**General Comment No. 36 - Article 6: Right to Life of the International Covenant on Civil and Political Rights (ICCPR) by the Human Rights Committee**

**Written Submission by the Asian-Pacific Resource and Research Centre for Women (ARROW)**

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ARROW, based in Malaysia, is an ECOSOC accredited NGO that has been working since 1993 to advance women’s health and rights, empowering women through information and knowledge by monitoring international commitments, advocacy and mobilisation. We work with national partners across the Asia-Pacific region and national and regional partners from the global South.

**We welcome the Committee’s affirmation**, that “States while regulating abortion should not impose measures the result in violation of the right to life of a pregnant woman or her other rights under the Covenant, including the prohibition against cruel, inhuman and degrading treatment or punishment.”[[1]](#footnote-1)

According to the World Health Organization, an estimated 22 million abortions continue to be performed unsafely each year, resulting in the death of an estimated 47,000 women and disabilities for an additional 5 million women.[[2]](#footnote-2) The number of unsafe abortions in Asia seems to have gone up from 9.8 million in 2003 to 10.8 million in 2008.[[3]](#footnote-3) Maternal mortality and morbidity continues to be one of the leading causes of death amongst women in the Asia-Pacific region. The main causes of maternal mortality include excessive hemorrhaging, hypertension, and abortion-related injuries,[[4]](#footnote-4) restrictive and inadequate abortion laws, unavailability of safe, legal and unconditional abortion services, inadequate and unaffordable access to healthcare, lack of access to contraceptive information and services, unavailability of skilled birth attendance, inadequate antenatal care coverage, emergency obstetric care services, and violence during pregnancy[[5]](#footnote-5)

Further, the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender sensitive approach to arbitrary killings has highlighted that the uncertainty surrounding the process of establishing whether a woman’s pregnancy poses a risk to her life, the medical profession’s reticence in the absence of transparent and clearly defined procedures to determine whether the legal conditions for a therapeutic abortion are met, along with the threat of criminal prosecution – all of these have a “significant chilling” effect both on doctors and the women concerned[[6]](#footnote-6) and altogether greatly increase the likelihood of women seeking unsafe abortion, and the likelihood that a substantive proportion of them will suffer lasting injuries or die. Depending on the individual circumstances of each case, one may be able to conclude that these deaths constitute an arbitrary deprivation of life.

**We recommend** that the Committee reinforce the duty of the States to protect women’s right to life by providing legal safe abortion services on all grounds and specifically highlight in the General Comment that States must not only remove legal and policy barriers to the access of safe abortion (including criminalizing abortion service) but also cultural and religious barriers which hamper women and girl’s enjoyment of their right to life with regards to abortion. This includes addressing factors that creates and perpetuates stigma within society, including service providers.

**We also welcome the Committee’s commitment to women and young girls SRHR services**, i.e. ‘the duty to protect the lives of women against the health risks associated with unsafe abortion requires States parties to ensure access for women and men and in particular adolescents, to information and education about reproductive options and to a wide range of contraception methods.”[[7]](#footnote-7)

In 2008, 38% of pregnancies each year were unintended in Asia and 10.8 million abortions in 2008 were considered unsafe, endangering the lives of women and girls. Universal access to contraceptive services and safe abortion services must be considered as vital components of preserving the right to life of women and girls. Governments should provide the necessary health services to protect the right to life of women and girls.

However, access to contraception can be? limited on the grounds of religious and cultural beliefs in particular cultures, where religion and upholding a certain religious interpretation are used to justify the denial of services to certain groups such as unmarried women and young people and sometimes even married women or where provision is only available under certain conditions. These justifications use messaging and interpretations of prohibition, sexual activity being sanctioned within the institution of marriage and for purposes of reproduction, the danger of encouraging promiscuity amongst young people, and putting decision making into the hands of those who are not considered ‘fit’ to make them. In Maldives[[8]](#footnote-8), the Philippines[[9]](#footnote-9), and Pakistan[[10]](#footnote-10) reference to contraception and family planning is within the bounds of marriage and the acceptability of sexual activity to be only within marriage. In Morocco[[11]](#footnote-11), single mothers are unable to gain access to safe abortion services, which is only available to married women under certain circumstances. All these ideals are defined by religious and cultural practices of acceptable behaviour and legitimizing reproduction while stigmatizing behaviour – single parenthood, sexual activity amongst youth, sex out of marriage and sex for pleasure.

**We recommend** that the General Comment should mandate States to provide universal access to context specific right-based continuum of quality care for reproductive health across the lifecycle – from preconception to pregnancy to post-partum/post-abortion to menopause including emergency contraception. And States should remove all barriers that hamper women's and girl’s access to contraception.

**The Committee’s reiteration** of the duty of States to protect the right to life of all persons including but not limited to LGBTI persons[[12]](#footnote-12) and the removal of criminal sanctions – imprisonment, death penalty for adult consensual same sex activity is extremely necessary. In this regard, it is incumbent upon States to take special measures to protect individuals under threat and also work towards to elimination of stigma and discrimination towards them, including legal and policy conditions and within formal and informal spaces such as the family, as a way to protect the right to life of all persons.

1. Draft General Comment No 36 on article 6 of ICCPR, pg 2, para 9 [↑](#footnote-ref-1)
2. World Health Organisation (2012, )Safe Abortion: Technical and Policy Guidance Systems, 2nd edn, http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434\_eng.pdf [↑](#footnote-ref-2)
3. Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008, 6th ed., (Geneva: WHO, 2001) [↑](#footnote-ref-3)
4. World Health Organization. (2011). Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008, 6th ed. <http://www.apps.who.int/iris/bitstream/10665/44529/1/9789241501118_eng.pdf> [↑](#footnote-ref-4)
5. Thanenthiran, S., Racherla S.J., & Jahanath, S. (2013). Reclaiming and Redefining Rights. ICPD+20 Status of Sexual and Reproductive Health and Rights in Asia Pacific. Kuala Lumpur, Malaysia: ARROW. <http://www.arrow.org.my/publications/ICPD+20/ICPD+20_ARROW_AP.pdf> [↑](#footnote-ref-5)
6. Special Rappoeteur on extrajudicial, summary or arbitrary executions on a gender sensitive approach to arbitrary killings, 15 May 2017, A/HRC/35/23 [↑](#footnote-ref-6)
7. Draft General Comment No 36 on article 6 of ICCPR, pg 3, para 9 [↑](#footnote-ref-7)
8. SHE 2016. Perceptions of Islam and Sexual and Reproductive Health and Rights in the Maldives. National Report. Society for Health Education (SHE) and Asian-Pacific Resource and Research Centre for Women (ARROW). See http://arrow.org.my/wp-content/uploads/2016/08/3.-Maldives.pdf [↑](#footnote-ref-8)
9. Melgar, Junice L.D. and Carrera-Pacete, Jocelyn. 2016. Understanding Catholic Fundamentalism in the Philippines: How conservative religious teachings on women, family and contraception are wielded to impede the Reproductive Health Law and other reproductive health policies**.** Likhaan Center for Women’s Health and Asian-Pacific Resource and Research Centre for Women (ARROW). See http://arrow.org.my/wp-content/uploads/2017/03/7.-Philippines\_with-extra-pages-added.pdf [↑](#footnote-ref-9)
10. Brohi, Nazish and Zaman, Sarah. 2016. Impact of Fundamentalist Discourses on Family Planning Practices in Pakistan. National Report. Shirkat Gah – Women’s Resource Centre, Pakistan and Asian-Pacific Resource and Research Centre for Women (ARROW). See http://arrow.org.my/wp-content/uploads/2016/08/6.-Pakistan.pdf [↑](#footnote-ref-10)
11. Bakhadda, Fadoua. 2016. “Religious Fundamentalism and Access to Safe Abortion Services in Morocco”. *National Report.* Moroccan Family Planning Association (MFPA) and the Asian-Pacific Resource and Research Centre for Women (ARROW). See http://arrow.org.my/wp-content/uploads/2016/08/Interlinkages-Between-Religion-and-SRHR\_National-Report\_\_Morocco.pdf [↑](#footnote-ref-11)
12. Draft General Comment No 36 on article 6 of ICCPR, pg 8, para 27 [↑](#footnote-ref-12)