**Written Submission to the Human Rights Committee by Former Special Rapporteurs\* for the Half Day of General Discussion on General Comment 36 on the Right to Life (Article 6)**

We are writing as former special rapporteurs on rights to adequate housing, food, water and sanitation, extreme poverty and the highest attainable standard of health with respect to the Committee’s preparation of General Comment 36 on the right to life in article 6 of the ICCPR.

In our previous roles as special rapporteurs, each of us has witnessed the massive loss of life and the catastrophic effects on health, dignity and security resulting from states’ and the international community’s failure to take positive measures to ensure access to adequate housing, food, safe drinking water, sanitation, health care, social protection and other requirements of life and personal security.

We have been concerned that violations of the right to life resulting from systemic patterns of governmental neglect and inaction have not received sufficient attention from domestic courts and human rights bodies. Despite your Committee’s clear statements in General Comment 6 that ““[t]he expression "inherent right to life" cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures,” the positive dimensions of state obligations with respect to article 6 have too often been ignored. The Committee’s recognition in General Comment 6, as well as in concluding observations and in its jurisprudence, that the protection of the right to life requires strategies and programs to reduce infant mortality, to increase life expectancy, to address homelessness, to ensure access to health care and to eliminate malnutrition and epidemics has often not been translated into firm legal obligations.

As the Committee is aware, in the years since the adoption of General Comment 6, a number of domestic courts and regional bodies have recognized the interdependence and indivisibility of the right to life with economic, social and cultural rights such as the right to housing, health care, food, water and sanitation. In doing so, they have ensured access to justice for victims of systemic violations of the right to life and ensured the implementation of long-term remedies that have saved countless lives. The series of cases in India in which the Indian Supreme Court held that measures to ensure access to food, housing, water and sanitation were required by the right to life and the role of the Constitutional Court in Colombia in ensuring access to justice and overseeing measures to provide access to health care for internally displaced persons in a writ of protection (amparo) based on the right to life are a few examples of an extensive array of jurisprudence at the domestic level which is evidence of the critical importance of ensuring access to justice for systemic violations of the right to life.

In too many cases, however, victims of systemic violations of the right to life resulting from states’ failures to adopt necessary measures of protection have not been afforded access to justice. Courts in many countries now adjudicate claims to economic , social and cultural rights and the international community has recognized, with the adoption of the Optional Protocol to the ICESCR, that all human rights are justiciable. It is now clear that effective remedies can be provided in cases involving states’ obligations to implement positive measures without courts or human rights bodies encroaching on the policy and law-making roles of legislative and executive branches of governments. Nevertheless, many governments and domestic courts continue to treat states’ positive programmatic obligations to protect the right to life, where these engage with socio-economic policies and programs, as merely aspirational rather than as fully justiciable. On the basis of a false distinction between justiciable and non-justiciable components of the right to life, millions of victims continue to be denied access to justice and governments fail to prioritize the protection of the right to life of many of the most vulnerable and marginalized individuals and groups.

In recent months we have also been alarmed at the rise of discriminatory notions that the right to life of some groups, such as migrants in irregular situations, does not require positive measures of protection. Some governments and commentators have attempted to justify denying migrants access to health care, shelter and social protection as a means of promoting compliance with immigration laws. Any acceptance of unequal protections of so fundamental a right as the right to life, of course, would undermine the very foundations of international human rights and the principle that all human beings are equal in dignity and rights.

In light of the above concerns, we recommend that in its new General Comment on the right to life, the Committee

1. Reaffirm that article 6 imposes both positive and negative obligations on governments and that both sets of obligations must be subject to legal protection and effective remedy;
2. Explicitly state that article 6 imposes obligations on states to ensure access to adequate housing, food, water, sanitation, health care, social protection and other programs where these are necessary for the enjoyment of the right to life;
3. Recognize the principle of substantive equality in the interpretation of article 6 so as to ensure the equal enjoyment of the right to life by women, migrants, children, people with disabilities, Indigenous peoples, those who are homeless or living in poverty and others who, because of socio-economic circumstances or patterns of discrimination and stigmatization, require positive measures to address systemic patterns of neglect and exclusion;
4. Reaffirm that victims of violations of the right to life are entitled to adequate reparation, including compensation, satisfaction or guarantees of non-repetition, and that courts should provide both restorative and transformative remedies;
5. Recommend that judges, prosecutors and decision-makers have adequate human rights education and training, including the economic, social and cultural rights’ dimensions of the human right to life, by making training on those rights part of law school curricula and providing ongoing training;
6. Recommend that national human rights institutions and other relevant bodies have an explicit mandate to: (i) identify and address violations of the right to life, adopting a comprehensive approach; and (ii) require remedial and transformative action on violations of the right to life;;
7. Clarify that obligations to ensure access to adequate food, housing, health care, water, sanitation and other requirements of life, dignity and security derive from the right to life itself and are not dependent on the status accorded ESC rights under the domestic law of a State party to the ICCPR;
8. Clarify that violations of the right to life may relate to states’ failures to implement comprehensive plans and strategies to address socio-economic deprivation or to regulate non-State actors.

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