimination against Women (CEDAW Committee), the Human Rights Committee and the Committee

on the Elimination of Racial Discrimination. [[3]](#footnote-3) The Inter-American Court of Human Rights has also established jurisprudence in this regard for the case of Artavia Murillo vs. Costa Rica in the interpretation of Article 4.1 of the American Convention on Human Rights (right to life) in the following terms:

* The term conception should be understood as the process of implantation, which is when the fertilized egg attaches to the wall of the endometrium. [[4]](#footnote-4)
* The fetus cannot be considered as a person. [[5]](#footnote-5)
* The protection of unborn life is gradual and incremental. [[6]](#footnote-6)
* The protection of prenatal life may only be offered through the exercise of women’s rights. [[7]](#footnote-7)

Therefore, an interpretation of the right to life contrary to the ruling above would have the opposite effect on the recognition and realization of women’s human rights. This is similar to what has occurred in Mexico since 2008, with 16 Mexican states amending state constitutions to protect life from conception, consequently generating a **climate of criminal prosecution against women**. From 2009 to 2011, 679 women have been reported for the crime of abortion, or 226.3[[8]](#footnote-8) women on average per year. In addition to criminalization, the amendments have led to **confusion** **among medical providers** in public hospitals regarding the terms of their obligations to provide **reproductive health services**.

In 2012, the CEDAW Committee expressed concern regarding the interpretation and application that the Mexican authorities, in particular staff of the public prosecutors offices and health services, have given to the amendments, most specifically the interpretation of “protecting life from conception” to the detriment of women’s rights, which has led to criminalization and denial of access to reproductive health services.[[9]](#footnote-9) For this reason, the Committee recommended that the Mexican State guarantee women access to reproductive health services without discrimination.

In addition, in June 2015, the Committee on the Rights of the Child expressed concern about the particular risk faced by girls and adolescent who are victims of sexual assault, which, in many cases, results in unwanted pregnancies and denial of safe abortion. It was therefore recommended to guarantee abortion services without prior judicial or ministerial authorization. [[10]](#footnote-10)

Indisputable protection of prenatal life involves carrying out a series of positive measures, [[11]](#footnote-11) such as:

* Fulfilling the nutritional needs of women of reproductive age and pregnant women :

“Anemia is an underlying cause of maternal and perinatal mortality [...]. Currently, the prevalence of anemia in women of childbearing age is 17.0% among pregnant women and 11.5% in non-pregnant women. The age groups most affected by anemia were 12 to 19 years (19.6%) and 30 to 39 (19.0%) in pregnant women and those of 40-49 years (16.2%) and 30 to 39 years (13.3%) in non-pregnant.”[[12]](#footnote-12)

* Reduce maternal mortality through prenatal care:

In Mexico, from 1990-2011, 28,042 women died from complications during pregnancy, abortion, childbirth or postpartum. [[13]](#footnote-13)

In 2012, 6.9% of maternal deaths were women without access to education; 14.7% had no social security and 55% had government health insurance under the Seguro Popular Program. Eleven percent did not have any prenatal care during their pregnancy.[[14]](#footnote-14)

In addition to the violation of women’s reproductive rights in relation to access to safe abortion, the granting of the right to life from conception would also have negative effects on access to assisted reproductive techniques such as in vitro fertilization. For

example, the technique could be prohibited similar to the case of Costa Rica, which would, among other things, violate the right to privacy and to found a family for individuals who require these techniques to do so. In this regard, the Committee for General Comment No. 19 has established that the possibility of procreation is part of the right to found a family. [[15]](#footnote-15)

Given the above and in accordance with the principles of universality, interdependence, indivisibility and progressiveness of human rights, it is necessary that the interpretation of Article 6 of the International Covenant on Civil and Political Rights by the General Comment No. 36 be made in terms developed by this Committee and other international bodies such as the CEDAW Committee, the Committee on the Rights of the Child and the Inter-American Court of Human Rights, recognizing human rights for born individuals and to protect the reproductive rights of women.

1. INEGI, *Encuesta Nacional de Dinámica Demográfica,* 2011. [↑](#footnote-ref-1)
2. Observatory on Maternal Mortality in Mexico, *Maternal Mortality in Mexico. Numeralia 2011,* Mexico, 2012. [↑](#footnote-ref-2)
3. Mexico has received almost 20 recommendations related to sexual and reproductive health. CEDAW, 1998 (par. 408, 410 and 426); CDESC, 1999 (par. 43); CEDAW, 2002 (par. 446); CDESC, 2006 (par. 44); CEDAW, 2006 (par. 33); CDN, 2006 (51.a); HR Committee, 2010 (par. 10); CERD, 2012 (par. 19); CEDAW, 2012 (par. 14.b, 27.a, 31.a, 31.b, 31.c, 33.a, 33.b, 33.c). To review all of the international recommendation on human rights that Mexico has received. Available at [www.recomendacionesdh.mx](http://www.recomendacionesdh.mx). [↑](#footnote-ref-3)
4. IACHR, *Caso Artavia Murillo*…, par. 189. [↑](#footnote-ref-4)
5. *Ibid*., par. 223. [↑](#footnote-ref-5)
6. *Ibid*., par. 264. [↑](#footnote-ref-6)
7. *Ibid*., par. 222 and 263. [↑](#footnote-ref-7)
8. Data obtained through public governmental information requests, public prosecutors’ offices in 24 Mexican states: Aguascalientes, Campeche, Chiapas, Chihuahua, Colima, Mexico City, Durango, Guanajuato, Hidalgo, Jalisco, Mexico, Michoacan, Morelos, Nayarit, Nuevo Leon, Puebla, Quintana Roo, San Luis Potosi, Sinaloa, Sonora, Tamaulipas, Tlaxcala, Veracruz and Zacatecas, March 2012. [↑](#footnote-ref-8)
9. CEDAW Committee, *Observaciones finales del Comité para la Eliminación de la Discriminación contra la Mujer: México, 52º período de sesiones (2012), párrafo 32, [CEDAW/C/MEX/CO/7-8].* [↑](#footnote-ref-9)
10. Committee on the Rights of the Child. *Observaciones finales del Comité de los Derechos del Niño: México,* 69° periodo de sesiones (2015), paragraph 50 [CRC/C/MEX/CO/4-5]. Available at http://bit.ly/1L1JnNn [consulted: June 12 2015]. [↑](#footnote-ref-10)
11. Attached is the publication *Human Rights of Women and Protection of Unborn Life in Mexico*, GIRE, Mexico, 2013. [↑](#footnote-ref-11)
12. “Anemia in Women of Reproductive Age: Going to the Source of the Problem”, National Institute of Public Health, National Health and Nutrition Survey 2012. Available at <http://bit.ly/1rh3Yo9>. consulted [May 28 2014]. [↑](#footnote-ref-12)
13. See Grupo de Información en Reproducción Elegida, *Omission and Indifference. Reproductive Rights in Mexico*, 2013, p. 99. [↑](#footnote-ref-13)
14. Observatory on Maternal Mortality in Mexico, *Maternal Mortality in Mexico*. Numeralia 2012, Mexico, 2014, p. 9. Available at <<http://bit.ly/1ouyiJN>>. [Consulted: May 28 2014]. [↑](#footnote-ref-14)
15. General Comment No. 19, General comments adopted by the Committee of Human Rights, Article 23 - The Family, 39th session, UN Doc HRI / GEN / 1 / Rev.7 at 171 (1990) http://www1.umn.edu/humanrts/hrcommittee/Sgencom19.html[consulta. March 17, 2015]. [↑](#footnote-ref-15)