**Comments on the Draft General Comment no. 36 on Article 6 of the ICCPR published in July 2017**

6th of October 2017

Andreea POPESCU, human rights expert, former lawyer at the ECHR

I have been working as a human rights lawyer for more than eleven years and I would like to propose to the Committee some thoughts that I consider useful in the drafting process of the interpretation of the right to life. As I already used legal arguments in the Comments submitted in the name of *the Asociation of the Catholic Doctors from Bucharest*, this time I will exploit the common history and the common sens.

The Draft General Comment presented by the Rapporteurs proposes as a human right to life the right to abortion, the right to euthanasia and the right to assisted suicide.

Those “rights” are not only against the essence of the right to life, but also against the letter and the spirit of the Covenant. Even the Rapporteurs admit that in § 2: “*Article 6 recognizes and protects the right to life of all human beings. (…) It is (…) a right that inheres in every human being (…)*”.

Creating such “rights” is a revolutionary act aimed to change the moral framework of our Western Civilization based on moral values, such as the respect for the dignity and the life of every human being. It builds a civilization that destroys man. Moreover, it subordinates the human being’s life entirely to the will of the State, as it is the State who decides which human being is human and which is not. One should not forget that we already lived that in the recent history and that the result was the death of hundreds of millions of human beings, not the life. One should remember that the right to abortion was for the first time in the world legalized by Lenin in 1920 in URSS and by Hitler in 1933 in Germany and latter in their occupied territories until the ‘60. In the West, abortion was legalized under the Communist/Marxist influence. The same happened with euthanasia and assisted suicide. In 1920, they were legalized in URSS and in Germany, as a “humanitarian or a compassionate practice”, namely to help to die those who wanted to die. In 1930, they were extended to mentally ill children and newborn babies “with defects”. Soon after, “the soft death” was allowed on terminally ill and on psychological handicapped. In 1939, the well-known T4 program was introduced. And so on.

Therefore, those proposals are *extra legem* and *ultra vires* acts of the Committee and they should be deleted from the text.

Basically, the question that the Committee should ask themselves is very simple. This should determine their further proposals, which should be consistent with the essence of the right to life and with the letter and the spirit of the Covenant and other human rights treaties.

**Is the person targeted by abortion or euthanasia/assisted suicide (unborn child/person) a human being or not?**

To this question there are three possible answers:

**1. It is, because the quality/status of human being is** **inherent** to the unborn child/person from the moment of conception to the natural death. All human beings have the same nature, they are members of the same species.

The consequence is that abortion, euthanasia and assisted suicide cannot derive from the right to life as they are suppressing human life. They are violations of this right.

**2. It is not yet or not anymore, because the quality/status of human being is not inherent**. If it not inherent, then it should be decided, granted by someone on the basis of something else than the nature of the being.

Therefore, in this case who grants and implicitly revokes the quality of human being and on what basis? There are two options for the first question: it is the *State or third parties* who grant it (in practice, it the last case it is also the State, as it has the power to impose this decision on others). From here raises the legitimate question of how can a State decide that a creature that comes from a human mother and a father is not human? How can a State have the power to grant the status of human, animal or plant to those respective realities? How can this Committee confer such an authority to the State by creating a right to abortion, euthanasia and assisted suicide?

Regarding the basis on which the State grants or revokes the status of human being to a human, this will not be the nature of the being, but the convention or the social consensus, both of the arbitrary.

The consequences are absurd: the unborn child is not human during pregnancy, but it becomes later and therefore he can be killed during pregnancy; and the (terminally) ill, the disabled, etc losses its humanity and therefore they can be killed. One should not forget that denying the simple fact that the other is a human being as us was always the argument of those who wanted to eliminate that human being (e.g. it is what Nazis did to Jews, Gypsies, handicapped, mentally ill, etc).

**3. We do not know.** The fact that there is still debate between those who consider the unborn child a part of the woman’s body and those who consider him a human being with all human rights or the fact that euthanasia and assisted suicide is an alleged good for the person, tells us that abortion, euthanasia and assisted suicide are moral issues. In practice, one should make a decision between allowing an “operation”/”(lethal) injection” or a crime. As for any choice in life, in case of doubt, the only option is to abstain from those practices. No one engages in an act if he does not know if that act is a crime or not. Those who consider that abortion, euthanasia and assisted suicide are social goods have to prove beyond doubt that the unborn child or the person on whom euthanasia or assisted suicide is practiced is not human.

**Regarding abortion as a means to save pregnant women’s lives and preserve their health, experience tells us that** **health care and not abortion saves women’s lives and health.**

If the pregnant woman’s life or health is in danger, the duty of any doctor is to treat her and to do everything he can to save her life and the life of the child that she is carrying. The duty of any doctor is to preserve the two human lives. The doctor does not have an absolute obligation to save the pregnant woman’s life by kill the innocent human life of her unborn child. If during the process of saving the life of the pregnant woman her child dies, but this was not the intention or the purpose of the doctor, this is not an abortion.

Abortion is intentional killing of an unborn child in the womb of his mother. It is the murder of an innocent and of the most vulnerable of the human beings. The right to kill a human being is permitted only in the case of legitimate defense against an aggressor.

Moreover, it is inaccurate to say that if one has to choose between the life of the pregnant woman and the one of her unborn child, the life of the woman is the most precious. This is so because no one would kill the pregnant woman to save her unborn child. But fact is that there is no right to kill an unborn child, an innocent without defense, under the pretext of saving the pregnant woman who is threatened to die as a result of a natural process that cannot be cured. No one would say that a doctor who could not cure his patient killed the patient. No one has the right to kill an innocent, even for saving the life of another. And again, treating the pregnant woman with the risk of death for her child is different than abortion, the latest being intentionally killing her unborn child in her womb.

Therefore, it is a huge error and confusion to request legalization and access to abortion when there is no need of such practice to preserve the health and life of the pregnant women. The life and health of the women can be saved by health care, not abortion. There are extremely rare cases -if they even exist, given the advance of the medical technologies nowadays- in which the pregnancy would put in danger the life and the health of the women and which would require abortion. This very rare situation cannot be globally generalized, as imposing abortion and contraception would expose women to health problems and even death.