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**Contribution of Associazione Comunità Papa Giovanni XXIII (APG23) to the General Comment n. 36, right to life**

The Associazione Comunità Papa Giovanni XXIII (APG23) is an International Catholic NGO accredited with Special Consultative Status to the Economic and Social Council (ECOSOC). APG23 wishes to contribute to the draft general comment n° 36 on the right to life by making the following remarks.

APG23 welcomes the intention of the Committee on Civil and Political Rights to draft a new general comment n°36 on article 6 – right to life – in substitution of the previous general comments n° 6 (16th session) and 14 (23rd session) adopted by the Committee respectively in 1982 and 1984.

The new comment looks more articulated and extended than the previous ones and contributes in making the fundamental article 6 of the Covenant on Civil and Political Rights more comprehensible.

We agree with the Committee that the right to life should not be interpreted narrowly. We would like also to point out that such a right should not be interpreted in an arbitrary manner according to cultural pressures and dominant ideologies.

A general comment has to be contained in the framework of what has been affirmed in international laws and has to have the first foundation in the Universal Declaration of Human Rights starting from the point that Human Rights are universal and inalienable, indivisible, interdependent and interrelated.

Therefore, in the light of these general considerations we have to oppose strongly to any statement that interprets the right to life in restricted and arbitrary ways.

In particular, direct references to access to measures to terminate pregnancy and to life-ending decisions reported on paragraphs 9 and 10 of the draft general comment are quite clashing.

We would like to emphasize that there is no right to abortion either a right to euthanasia. On the contrary, the international law affirms the right to life before birth[[1]](#footnote-1). Therefore, article 6 should be always interpreted in favour and protection of life in all its forms and expressions.

Although recognizing the good intentions of the committee, we observe that the elaborated draft has got some serious gaps that we will try to explain hereafter:

1) There is no reference to the right to life of the child before birth; 2) the use of selective abortion in cases of disabilities is not tackled at all; 3) it is not explained that the protection of the right to life implies the protection of maternity; 4) it is not understandable how the “termination of life” guarantees the right to life;

1) There is no reference to the right to life of the child before birth

The first paragraph of article 6 clearly specifies:

“Every human being has the inherent right to life. This right shall be protected by law”.

This means that the right to life is intrinsic to the human being, is connatural to its own nature, to the very concept of humanity; to have an “inherent” right means that such a right is deep-rooted to the nature of the human being.

In this regard, it is paradoxical to defend the right to life by promoting the access to abortive practices; practices that lead to the death of another developing human being.

We believe that the right to life has to be defended by promoting policies to support and protect maternity.

On the contrary, the draft general comment mentions safe access to abortion for women without facing at all the question of the protection of the right to life of the child before birth.

Taking into consideration the document CCPR/C/GC/R.36 (Issues for consideration during the half day general discussion in preparation for a general comment on art. 6 by Yuval Shany and Nigel Rodley) in paragraph A.5. (c) It was specified that the general comment could include issues such as: “Applicability of the article to the unborn and other forms of human existence (frozen embryos, clones etc.); about these topics there are no evidences in the draft.

Therefore, we believe that it is necessary to integrate into the general comment also considerations on the right to life of the foetus as a human being that is developing in the maternal womb in order to come to birth. We also suggest tackling the right to life of the frozen embryos.

2) The issue of the use of selective abortion in cases of disabilities is not tackled at all;

Paragraph 9 is referring to situations in which safe access to abortion should be guaranteed among which “ when the foetus suffers from fatal impairment”.

The Committee on the Rights of Persons with Disabilities (CRPD) in a recent report (concluding observation) (CRPD/C/GBR/CO/01 of 29.08.2017) analysing the legislations of a country that guarantees access to practices for interruption of pregnancy, has recommended at point B, in relation to article 5 of CRPD Equality and non discrimination:

Equality and non-discrimination (art. 5)

1. The Committee is concerned about perceptions in society stigmatizing persons with disabilities as living a life of less value and the termination of pregnancy at any stage on the basis of foetal impairment.
2. The Committee recommends that the State party change abortion law accordingly. Women’s rights to reproductive and sexual autonomy should be respected without legalizing selective abortions on ground of foetus deficiency. (CRPD/C/GBR/CO/01 p.3)

The CRPD has therefore highlighted that the legally use of abortive practices to select and suppress foetus with malformations and disabilities is in obvious violation of the right to life of children with disabilities.

The case of Iceland has been reported by a journalistic investigation (<https://www.cbsnews.com/news/down-syndrome-iceland/>); the country has been declared “down free” because the eugenic selection of embryos and selective abortion operates in a way that in Iceland no children with Down syndrome are born.

This dangerous precedent would eliminate the concept of disability from childhood but could represent a precedent applicable also to other diversities. The example of Iceland seems to be followed also by other European countries such as France, and the Foundation Jerome Lejeune has recently publicly reported the situation of other countries in which the drastic reduction of births of children affected by Down Syndrome demonstrate the selective use of abortion.

In such cases, in fact, the eugenic selection and the selective/therapeutic abortion lead to eliminating the sick person instead of concentrating on the elimination of the disease.

Considering that people with disability do not live a less dignified life, we would like to underline that one of the best possible measures to defend the right to life of children with disabilities is to support families with disabled children.

3) It is not explained that the protection of the right to life implies protection of maternity

The call to protect the life and health of women should be strictly linked to the call to protect maternity, a condition that involves the majority of women, and to the possibility to give to all pregnant women access to care, protection, food, drinking water, economical self-sufficiency, etc. It is necessary to emphasize that the right to life of the pregnant woman is protected by addressing the social determinants of health in order to allow pregnant women to live and give birth in full dignity.

How many women and new-borns die from post-partum haemorrhage or neonatal complications because there are no adequate hospital structures, there are no drugs and neonatal machines that allow children born with diseases to live and survive; without considering the lack of infrastructures, technology, energy, transportation that make the moment of birth a dangerous situation for the right to life of the mother and her child.

The defence of the right to life (inherent to every human being) starts from the protection of maternity. It has to be underlined that social, health, cultural and economic policies supporting maternity could guarantee better the right to life promoting its quality. In this sense, the implementation of the right to development is fundamental and urgent.

Policies to support maternity (like policies to support single women, families, health policies that will guarantee free access to quality mother and child services) would help also those situations of poverty and hardship in which mothers contemplate abortion as a solution because unable to cope with the arrival of a new child to feed, take care of, educate and raise.

Moreover, paragraph 5 of article 6 ICCPR prohibits the death penalty for persons that have committed crimes less than eighteen years of age and for pregnant women. The draft general comment mentions it at paragraph 5, 20, 36, 52 but does not explain or deepen up the issue of the pregnant women.

It is clear that paragraph 5 of article 6 ICCPR includes the pregnant woman as a case in which the death penalty shall not be imposed because that woman is carrying a life in her womb.

Concerning the issue about education and information on reproductive choices and contraceptive methods, we would like to underline the important role of families as first educational institutions.

4) It is not understandable how the “termination of life” could guarantee the right to life

Paragraph 10 of the General Comment explicitly refers to practices “ to facilitate the termination of life” as these pathways could represent a concretization of the right to life.

People deciding to end their own life represent the weakest and more sensitive sector of our society. In providing and interpreting dispositions that relate to such delicate situations a surplus of attention should be applied.

We understand the reference to the principle of self-determination of every single person, but, if we look not only at the single person but also at the necessary growth of the human community and the inspiration principles that enable it to be solid and cohesive (true existential force of a civil community), we need to recognize the importance of another principle: the principle of dependency.

Dependency is a natural principal. All of us have grown up because someone took care of us: someone has washed us, has fed us, and has done things for us. Throughout the years, the principle of dependency seems to be completely overtaken by the principle of self-determination.

Instead, the principle of dependency tells us that there is a co-humanity (a humanity that can be defined as such because is supportive) that recognizes a forgotten value: the possibility of depending on someone else without having our happiness denied. Furthermore, the principle of dependency does not deny our dignity because, even in conditions of extreme existential fragility, the life of a person is not condemned to the sadness and desperation of loneliness thanks also to the solidarity and the care of the people that get close and near. Dependency implies the notion of relationship/connection.

The situations described in paragraph 10 and referred to with the terminology of “catastrophically afflicted adults, such as the mortally wounded or terminally ill” – represent situations of specific vulnerability and weakness in which the human dignity has to be more supported and protected guaranteeing the application of the principle of dependency and relationship described above.

We think that the right to life of people that are in situations of extreme difficulties and vulnerability is better respected and protected by offering measures that will help them to feel less alone and more supported rather than by facilitating their death.

Moreover, regarding the free and explicit decision of the patient as written in paragraph 10, we would like to specify how this freedom has to be considered also in relationship with the decision of the doctor that has the right to choose according to his/her freedom of consciousness and his/her moral and religious values.

We think necessary an explicit reference to the possibility of conscientious objection since it is not mentioned in paragraph 9 and 10 of the draft general comment. The right to conscientious objection finds his foundation in article 18 of ICCPR where it is stated, “everyone shall have the right to freedom of thought, conscience and religion”.

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Finally, in commenting the question of death penalty as a measure that is incompatible with the right to life, we would like the Committee to take also into consideration the situation of those who receive a life-without parole sanction.

In many countries where the death penalty has been abolished, there are laws that foresee the possibility to condemn the authors of very serious crimes to a life sentence without parole. The prisoners sentenced to life-without parole, even if they do not loose life physically, are deprived of its essential elements, above all that element that makes life going on: hope.

Our founder, Fr. Oreste Benzi was used to say: “A man is never his mistake!”

We appeal to the Committee to consider commenting the right to life also from this perspective.

1. ***Convention on the Right of the Child:*** “ whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, beforeas well as after birth” (***preamble)*** [↑](#footnote-ref-1)